

Memorandum

TO: Joint MTC Legislation Committee and
ABAG Legislation Committee

DATE: May 4, 2018

FR: Deputy Executive Director, Policy

RE: AB 1771 (Bloom): Regional Housing Needs Allocation – Oppose Unless Amended

Background

Assembly Bill 1771 (Bloom) is one of the key bills being considered this year that would make changes to the process by which councils of government (COGs) distribute regional housing needs allocations (RHNA) to local jurisdictions, including requiring that COGs directly incorporate equity considerations into RHNA plans. The other significant RHNA bill is SB 828 (Wiener), which is Item 6b on the Joint Legislation Committee's agenda this month.

Changes to RHNA Objectives: New Emphasis on Equity

AB 1771 would make a number of changes to RHNA objectives, which are intended to guide the allocation of regional housing need to jurisdictions within the region. The bill would require that RHNA not just be "consistent" with the established objectives, but that it "further" them. In addition, AB 1771 would revise and add a number of new equity-related objectives to RHNA, including: "*Increasing access to areas of high opportunity for lower-income residents, avoiding displacement and affirmatively furthering fair housing.*" Areas of "high opportunity for lower income residents" would be defined as areas that "provide pathways to better lives, including through health, education, and employment."

New HCD Review & Approval Role over RHNA Methodology

Additionally, the bill would change the process by which a COG adopts a methodology for distributing RHNA to local jurisdictions. Specifically, the bill would require a COG to submit its draft allocation methodology to HCD for determination as to whether it furthers the RHNA objectives (subject to a 60-day review) and make necessary changes as directed by HCD before approving the final methodology. AB 1771 would also require that COGs hold two public hearings about the proposed methodology instead of one and would require that COGs provide an explanation of how the proposed methodology furthers the intent of the expanded objectives required by the bill.

New Process to Allow Expanded Challenges to RHNA

AB 1771 would also make changes to RHNA as it relates to individual housing allocations for each jurisdiction. Whereas currently only each locality has the authority to challenge its share of the regional housing need as proposed by the COG, this bill would authorize a housing organization (defined as a non-profit that advocates for affordable housing) to request from the COG a revision of a jurisdiction's share of the regional housing need and transfer the authority for hearing appeals from the COG to HCD if the COG rejects a revision requested by a jurisdiction or non-profit housing organization. Additionally, the COG would be required to take HCD's action on all appeals into consideration when issuing the final RHNA plan. Ultimately, the bill reserves final authority over the RHNA with the COG, as is the case under current law.

Recommendation: Oppose Unless Amended

Discussion

As detailed above, AB 1771 would expand HCD's role as it relates to the RHNA plan. Historically, the primary role of the COG has been to develop a methodology to distribute the total regional housing need to jurisdictions and a final RHNA plan that incorporates an understanding of the regional context. By enabling HCD to require changes to the regional methodology and increasing HCD's role as it relates to allocations to individual jurisdictions, the bill would weaken the COG's ability to craft a solution that responds to regional needs with respect to RHNA. In addition, it is unclear how conflicts between HCD and COGs regarding the RHNA methodology would be resolved; creating a risk of an ongoing dispute that could delay adoption of the RHNA.

The proposal to authorize any non-profit organization that advocates for affordable housing to challenge a COG's proposed distribution of regional housing need to a particular locality also raises concerns. As mandated by state housing law, ABAG engages local jurisdictions, stakeholders, and members of the public throughout the process of developing the RHNA plan. For example, ABAG convened a committee in 2011 to advise staff on developing the methodology for the 2015-2023 RHNA plan. This committee included representatives from cities and counties throughout the Bay Area and delegates from a range of stakeholder groups, including representatives of non-profit housing and social equity organizations. Between January 2011 and March 2012, the committee met almost monthly to deliberate about how best to allocate the region's housing need and ensure consistency between RHNA and the Bay Area's SCS. This type of open, deliberative process is the appropriate place for stakeholder and public engagement rather than creating a wide open "appeal" mechanism at the tail end of the process that could result in abuse and ultimately delay RHNA adoption.ⁱ


Lastly, while we support the broad policy goal of improving social equity, the bill ignores the fact that the COG cannot impose where within an individual jurisdiction units will be accommodated. Nor do COGs have authority over many of the policies and investment strategies that may affirmatively further fair housing or combat displacement. A mandate that RHNA achieve outcomes that are beyond the authority of the COG to control under existing law raises significant concerns.

We recommend AB 1771 be amended to remove from the bill the requirement that HCD review and approve a COG's RHNA allocation methodology, provisions that would authorize a housing organization to challenge a jurisdiction's proposed share of the regional housing need, and transfer hearing appeals to HCD. Additionally, we recommend the equity objective detailed above be amended to focus on equity in the context of jurisdiction-level housing allocations, which are the purview of COGs.

For these reasons, staff recommends an "oppose unless amended" position on AB 1771.

Known Positions

Attachment B



Alix A. Bockelman

Attachments:

- Attachment A: Housing Methodology Committee Membership
- Attachment B: AB 1771 Known Positions

AAB:ggd

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ⁱ See Attachment A for a list of committee members and the following link for more information regarding the Bay Area's RHNA methodology: <https://abag.ca.gov/planning/housingneeds/resources-new.html>.



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AB 1771 (Bloom) Known Positions

Support

California Rural Legal Assistance Foundation (co-sponsor)

Western Center on Law and Poverty (co-sponsor)

California Bicycle Coalition

California Housing Consortium

Non-Profit Housing Association of Northern California

American Planning Association (if amended)

Opposition

California Association of Councils of Government (unless amended)

California Building Industry Association (unless amended)