



# SAN FRANCISCO PLANNING DEPARTMENT

## Memo to the Planning Commission JULY 12TH, 2018

*Topic:*

California State Senate Bill 828 and State Assembly Bill 1771

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This memo is in response to the Commission's request for an analysis of the proposed State Senate Bill ("SB") 828 by State Senator Scott Weiner and related State Assembly Bill ("AB") 1771 by Assemblymember Richard Bloom. As of the writing of this memo, both bills have been passed by their respective houses and sent to the other house and differences between the bills would need to be resolved in the legislative process. This memo's analysis is based on the most recent version of the bills, however, SB 828 in particular has undergone significant changes and both bills will likely see further adjustment.

Both SB 828 and AB 1771 propose changes to the Regional Housing Needs Assessment/Allocation (RHNA) process. RHNA refers both to the assessment of projected regional housing need as well as the allocation of that housing need to the jurisdictions in a region. RHNA is developed as part of the regional plan process (Plan Bay Area in the case of the Bay Region), providing minimum housing production targets by income group for the eight year planning cycle. Jurisdictions must show in their housing elements that they have sufficient land zoned for housing development to accommodate these targets. RHNA's minimum housing targets are also used to track housing permitting and production performance. For example, SB 35 may trigger streamlined planning approvals for jurisdictions that miss their targets for low and/or above-moderate income housing over particular periods.

The RHNA household and housing unit projections are developed in consultation between the regional Council of Governments (COG), the state Department of Finance (DOF), and the state Department of Housing and Community Development (HCD). The regional COG - the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC) in the case of the Bay Area- must also consult with HCD on the methodology and the plan for allocating RHNA to jurisdictions.

## **SB 828 Summary**

SB 828 will make changes to the housing element and RHNA process, specifically affecting the determination of housing need for jurisdictions. This bill would make the following changes:

- Adds to the current data assumptions and methodology used to determine RHNA.<sup>1</sup> Additional factors or clarified definitions include:
  - Housing cost burden is defined as the share of households by income group paying more than 30% of income for housing.
  - The “rate of cost burdened for a healthy housing market” is defined relative to the average for comparable regions throughout the nation.
  - The “overcrowded rate for a healthy housing market” is defined as the average for comparable regions throughout the nation (overcrowding continues to be defined as more than one person per room).
  - The vacancy rate for a healthy housing market is defined as between 5% and 8% for both rental and ownership housing.
  - Projected household income growth is also added as a factor.
- Requires HCD to include in its RHNA methodology<sup>2</sup> allowances for adjusting RHNA based on certain factors including the percentage of overcrowded renters, vacancy rates, and the percentage of households that are cost burdened. These factors would consider the needs of both existing and future projected households.
- Requires that the final regional allocation plan for RHNA demonstrate efforts to reverse racial and wealth disparities by assigning additional weight for the distribution of RHNA for all income levels, but in particular for low- and very low-income households, to local governments that meet both of the following criteria:
  - A. have median employed household incomes above the 50<sup>th</sup> percentile for the region
  - B. contain a regional job center, as determined by the regional COG, or that contain high quality public transportation that connects to a regional job center.

## **Planning Department Analysis of SB 828**

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<sup>1</sup> Population projections for the region are developed in consultation between DOF, the regional COG, and HCD. Projections for household growth for RHNA are based on these population projections. Current RHNA methodology may also consider additional data assumptions including: household size data and trends in household size, the percentage of households that are overcrowded, the rate of household formation or headship rates by various demographic factors, vacancy rate, addition characteristics of the projected population, and the relationship between jobs and housing including any imbalances.

<sup>2</sup>HCD may accept or reject the information provided by the COG in development of its RHNA. HCD shall make determinations in writing of its own assumptions and methodology based on the factors defined in the state code that would be further defined and expanded by this bill.

## **Likely to increase RHNA for San Francisco and the Bay Area**

While the specific effects would be subject to analysis conducted by HCD and ABAG/MTC under the revised methodology, it is likely that the effect of SB 828 would be to increase the total RHNA for all income levels in San Francisco and the Bay Area generally. However, these increased RHNA amounts would not come into effect for several years until the next RHNA allocation process in the Bay Area, which coincides with the next Plan Bay Area and the adoption of an updated housing element in San Francisco in 2022. RHNA for San Francisco and the Bay Area would increase for a variety of reasons including:

- Consideration of cost burdens would likely lead to an upward adjustment in RHNA for low and moderate income households. Consideration of renter overcrowding could have a similar impact.
- Consideration of projected household income growth could increase RHNA due to growth trends among higher income households in the city and region.
- San Francisco would likely fall into the group of cities that have both median employed household incomes above the 50<sup>th</sup> percentile and a regional job center or high quality public transportation. However, San Francisco already received an increased share of the 2014 RHNA due to the concentration of Priority Development Areas (PDAs) located in the city, so the impact of this changed methodology on the RHNA for other higher income cities in the region with job centers and high quality public transportation might be larger than the effect for San Francisco.

