

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 507 (Limón) – As Amended May 1, 2025

SENATE VOTE: 38-0

SUBJECT: Planning and zoning: regional housing needs allocation

SUMMARY: Authorizes a local government in the same county as a tribe to enter into a voluntary agreement with a tribe to allow new tribal housing development projects, as defined, to count toward the locality's share of the regional housing needs allocation (RHNA) if certain conditions are met. Specifically, **this bill:**

- 1) Allows a local government within the same county as a tribe to enter into a voluntary agreement with a tribe to allow new tribal housing development projects to count toward the locality's share of RHNA if all of the following conditions are met:
 - a) The local government executing the agreement has permitting authority over the site on which the tribal housing development is located;
 - b) If the local government executing the agreement does not have permitting authority over the site on which the tribal housing development is located, the voluntary agreement must demonstrate that the housing units will be built, including, but not limited to, one or more of the following:
 - i) Agreement with the tribe regarding approvals, permits, certificates of occupancy, or reporting new units to the Department of Finance.
 - ii) Documentation from the tribe demonstrating that planned housing has been approved to be built within the current RHNA cycle.
 - iii) Data pertaining to the timing of project construction and unit affordability by household income category.
 - c) The tribal housing development is located on a site within the boundaries of, or contiguous to, the local government.
 - d) The units in the tribal housing development meet the definition of housing unit, as defined by the United States Census Bureau.
- 2) Prohibits a local government from requiring a tribe to waive tribal sovereign immunity in order to enter into a voluntary agreement under this bill.
- 3) Specifies that the bill does not affect an existing tribal housing development that is being counted towards a locality's share of RHNA regardless of whether the local government and a tribe enter into a voluntary agreement pursuant to this bill.
- 4) Defines the following terms for the purpose of the bill:

- a) “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county;
 - b) “Tribal housing development” means a housing development located on a site held in fee simple by a tribe or held in trust by the United States for the benefit of a tribe; and
 - c) “Tribe” means a federally recognized Native American tribe.
- 5) Declares it is the intent of the Legislature that the Department on Housing and Community Development (HCD) should be encouraged to approve units in a tribal housing development as counting toward that locality’s RHNA if the units meet the requirements of Housing Element Law.
- 6) Finds and declares that the lack of affordable housing is a matter of statewide concerns and is not a municipal affair. Therefore, the bill applies to all cities, including charter cities.

EXISTING LAW:

- 1) Provides that each community’s fair share of housing be determined through the RHNA process. Sets out the process as follows:
- a) Department of Finance and HCD develop regional housing needs determinations.
 - b) Councils of Governments (COGs) allocate housing via RHNA within each region based on these determinations, and where a COG does not exist, HCD conducts the allocations.
 - c) Cities and counties incorporate these allocations into their housing elements.
[Government Code (GOV) §65584 and 65584.01]
- 2) Requires HCD, in consultation with each COG, to determine each region’s share of housing need at least two years prior to the scheduled revision of the housing element, as provided, and requires the COG or HCD to adopt a final RHNA that allocates a share of the regional housing need to each city or county at least one year prior to the housing element due date for the region. [GOV §65584(b)]
- 3) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
- a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs, including a quantification of the locality’s existing and projected housing needs for all income levels; an inventory of land suitable and available for residential development; an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels; and a demonstration of local efforts to remove constraints that hinder the locality from meeting its share of the regional housing need, among other things.
 - b) A statement of the community’s goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing.

- c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element, including actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. [GOV 65583 §(a)-(c)]

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

COMMENTS:

- 1) **Bill Summary.** This bill authorizes a local government within the same county as a tribe to enter into a voluntary agreement with that tribe to allow a new tribal housing development project to count toward the locality's share of RHNA. The bill prohibits a local government from requiring a tribe to waive sovereign immunity in order to enter in a voluntary agreement pursuant to the bill's provisions. The bill also specifies that the bill does not affect any tribal housing development that are already counted toward a locality's RHNA regardless of whether a tribe and a local government have entered into a voluntary agreement. This bill is sponsored by the Santa Ynez Band of Chumash Indians.

According to the author, "Reservations are treated as federal land for purposes of the RHNA and thus are considered ineligible to count towards the RHNA process. SB 507 creates an opportunity for local governments to engage with willing tribal partners to meet their regional housing needs."

- 2) **Planning for Housing.** The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific consideration. Zoning ordinances and other development decisions must be consistent with the city or county's general plan.

- 3) **Adoption and Implementation of Housing Elements.** One important tool in addressing the state's housing crisis is to ensure that all of the state's cities and counties appropriately plan for new housing. Such planning is required 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 exposure to the “builder’s remedy” as well as public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership. Localities that do not adopt a compliant housing element within 120 days from their statutory deadline also must complete any rezones within one year of their deadline, rather than the three years afforded to on-time adopters.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its RHNA which is a figure determined by HCD through a demographic analysis of housing needs and population projections, also known as the regional housing need determination (RHND). HCD establishes its determination of each COG’s regional housing targets across the state for the next five- or eight-year planning cycle. Each COG (or in some areas, HCD acting directly as COG) then sub-allocates the RHNA to each local government within the COG’s jurisdiction, and in turn each jurisdiction uses its housing element to show how it will accommodate that number of new housing units, split out by income level and with a focus on certain special needs housing types and on affirmatively furthering fair housing.

