

Date of Hearing: July 3, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 235 (Dodd) – As Amended March 25, 2019

**SENATE VOTE:** 36-0

**SUBJECT:** Planning and zoning: housing production report: regional housing need allocation.

**SUMMARY:** Allows the City of Napa and County of Napa to reach an agreement in which the County would be allowed to count certain housing units built within the City toward the County's regional housing needs assessment (RHNA) requirement. Specifically, **this bill:**

- 1) Allows the County of Napa (County) and the City of Napa (City) to reach a mutually acceptable agreement to allow one of those jurisdictions to report on its annual housing production report to the Department of Housing and Community Development (HCD), the completed entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing related to the Napa Pipe project, if all of the following conditions are met:
  - a) Both jurisdictions have a substantially compliant housing element, as specified;
  - b) Within the 12 months preceding the effective date of the agreement, both jurisdictions have submitted to HCD the annual progress report (APR), pursuant to existing law;
  - c) The completed entitlements, building permits, and certificates of occupancy that are to be reported by one of the jurisdictions will not also be reported on the housing production report of the other jurisdiction;
  - d) One of the following conditions applies with respect to a housing development that will be reported by a jurisdiction under an agreement, pursuant to this section:
    - i) The housing development is proposed to be located in an area subject to the housing element of the County of Napa at the time of the final allocation of regional housing need, as specified, that is subsequently annexed by the City of Napa, provided that all of the following conditions are met:
      - (1) The City of Napa annexed the territory after the final allocation of regional housing need;
      - (2) The council of governments, the subregional entity, or HCD, as applicable, provides written confirmation that the methodology used to allocate the share of the regional housing need did not account for the annexation; and,
      - (3) There was no transfer of units from the site of the housing development of a portion of the County of Napa's allocation of regional housing need to the City of Napa;

- ii) The housing development is located on land owned by one of the jurisdictions that is located within the jurisdictional boundaries of the other jurisdiction;
  - iii) The housing development is located within the jurisdictional boundaries of one jurisdiction and receives funding from the other jurisdiction;
  - e) Before approval of the agreement, the board of supervisors of the County and the city council of the City shall each hold a public hearing to solicit public comment on the proposed agreement. The County and City shall make available copies of the proposed agreement in advance of the hearing and contain specified information;
  - f) Following the hearing, the board of supervisors and the city council shall each approve the proposed agreement, and make specified written findings, based on substantial evidence.
- 2) Provides that 1), above, does not waive or reduce any jurisdiction's obligation to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining unmet share of its regional housing need. Provides that failure to comply shall constitute a violation of existing law and HCD shall notify the office of the Attorney General.
  - 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances relating to the allocation of regional housing needs in the County of Napa and the City of Napa.
  - 4) Makes other conforming changes, and contains a number of findings and declarations related to the Napa Pipe project.

**EXISTING LAW:**

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. Requires the 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.
- 2) 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. Specifies that local governments in rural non-MPO regions must revise their housing elements every five years.
- 3) Provides that each community's fair share of housing be determined through the RHNA process, which is composed of three main stages: a) the Department of Finance and HCD develop regional housing needs estimates; b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and, c) cities and counties incorporate their allocations into their housing elements.

- 4) Requires COGs to provide specified data assumptions to HCD from each COG's projections.
- 5) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 6) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 7) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.
- 8) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.
- 9) Requires each jurisdiction to submit an APR to HCD regarding its progress in meeting its RHNA allocation.
- 10) Authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Bill Summary.** This bill allows the City of Napa and County of Napa to reach a mutually acceptable agreement to allow one of those jurisdictions to report on its annual housing production report to HCD, the completed entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing related to the Napa Pipe project, if certain conditions are met, like both jurisdictions have a substantially compliant housing element, as specified; within the 12 months preceding the effective date of the agreement, both jurisdictions have submitted to HCD the APR, pursuant to existing law; and, that the completed entitlements, building permits, and certificates of occupancy that are to be reported by one of the jurisdictions will not also be reported on the housing production report of the other jurisdiction, among other conditions.

Napa County is the sponsor of this bill.

- 2) **Author's Statement.** According to the author, "This bill would authorize the County of Napa and City of Napa to reach a mutually acceptable agreement to allow one of those

jurisdictions to report on its annual production report to the Department of Housing and Community Development those entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing if certain conditions are met. To address the ongoing relationship between the City and County with respect to the Napa Pipe development, the City and County entered into various agreements outlining future entitlements, annexation, tax revenue sharing, the provision of municipal services, affordable housing, and the provision of potable water by the City of Napa in lieu of using ground water. The LAFCO action and the voter action to modify the RUL have both been approved.

“Napa Pipe is the most realistic site in the County’s approved housing element to meet the County’s RHNA Allocation of 180 units including 81 units of Very Low and Low Income housing. While the County has other sites, many are rural [and] located in high or very high fire hazard severity zones and not as ready for development as the Napa Pipe site. Absent this legislation, the County of Napa has no legal mechanism to issue building permits or obtain credit for issuing building permits to be credited towards meeting the current RHNA despite Napa Pipe being a centerpiece of the County’s current housing element. SB 235 is critical to allowing the County and City to expedite the development of housing at a time when the state is in a housing crisis.”

- 3) **Arguments in Support.** Supporters argue that it is important that the state support collaboration in situations where cities and counties have the desire to cooperate to create more affordable housing, like this bill.
- 4) **Arguments in Opposition.** None on file.
- 5) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on June 19, 2019, and passed with an 8-0 vote.

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

##### **Support**

County of Napa [SPONSOR]  
 American Planning Association, California Chapter  
 California Apartment Association  
 Midpen Housing Corporation  
 Napa Valley Transportation Authority  
 Napa Housing Coalition  
 Napa Valley Vintners Association  
 Rural County Representatives of California

##### **Opposition**

None on file

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