



CITY OF HUNTINGTON BEACH

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648-2702

GRACEY VAN DER MARK MAYOR

July 3, 2024

The Honorable Nancy Skinner
Senate Housing Committee Chair
1021 O Street, Suite 8630
Sacramento, CA 95814

RE: AB 2485 (Carrillo) Regional housing need: determination

Dear Senator Skinner:

The City of Huntington Beach is respectfully opposed to AB 2485.

This measure would require the Department of Housing and Community Development (HCD) to publish data sources, analyses, and methodology before finalizing regional housing need determinations, and to assemble an advisory panel for subsequent revisions, ensuring transparency and expert consultation in the process.

However, local representation of jurisdictions should be of the highest priority in drafting and finalizing proposed legislation. HCD should establish a panel of experts to include Southern California Association of Government's (SCAG) member jurisdictions and selected experts in data science and demography. Limiting the panel of experts to academics, theorists, developers, and advocates hand selected by HCD does not directly reflect the input of local agencies or serve the interests of the jurisdictions that comprise SCAG. The proposed legislation should reflect the needs, input, and requirements of SCAG's member jurisdictions to ensure that the practical implementation of the legislation, including details regarding trade and transfer, is possible and amenable to local agencies.

AB 2485 should empower cities to participate and be represented throughout a meaningful housing planning process to ensure that regional housing needs assessments reflect the realities and priorities of local communities.

For these reasons, the City of Huntington Beach Opposes 2485 (Carrillo).

Sincerely,

Gracey Van Der Mark
Mayor

Cc: Assembly Member Juan Carillo
Senator Janet Nguyen
Assembly Member Dian Dixon

ASSEMBLY THIRD READING

AB 2485 (Juan Carrillo)

As Amended March 19, 2024

Majority vote

SUMMARY

Requires the Department of Housing and Community Development (HCD) to take certain actions in determining the existing and projected housing need for each region through the regional housing needs determination (RHND) process.

Major Provisions

- 1) Requires HCD to publish on its website the data sources, analyses, and methodology to be used by the department to determine the RHND, including specified assumptions and factors used in and applied to the Department of Finance (DOF) projections and engagement process with the council of governments (COG), prior to finalization of the RHND.
- 2) Requires HCD, for the seventh and subsequent housing element cycles, to assemble and convene an advisory panel to advise HCD on its assumptions and the methodology it shall use for purposes of the RHND. Requires the panel to be composed of all of the following:
 - a) A United States Census Bureau-affiliated practitioner;
 - b) An expert on specified data; and
 - c) A representative from the COG.
- 3) Requires HCD to consult with the advisory panel before making determinations in writing on specified data assumptions and the methodology it shall use for the RHND, and to provide the written determinations to the COG and publish them on HCD's website.

COMMENTS

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.¹ In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.² The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.3 million housing units affordable to very low-

¹ <https://chpc.net/housingneeds/>

² <https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html>

income Californians to eliminate the shortfall.³ By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.⁴

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 539 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.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's housing needs allocation (RHNA), which is a figure determined by HCD through a demographic analysis of housing needs, existing housing stock, and population projections in consultation with DOF and the COG. 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.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment 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 or extremely difficult 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 not engage in exclusionary zoning practices.

RHND/RHNA Methodology: The RHND/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 eight-year planning cycle. The RHND is assigned at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. RHNA is assigned via four 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).

³ <https://chpc.net/housingneeds/>

⁴ <https://www.hcd.ca.gov/policy-research/housing-challenges.shtml>

The cycle begins with HCD and the Department of Finance 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 RTP forecast. 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 is 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. 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.

In past housing element cycles, RHNA had been criticized as being a political rather than a methodologically sound, data-driven process. In the past, jurisdictions with a higher share of wealthier, whiter residents were more likely to have received lower allocations of moderate and lower income housing, while more diverse cities sometimes received higher allocations of those categories. The Legislature made a number of changes to the RHND, RHNA, and housing element process over the past several years to strengthen the law and restrict the ability of jurisdictions to evade their housing obligations.

2022 RHNA Audit: A March 2022 audit identified a handful of issues with HCD's RHND data and review processes. In response to the audit's findings, HCD committed to, and completed, the following actions:

- 10) Instituting a process for performing multiple reviews of data included in the RHND assumptions to improve quality control;
- 11) Creating additional process documents to provide evidence of adequate consideration of all factors required by state law in its needs assessment;
- 12) Completing a formal analysis of healthy vacancy rate trends to support their use of a 5% vacancy target rate for healthy housing markets; and
- 13) Formalizing a technical assistance document to use when reviewing COG data on comparable regions and healthy housing markets.

Policy Considerations: This bill would require HCD to publish more of its data sources and methodology factors before finalizing the RHND. It would also require HCD to assemble and convene advisory panels for each future COG's RHND process and consult with those panels during the formation of the RHND methodology and in reviewing all the data points listed above when formulating the existing and projected housing need for each region for each future housing element cycle. This consultation is in addition to the existing consultation requirements that currently exist with the COGs themselves. The panel would have to be comprised of a US Census Bureau-affiliated practitioner, a data expert, and a representative from the COG. This would build in another layer of consultation and review to the RHND process, which may be somewhat duplicative given the department's existing COG consultation obligations, and could cause delays in the development of the final RHND, which HCD must provide to the COG no later than two years prior to the scheduled revision of the housing element. Though the panel consultation would be folded into the existing RHND timeline, it is unclear what HCD's obligations would be to respond to the advisory panel's feedback.

According to the Author

"There are more than 181,000 Californians who are unhoused. I believe we have made good progress at both the state and local levels when it comes to planning for more housing, and with each RHNA cycle, we are refining the process. But we must do better. The California State Auditor's report published in March 2022 on HCD's RHNA determination process highlighted the need for accountability and transparency on HCD's methodology and assumptions. HCD's assumptions and methodology should be clear and accessible to stakeholders to ensure confidence in the process. That is why AB 2485 is focused on embedding inclusivity and transparency in HCD's engagement and outreach efforts which are critical to fostering the collaboration and trust that are essential to housing production in California."

Arguments in Support

According to the California Association of COGs, "On behalf of the state's Councils of Governments that are a key partner to HCD in the Regional Housing Need Allocation (RHNA) process, we support AB 2485 for improvements it would make to the RHNA determination process. ... One of the challenges of the RHNA process is that those that must implement it do not always understand the basis for the numbers. As a result, it is often panned as a mere state mandate even by those that understand the need to address the state's housing crises. A process

that connects the housing determination to the state goal in an evidence-based way will lead to better policy implementation."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, HCD estimates ongoing General Fund costs of \$200,000 annually for one staff position to accommodate the additional workload. Specific duties include convening and moderating advisory panels for 20 COGs, documenting HCD's determinations, and coordinating updates to the department's website.

According to the Legislative Analyst's Office, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

VOTES**ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-1**

YES: Ward, Joe Patterson, Grayson, Kalra, Quirk-Silva, Reyes, Sanchez, Wilson

ABS, ABST OR NV: Lee

ASM LOCAL GOVERNMENT: 8-0-1

YES: Juan Carrillo, Waldron, Valencia, Kalra, Pacheco, Ramos, Ward, Wilson

ABS, ABST OR NV: Essayli

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Sanchez, Arambula, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Grayson, Haney, Hart, Jim Patterson, Pellerin, Ta, Villapudua

UPDATED

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