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 not engage in exclusionary zoning practices

- 4) **Ownership of Tribal Lands Varies.** California differs from other states in that only a small percentage of California tribes’ land is held in trust by the U.S. government – often on reservations and Rancherias – as compared to fee land, under complete control of its tribal owner or individual tribal member, or restricted fee land, which is owned by a tribe or tribal member but cannot be sold or encumbered. Trust or restricted fee lands may also be allotted, in that these were formerly communal lands that have since been broken up into individual allotments redistributed among individual tribal members. As a result, there are a variety of complex tribal property ownership and land designation statuses that require specialized knowledge to navigate for purposes of developing tribal housing.
- 5) **Tribal Housing and RHNA.** Housing element statute does not explicitly allow tribal housing to be counted toward a local government’s RHNA, since tribal housing is generally located on land held in federal trust. Because the population living on federal trust land is generally not included in a jurisdiction’s population estimate on which its RHNA allocation is based, housing units built on that land is generally not counted as serving the jurisdiction’s housing need.

In practice, HCD does sometimes allow housing units built on tribal lands to help meet a jurisdiction’s RHNA. However, these sites are treated differently because the local government may not have authority over the planning, permitting, and decision-making processes of land owned by another public entity. Therefore, assurance must be provided that the jurisdiction will be able to successfully build housing on these sites; in addition, any housing that is built must meet the Census definition of a housing unit (e.g., not group quarters). Examples of assurance include an agreement granting the jurisdiction authority to

approve, permit, certify occupancy, and/or report new housing units to the Department of Finance; documentation from the entity controlling the land demonstrating that the planned housing has been approved to be built within the current RHNA cycle; and data relating to the timing of project construction and unit affordability by household income category.

This bill would authorize voluntary agreements between a locality and a tribe to allow new tribal housing development projects – including those on land held in federal trust – to count toward the locality’s RHNA. The assurances that the jurisdictions will be able to successfully build housing on these sites as discussed above are provided for in this bill.

- 6) **Related Legislation.** AB 650 (Papan) extends a number of timelines in the process of determining regional housing needs and RHNA and housing element revisions, and requires HCD to provide specific analysis or text to local governments to remedy deficiencies in their draft housing element revisions. This bill is in the Senate Appropriations Committee.

AB 1275 (Elhawary) extends timelines for determining RHNA and RHND for each region and requires each region to incorporate elements of its sustainable communities strategy (SCS) into its RHNA methodology and allocation plan, as specified. This on the Senate Floor.

SB 233 (Seyarto) revises deadlines for HCD to meet and consult with each COG in the RHND process. This bill is in this Committee.

- 7) **Arguments in Support.** The Santa Ynez Band of Chumash Indians, sponsors of the bill, write in support, “In May of 2024, the Santa Barbara County Board of Supervisors approved a plan to rezone 28 sites across the County to meet the overall RHNA targets. The only site in the Santa Ynez Valley that was selected to meet the RHNA need was a Chumash-owned property on Highway 246 which the county rezoned to allow for the development of 91 low-income and 30 moderate-income units.

“Today this parcel on Highway 246 is owned in fee by the tribe, but the tribe may eventually place this parcel into federal trust as part of the Chumash reservation. If that occurs, these 121 housing units will no longer count towards the County’s RHNA total because tribal reservations are considered federal land exempt from RHNA. If this were to occur, Santa Barbara County would lose RHNA credit for these 91 low-income and 30 moderate-income housing units and potentially risk falling short of its RHNA obligations.

“Similarly, the Chumash also have plans for 143 new housing units on the Chumash reservation. The inclusion of these 143 units towards the RHNA, in addition to the 121 units on Chumash’s Highway 246 parcel would provide 264 of the 280 new housing units, nearly 95% of the Santa Ynez Valley’s RHNA allocation. Unfortunately, because the Chumash reservation is considered federal land, this potential new housing development cannot count towards Santa Barbara County’s RHNA requirements under current law.

“SB 507 would allow the Chumash to partner with Santa Barbara County to solve for the required new housing in the Santa Ynez Valley and would provide opportunities for similar partnerships between tribes and local governments across the state.

- 8) **Arguments in Opposition.** None on file.

- 9) **Double-Referral.** This bill is double-referred to the Assembly Housing and Community Development Committee, where it passed on a 12-0 vote on July 2.

REGISTERED SUPPORT / OPPOSITION:**Support**

Santa Ynez Band of Chumash Indians (Sponsor)
California State Association of Counties
CNIGA - California Nations Indian Gaming Association
County of Santa Barbara
Elk Valley Rancheria, California
Enterprise Rancheria
Jamul Indian Village of California
Karuk Tribe
Middletown Rancheria
Morongo Band of Mission Indians
North Fork Rancheria of Mono Indians of California
Rincon Band of Luiseño Indians
San Pasqual Band of Mission Indians
Santa Barbara County Board of Supervisors
Scotts Valley Band of Pomo Indians
Soboba Band of Luiseno Indians
Tribal Alliance of Sovereign Indian Nations

Opposition

None on file

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