

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 879 (Grayson) – As Amended April 20, 2017

**SUBJECT:** Planning and zoning: housing element.

**SUMMARY:** Requires local governments to include an expanded analysis of nongovernmental constraints on housing development in their housing elements. Specifically, **this bill:**

- 1) Requires a local government, in the housing element analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, to additionally include the following information:
  - a) The requests to develop housing at densities below those anticipated in the analysis required by existing law;
  - b) The length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need; and,
  - c) Any local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.
- 2) Requires a housing element to address and, where appropriate and legally possible, remove nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities.

**EXISTING LAW:**

- 1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element.
- 2) Requires a housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 3) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.
- 4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment (RHNA) and allocate to each jurisdiction in the region its

fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

- 5) Requires housing elements to include an inventory of land suitable for residential development that identifies enough sites that can be developed for housing within the planning period to accommodate the local government's entire share of the RHNA.
- 6) Allows a local government to do either of the following in order to show that a site is adequate to accommodate some portion of its share of the RHNA for lower-income households:
  - a) Provide an analysis demonstrating that the site is adequate to support lower-income housing development at its zoned density level, and requires the analysis to include, but not be limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower-income households; or,
  - b) Zone the site at the jurisdiction's "default" density level.
- 7) Requires a housing element to include an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.
- 8) Requires the analysis described in 7), above, to demonstrate local efforts to remove governmental constraints that hinder the local government from meeting its share of the RHNA and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
- 9) Requires a housing element to include an analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
- 10) Requires a housing element to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires a local government, in the housing element analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, to additionally include the following information:

- a) The requests to develop housing at densities below those anticipating in the analysis required by existing law;
- b) The length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need; and,
- c) Any local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

This bill also requires a housing element to address and, where appropriate and legally possible, remove nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. This bill is sponsored by the League of California Cities.

- 2) **Author's Statement.** According to the author, "California is experiencing an acute shortage of new housing construction. According to the Legislative Analyst's Office, California needs to produce approximately 180,000 units of housing per year to keep up with population growth; we currently produce less than half that amount. This issue disproportionately affects working and middle class households. A recent report by the California Department of Housing and Community Development highlighted this fact, showing that California is short about 1.5 million rental units priced for very low- and extremely low-income households. Under current law, local governments are required to include in their housing elements an analysis of potential and actual governmental constraints upon the development of housing. Governmental constraints include land use controls, building codes, fees, and permit procedures. However, these factors only tell half the story. Nongovernmental constraints, such as long and short term economic trends, declining sources of state and federal funding, and changes in interest rates, all have a significant impact on the development of housing stock. We currently have no uniform way of quantifying these effects.

"AB 879 will lead to a more comprehensive understanding of the factors affecting housing development by requiring housing element reports to include an analysis of potential and actual nongovernmental constraints upon the development, maintenance, and improvement of housing for all income levels. AB 879 also requires local governments to include within the analysis their efforts to remove nongovernmental constraints that hinder housing construction. By identifying these constraints and developing a plan of action to overcome them, this bill will help local governments to address California's housing crisis."

- 3) **Related Housing Data Legislation.** There are a number of bills, in addition to this bill, dealing with increasing housing data, including the following:
  - a) AB 829 (Chiu) – This bill requires the annual progress report to additionally include the relationship between jobs and housing, including any imbalance between jobs and housing, including an assessment of any significant increases or decreases in employment since the date of the last annual report. This bill is pending in this Committee.
  - b) AB 852 (Grayson) – This bill requires, as part of the annual general plan report provided to the legislative body, to OPR, and to HCD, the planning agency of the city or county to

include the following information: a) The number of housing development applications received in the prior year; b) The number of units included in all development applications in the prior year; and, c) The number of units approved and disapproved in the prior year. This bill is pending in the Assembly Appropriations Committee.

- c) AB 1156 (Ting) – This bill expands the information required in cities’ and counties’ annual housing element report to HCD by requiring the inclusion of the number of housing units at each income level remaining to be accommodated within the planning period, and an update to the inventory of land suitable for residential development, as specified. This bill is pending in this Committee.
- d) AB 1423 (Chiu) – This bill requires charter cities to submit the annual progress report on housing element implementation. This bill is pending in this Committee.

Given that these bills are all related, the Committee may wish to ask the authors to work together on the bills to ensure consistency going forward.

- 4) **Arguments in Support.** The League of Cities argues that having a more comprehensive assessment of the many factors that contribute to the housing supply and affordability challenge will better equip local officials and policy makers as they address this significant challenge.
- 5) **Arguments in Opposition.** None on file.
- 6) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 19, 2017, and passed on a 7-0 vote.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

League of California Cities [SPONSOR]  
California Association of Realtors

##### **Opposition**

None on file

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958