

CONCURRENCE IN SENATE AMENDMENTS

AB 2296 (Papan)

As Amended August 21, 2026

Majority vote

SUMMARY

Extends a number of timelines in the process of regional housing needs determinations (RHND), regional housing needs allocations (RHNA) and housing element revisions.

Senate Amendments

Provide that changes made by this bill do not apply to councils of governments with a housing element revision due in 2027 or 2028.

COMMENTS

RHNA and Housing Elements: The RHNA process is used to determine how many new homes, and the affordability level of those homes, each local government must plan for in its housing element to cover the duration of the next planning cycle. The state is currently in the sixth housing element cycle. The seventh RHNA cycle will begin for some COGS in 2027. The RHND is assigned at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. RHNA is currently assigned via six income categories: very low-income (0-50% of AMI), low-income (50-80% of AMI), moderate income (80-120% of AMI), and above moderate income (120% or more of AMI). Beginning with the seventh cycle, two new income categories will be incorporated for acutely low-income (0-15% of AMI) and extremely low-income (15-30% of AMI).

The cycle begins with HCD and DOF projecting new RHND numbers every five or eight years, depending on the region. DOF produces population projections and the COG also develops projections during its Regional Transportation Plan update. Then, 26 months before the housing element due date for the region, HCD must meet and consult with the COG and share the data assumptions and methodology that they will use to produce the RHND. The COG provides HCD with its own regional data on several criteria, including:

- 1) Anticipated household growth associated with projected population increases;
- 2) Household size data and trends in household size;
- 3) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;
- 4) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;
- 5) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;
- 6) Other characteristics of the composition of the projected population;

- 7) The relationship between jobs and housing, including any imbalance between jobs and housing;
- 8) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and
- 9) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request.

HCD can take this information and use it to modify its own methodology, if it agrees with the data the COG produced, or can reject it if there are other factors or data that HCD feels are better or more accurate. Then, after a consultation with the COG, HCD makes written determinations on the data it is using for each of the factors bulleted above, and provides that information in writing to the COG. HCD uses that data to produce the final RHND, which must be distributed at least two years prior to the region's expected housing element due date. The COG must then take the RHND and create an allocation methodology that distributes the housing need equitably amongst all the local governments in its region. The RHNA methodology is statutorily obligated to further all of the following objectives:

- 1) Increase the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the regional in an equitable manner, which must result in each jurisdiction receiving an allocation of units for low- and very low-income households;
- 2) Promote infill development, socioeconomic equity, the protection of environmental and agricultural resources, and achievement of regional climate change reduction targets;
- 3) Promote an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction;
- 4) Allocate a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category; and
- 5) Affirmatively further fair housing.

This bill would push back several RHND and RHNA deadlines for the seventh housing element cycle and beyond by six months, as follows:

- 1) Each COG must develop its proposed RHNA methodology at least 2.5 years prior to the scheduled housing element revision, rather than two years under existing law; and
- 2) Each COG must distribute its draft RHNA allocation plan at least two years prior to the scheduled housing element revision, rather than 1.5 years under existing law.

This bill also contains some differences or exceptions to these extended timelines to provide feasible timelines for jurisdictions with due dates earlier in the upcoming seventh housing element cycle. Generally, the additional six months provided by this bill would mean that COGs would have to distribute their draft RHNA plan at least two years before the housing element due date. With the 195-day RHNA methodology appeal timeline in existing law, this change would

result in local governments receiving their final RHNA numbers about 1.5 years prior to the housing element due date, providing them an extra six months to prepare housing elements and submit them to HCD for review and approval.

Local governments are allowed to form a subregional entity underneath the COG that receives a direct allocation of the RHND from the COG and has the ability to establish its own RHNA methodology and allocation plan. Two or more local governments are allowed to form a subregion to allocate the RHNA. The formation of the regional entity must occur 28 months prior to the housing element revision. This bill would extend the timeline that cities and counties have to form a subregional entity to allocate the subregions RHNA from 28 months to 34 months. In addition, COGs must determine the share of RHNA assigned to each delegate subregion 25 months prior to a housing element revision, this bill would change that requirement to 31 months prior.

Adoption and Implementation of Housing Elements: All of the state's 540 cities and counties are required to appropriately plan for new housing through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including an accelerated deadline for completing rezoning, exposure to the "builder's remedy," public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's RHNA, described above. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Where a community does not already contain the existing capacity to accommodate its fair share of housing, it must undertake a rezoning program to accommodate the housing planned for in the housing element. Depending on whether the jurisdiction met its statutory deadline for housing element adoption, it will have either one year (if it failed to meet the deadline) or three years (if it met the deadline) from its adoption deadline to complete that rezoning program.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment locally for the successful construction of desperately needed housing at all income levels. Unless communities plan for production and preservation of affordable housing, new housing will be slow to build. Adequate zoning, removal of regulatory barriers, protection of existing stock and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although not requiring the community to develop the housing, housing element law requires the community to plan for housing. Recognizing that local governments may lack adequate resources to house all those in need, the law nevertheless mandates that the community do all that it can and that it not engage in exclusionary and harmful practices.

