
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 906 (Mark González) - Planning and zoning: housing elements: affirmatively furthering fair housing

Version: June 23, 2025

Urgency: No

Hearing Date: August 10, 2026

Policy Vote: HOUSING 9 - 2

Mandate: Yes

Consultant: Mark McKenzie

Bill Summary: AB 906 would make numerous changes to the requirements for cities and counties to ensure components of the housing element planning activities “affirmatively further fair housing” (AFFH), as specified.

Fiscal Impact:

- The Department of Housing and Community Development estimates first year costs of approximately \$2.28 million in the first year, and \$1.53 million annually ongoing thereafter for 7.0 PY of staff to develop a standard AFFH template, update guidance, create a public-facing AFFH compliance database, conduct a projected 500 to 1,000 additional reviews each year, and provide additional technical assistance to local agencies. First year costs noted above include approximately \$750,000 in one-time contracting costs to develop the online compliance tool. (General Fund)
- The bill could also result in unknown, but potentially significant costs to local agencies to identify additional housing sites after the housing element has been certified, and for other workload related to the preparation of the housing element. These costs are not state-reimbursable because local agencies can adjust planning and development fees to cover the administrative costs associated with new planning mandates. (local funds)

Background: : Existing law requires cities and counties to prepare a general plan comprised of seven mandatory elements, including a housing element that includes an identification of existing and projected housing needs. The housing element must include an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period that is sufficient to meet the regional housing needs for all income levels and to AFFH. Housing elements must be updated every eight years in urban areas, and every five years in more rural areas.

The regional housing needs assessment (RHNA) process is composed of three main stages: (1) development of regional housing need estimates by HCD and the Department of Finance (DOF), in consultation with regional councils of governments (COGs); (2) allocation of housing within each region by the COGs, or by HCD in an area not within a COG; and (3) incorporation of RHNA allocations into city and county housing elements. If the city or county does not have enough sites within its existing inventory of residentially zoned land to accommodate its share of the regional housing needs, it must adopt a program to rezone land within the first three years of the planning period. Every city and county must submit an annual progress report by April 1 of each

year to HCD and the Governor's Office of Planning and Research on its implementation and progress towards meeting its RHNA amount and removing governmental obstacles to housing development, among other things.

The housing element must include a program of actions the local agency will take during the planning period to make adequate provision for the housing needs of all economic segments of a community. Each jurisdiction must establish an inventory of sites designated for new housing that is sufficient to accommodate its fair share, after performing an AFFH analysis of those sites. 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, including an assessment of fair housing in the jurisdictions. The requirement to AFFH requires each jurisdiction to perform an assessment that includes specified components, including an identification of the jurisdiction's fair housing priorities and goals, metrics and milestones for determining what fair housing results will be achieved via the housing element, and strategies and actions to implement those priorities and goals. The goals may include enhancing mobility strategies, encouraging development of new affordable housing in opportunity areas, preserving existing affordable housing, protecting residents from displacement, and place-based strategies to encourage community revitalization.

Proposed Law: AB 906 would make a number of changes to the AFFH requirements related to the housing element planning process. Among other things, this bill would:

- Require a local government's housing element to ensure that the sites designated to accommodate the jurisdiction's share of the RHNA at all income levels, after any required rezoning for meeting the needs of 100% of the housing for lower income households, are distributed throughout the jurisdiction in a manner that AFFH.
- Require a local government, if its identified sites to accommodate its share of RHNA do not AFFH, to include a program in their housing element for rezoning of those sites, subject to specified deadlines, as specified.
- Require a local government to demonstrate that sites identified to accommodate its RHNA after any rezoning program will AFFH.
- Recast existing provisions requiring a local government's housing element program to include an assessment of fair housing in the jurisdiction, and add new requirements to the program to AFFH, as specified.
- Require a jurisdiction, after completing a draft fair housing assessment and before making the first draft revision of the housing element available for public comment, to make the draft assessment available to solicit public comments and seek input on specified information, for at least 90 days.
- Require a jurisdiction to include both the fair housing assessment and specified additional information based on any input received pursuant to meaningful consultation in the first draft revision of the housing element available for public comment.
- Modify the existing requirement for HCD to develop a standardized format for AFFH programs and actions by requiring the reporting format to describe specified strategies and actions, to address specified fair housing assessment components, and including a field for which fair housing priority a program is intended to address, the intended impacts, and how the strategies and actions will result in those impacts.

- Limit the ability of a jurisdiction to include accessory dwelling units (ADUs) to count toward the requirement to identify adequate sites to accommodate the RHNA and to AFFH by requiring proof that ADUs developed in the previous planning period toward the lower income category have recorded deed restrictions, as specified.
- Require a jurisdiction's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period that are sufficient to provide for the jurisdiction's share of RHNA for all income levels and that are distributed throughout the community in compliance with the requirement that the distribution will AFFH.
- Require sites identified in that inventory to be distributed throughout the jurisdiction in a manner that AFFH by allowing for a reduction in residential segregation, based on a specified determination procedure.
- Require HCD, by April 1, 2027, to develop and publish an online tool that must serve as the method for determining whether each jurisdiction's identification of sites adequate to accommodate its share of RHNA at all income levels that meets the distribution requirement specified above.
- Authorize HCD to grant an adjustment to the distribution requirement described above if underlying data for the jurisdictions renders the tool unreliable. HCD must include in its materials explaining the online tool, a procedure for applying for an adjustment the factors that HCD will consider in determining whether or not to grant the adjustment.

Related Legislation: AB 2667 (Santiago), Chap. 277/2024, required HCD to develop a standardized reporting format for AFFH programs and actions and required local governments to make a draft inventory of sites available to HCD and the public at least 90 days prior to the initial adoption of its housing element update.

AB 1304 (Santiago), Chap. 357/2021, clarified that public agencies have a mandatory duty to comply with requirements to affirmatively further fair housing, and required cities and counties to include additional information in their housing elements relative to their AFFH duties, as specified.

AB 686 (Santiago), Chap. 958/2018, required a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, as specified. As part of this effort, the bill also required a city or county to include in its housing element an assessment of fair housing within its jurisdiction and to identify housing sites to affirmatively further fair housing.

Staff Comments: The bill's state-mandated local costs associated with the housing element requirements would not be subject to state reimbursement because local agencies have the authority to charge and adjust planning and permitting fees as necessary to cover administrative costs. Existing law authorizes planning and zoning fees to "include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations." Case law and previous decisions by the Commission on State Mandates support the position that local governments' planning costs are not reimbursable when the state imposes new planning mandates.

This bill requires HCD to develop and publish an online tool by April 1, 2027 to serve as the method for determining whether each jurisdiction's identification of sites adequate to

accommodate its share of RHNA at all income levels meets AFFH obligations. Staff notes that this date was included in the bill last year with the expectation that it would have been enacted and operative on January 1, 2026. The bill's hearing was delayed at the author's request last year, so it should be amended to push the deadline back to 2028 to provide adequate time for HCD to meet this requirement.

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