



- 5) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density or allow development at a lower residential density for any parcel unless the local jurisdiction makes written findings supported by substantial evidence that both:
  - a) The reduction is consistent with the adopted general plan, including the housing element, and
  - b) The remaining sites identified in the housing element are adequate to accommodate the jurisdictions share of the regional housing need.
- 6) Permits a local jurisdiction to reduce the density on a parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity, if a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdictions share of the regional housing need.
- 7) If a local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline or the adopted housing element is not in substantial compliance within 180 days of the deadline, “lower residential density” means any of the following:
  - a) For residentially zoned sites, a density that is lower than 80% of the maximum allowable residential density for that parcel.
  - b) For sites on which non-residential uses are permitted, a use that would result in the development of few than 80% of the number of residential units that would be allowed under the maximum residential density for the site.

This bill:

- 1) Requires that a local jurisdiction accommodate its remaining unmet need at all times throughout the planning period. At no time shall a local jurisdiction permit or cause its inventory of sites identified in the housing element to be insufficient to meet the remaining unmet share of the regional housing need for lower and moderate-income households.
- 2) Adds that if the approval of a development containing fewer than the number of units at each income level identified in the housing element would result in the remaining sites not being adequate to accommodate the jurisdictions share of the regional housing need at each income level, the local jurisdiction may approve a development proposal only if it identifies and rezones, if necessary,

to render the site adequate so that there is no net loss of residential unit capacity.

- 3) Requires any rezoning of an additional site to be completed prior to, or contemporaneous with, the reduction of density of the parcel or approval of the development.
- 4) Declares that no reimbursement is needed because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service.

#### COMMENTS:

- 1) *Purpose.* According to the author, this bill seeks to expand the supply of housing — including affordable housing — by ensuring that localities maintain an ongoing supply of land to meet the locality’s unmet housing needs. Existing law requires that each local government identify adequate sites in its housing element to meet its share of the RHNA. This important planning obligation ensures that each local government has enough residentially zoned land to accommodate new housing construction for all income levels, including housing affordable to lower-income households.

However, existing law does not adequately ensure that after the housing element is adopted, the jurisdiction continues to maintain a supply of available land to accommodate the remaining unmet housing need throughout the 8-year period covered by most housing elements. Existing No Net Loss Zoning Law (Gov’t Code Section 65863) ensures that local governments do not approve new housing at significantly lower densities than projected in the Housing Element without identifying other sites that could accommodate the lost units. However, the law does not adequately address other ways in which development approvals can leave a city without sufficient land to accommodate its housing need. For example, a site identified to accommodate a portion of a local government’s need for lower-income households might later be developed with high-end market-rate housing, or the site might be developed for a different use, such as commercial, that is also permitted by the zoning, eliminating a potential site for new housing development. Rather quickly, a city or county’s supply of land for housing — especially higher density land suitable for affordable development — can disappear even though the locality has seen little or no development of housing for low- and moderate-income households. This bill addresses this by ensuring that as development occurs, local governments assess

their ability to accommodate new housing on the remaining sites in their inventory and make adjustments to their zoning if needed.

- 2) *Background of Housing Elements.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. The land use element sets a community's goals on the most fundamental planning issues — such as the distribution of uses throughout a community, as well as population and building densities — while other elements address more specific topics. Communities also may include elements addressing other topics—such as economic development, public facilities, and parks — at their discretion.

Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

Each community's fair share of housing is determined through the RHNA process, which has three main steps: 1) Department of Finance and HCD develop regional housing needs estimates; 2) regional councils of governments allocate housing within each region; and 3) cities and counties incorporate their allocations into their housing elements. Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built.

- 3) *Inadequate sites for multifamily housing.* At an Assembly Housing and Community Development Committee hearing on February 22, 2017, the Executive Director of Mutual Housing California testified that there are two main barriers for affordable housing developers to build affordable housing. The first is that there are inadequate sites to build housing (*i.e.* areas zoned for multifamily over single family). The second is the lack of funding for building affordable housing. Even if financial resources become available to produce

housing affordable to all in need, the non-profit sector could not build for that need without adequate planning by local communities.

This bill focuses on the lack of appropriately zoned land for the construction of new housing in many localities. When some localities fail to make sufficient and appropriately zoned land available for housing, the result is a jurisdiction that is, in effect, off-limits to new housing. This constrains the supply of housing and makes it more difficult for affordable developers to identify housing where it is needed most. It also increases pressure on neighboring cities and counties that do their share to accommodate new housing.

This bill would ensure that as development occurs on sites identified for housing, the jurisdiction continues to maintain an ongoing supply of sites available to meet the unmet need for housing for all income levels. Specifically, this bill requires a locality to make sites available at all times that meet its remaining unmet housing needs. It also requires a local government, in approving a development on a site identified for housing that result in a development with fewer units than projected in the housing element, to identify additional sites that could accommodate the need not met by the approved development. If the local government does not have enough residentially zoned sites available to accommodate the unmet need, this bill requires the local government to take action to designate a new site or sites that could accommodate that need in conjunction with the action that triggers the unmet need.

- 4) *Double-referral*. This bill is double-referred to the Senate Governance and Finance Committee.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: No

**POSITIONS:** (Communicated to the committee before noon on Wednesday, March 1, 2017.)

**SUPPORT:**

California Rural Legal Assistance Foundation (co-sponsor)

Public Advocates (co-sponsor)

Western Center on Law and Poverty (co-sponsor)

**OPPOSITION:**

None received.

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