Local governments have a statutory deadline to submit a housing element based on region. Ninety days before the deadline to adopt a housing element, localities must submit a draft to HCD. HCD is required to review the draft element within 90 days of receipt and provide written findings as to whether the draft amendment substantially complies with housing element law. If HCD finds that the draft element does not substantially comply with the law, the local agency

may either make changes to the draft element to substantially comply with the law or adopt the element and make findings as to why it complies with the law despite the findings of the department. Following adoption of a housing element, a local agency submits it to HCD. When a local government adopts its housing element without making the changes HCD provides, the process is called "self-certification." Despite the fact that the process allows a local agency to adopt a housing element without making the changes required by HCD to be in substantial compliance, a local agency is not considered compliant until receiving ultimate approval from HCD. Last year, AB 1886 (Alvarez), Chapter 267, further clarified that a housing element is in compliance when both a local agency has adopted a housing element and HCD had found the element in compliance.

Auditor's Report: The Legislature directed the State Auditor to audit HCD to evaluate its oversight of cities and counties' submissions of housing elements and HCD's procedures for reviewing housing elements. HCD interprets and enforces the Housing Element Law and determines whether local jurisdictions' housing elements substantially comply with it. HCD then issues findings letters to local jurisdictions to notify them of its compliance determination, but the law does not require these letters to provide prescriptive instruction for achieving compliance.

The audit found that, generally, HCD's feedback was viewed as valuable feedback to local jurisdictions; however, jurisdictions that are struggling to develop compliant housing elements also require individualized assistance. The auditor looked at 10 local jurisdictions and found that HCD's review met the statutory deadlines, but individualized assistance from HCD was important to help the jurisdictions understand and address the department's findings.

The auditor recommended staggering the submission dates for housing elements in order to reduce the spike in HCD's workload that occurs when many local jurisdictions submit their revised housing elements at the same time. The auditor recommended assigning housing element due dates based on smaller regional groupings and local jurisdiction size. This would allow local jurisdictions within larger COGs to have different due dates, such as separating ABAG and SCAG deadlines by three years.

This bill includes intent language to Legislature to enact legislation that would assign housing element revision deadlines based on smaller regional groupings and local jurisdiction size. The author has proposed an adjustment to housing element timelines to better-manage HCD's workload and prevent a sudden influx of housing elements requiring review on tight statutory timelines.

According to the Author

"AB 2296 will improve the housing element review process by addressing the delays and challenges local governments face in dealing with HCD. This bill makes three key improvements: first, it starts the Regional Housing Needs Allocation (RHNA) process six months earlier, giving municipalities more time to work on their housing elements and allowing them to engage with HCD sooner; second, it mandates clear and actionable feedback from HCD to ensure local governments have the guidance they need to comply; finally, the bill will stagger housing element deadlines within Councils of Government to ease the workload on HCD staff, freeing up their time for one-on-one, tailored feedback to municipalities. These changes will help local governments develop compliant housing elements on time, supporting the production of much-needed housing and ensuring clarity in the process."

Arguments in Support

According to the sponsor of this bill, the League of California Cities, 'During the 6th RHNA cycle, local governments experienced various challenges in obtaining certification from HCD. Some of the challenges include multiple housing element drafts before certification within a short timeline for completing these complex documents, a nearly 126% increase in the duration to complete the housing element compared to the 5th RHNA Cycle1, a lack of clarity regarding what the state expects from local governments when reviewing additional housing element drafts, and an ever-changing legal environment mid-cycle that local jurisdictions must account for and incorporate into their housing elements. AB 2296 would address these issues by allowing local governments to begin updating their housing elements six months early and by staggering housing element statutory deadlines to help manage HCD's workload capacity.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) General Fund costs to HCD are likely minor and absorbable.
- 2) Costs of an unknown amount, but likely minor and potentially cost-saving to local agencies to adjust their housing element revision processes. These costs are not reimbursable by the state because local agencies have general authority to charge and adjust planning and permitting fees to offset increased costs associated with the provisions of this bill.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 11-0-1

YES: Haney, Patterson, Ávila Farías, Caloza, Kalra, Lee, Quirk-Silva, Ta, Tangipa, Wicks, Wilson

ABS, ABST OR NV: Garcia

ASM LOCAL GOVERNMENT: 10-0-0

YES: Carrillo, Ta, Johnson, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 76-0-4

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez,

Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: [Click here to enter text.](#)

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