## **Unlikely to Require Significant Up-zoning in Next Housing Element**

One of RHNA's main impacts on cities is that each jurisdiction's housing element must list sufficient sites zoned to accommodate their share of the RHNA and to initiate rezoning if a city cannot demonstrate existing capacity. Analysis of current capacity shows that San Francisco can accommodate approximately 140,000 units based on current zoning and plans underway.<sup>3</sup> The City's current RHNA allocation for 2015-2022 is 28,869 units (the minimum production targets by income level are 6,234 at Very Low Income, 4,639 at Low Income, 5,460 at Moderate Income, and 12,538 at Above Moderate Income).

Though RHNA for the 2022 housing element would be likely to increase under SB 828 it would be extremely unlikely to come close to the existing zoned capacity. As a result, the need for additional zoned capacity for housing, even with an increased RHNA allocation, would not likely be felt until housing elements farther in the future.

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<sup>3</sup> Rather than a limited list of sites, San Francisco typically provides a list of all "soft-sites" - meaning sites that are developed at less than 30% of developable capacity under the city's zoning and could reasonably be developed as housing in the future.

## **Interaction with SB 35**

Because SB 828 is likely to increase RHNA, it may mean that fewer cities, including San Francisco, meet their RHNA targets for housing affordable for low income households and possibly also above-moderate income households. More cities, including San Francisco, could be subject to streamlining under SB 35 if these targets are not met. However, because SB 35 streamlining depends on housing production over the first and second halves of the housing element cycle, San Francisco or other Bay Area cities, would not experience any effects from new, higher RHNA targets until the middle of the next housing element cycle -- i.e. after 2026.

## **Effects on Housing Costs and Regional Equity**

The effect of additional zoned capacity for housing due to SB 828's increased RHNA requirements could help facilitate additional housing development, including affordable housing development, that could help to moderate or reduce housing prices over time. However, these effects would not be seen until well into the next housing element cycle after 2022. In addition, more of the RHNA is likely to be distributed to higher income communities with job centers and/ or high quality public transportation, potentially increasing access to housing opportunity for lower income households to a broader range of cities in the Bay Area.

## **Major Revisions**

Earlier versions of SB 828 had included provisions that likely would have changed the RHNA process more significantly and likely increased the total allocation more than currently proposed. These now-deleted provisions included the following:

- Un-met production targets by income group would have been carried over into the next RHNA cycle. Given that much of the low and moderate income housing targets go unmet due to lack of funding, this could have added significantly to future RHNA.
- HCD would have been required to complete an assessment of un-met housing needs for each region in the state by 2020. This un-met need would have been added to the RHNA for the next regional plan and housing element update. Depending on the methodology used to assess this need, the one-time increase to RHNA could have been quite large.
- The relationship of median income to median home prices and rents was an additional factor originally included in SB 828's revisions to RHNA methodology. Depending on the methodology used to estimate the amount of housing production needed to lower housing prices and rents to be affordable at median income, RHNA could have increased significantly due to this provision.
- Jurisdictions would have been required to identify sites that can accommodate 125% of their RHNA for all income levels over the planning period, rather than 100% under current rules.

## **AB 1771 Summary**

AB 1771 makes changes to the objectives that guide the RHNA process as well how COGs develop their RHNA methodology, allocate RHNA to jurisdictions throughout the region, submit the RHNA methodology for review, and ultimately approve and inform jurisdictions and the public about the adopted RHNA plan. Notable proposed changes in the bill include the following:

- The RHNA allocation plan must show that it furthers specific objectives established in the statute, rather than simply being consistent with them. The first two objectives would be largely retained as is:
  1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, so that each jurisdiction receives an allocation of units for low- and very low income households.
  2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

Objectives 3 and 4 would be updated, with added requirements to consider availability of housing units affordable to low wage workers and to adjust RHNA allocations to jurisdictions based on their share of households by income relative to the county. Objective 5 would be newly added to address access to opportunity and fair housing:

- 3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- 4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, and allocating a higher proportion of housing need to an income category when a jurisdiction already has a disproportionately low share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial census.
- 5. Increasing access to areas of high opportunity for lower-income residents, avoiding displacement and affirmatively furthering fair housing.
- Requires that COGs develop their RHNA allocation methodology in consultation with HCD rather than seeking HCD's advice later in the process.
- Adds transparency requirements to the RHNA process including online posting and distribution of data used to develop the methodology, explanation of how the methodology furthers the RHNA objectives, and how the methodology incorporates various factors specified by state law.

- Factors to be used in the methodology that would be added or updated through the bill include:
  - Low wage jobs within a jurisdiction and the housing units affordable to workers at those wage levels as well as how many jobs were added at each wage level in the last planning period.
  - Percentage of households by income level cost burdened at 30% or more of household income and at 50% or more of household income.
  - The rate of overcrowding.
  - COGs are able to include additional factors as long as they either advance the RHNA objectives or, if they do not specifically advance those objectives, must not undermine them and must be found to be necessary for health and safety.
- The bill proposes to remove “market demand for housing” as a factor to consider in the RHNA methodology.
- The bill specifies the process for public release along with review of the draft RHNA allocation methodology by HCD as well as the process for final adoption by the COG. HCD will have 60 days following the submission of the draft to determine if it furthers the RHNA objectives. If HCD finds that the methodology does not further the objectives, the COG has two options:
  1. Revise the methodology in accordance with HCD’s findings and adopt a final regional allocation methodology.
  2. Adopt a final regional allocation methodology without revisions and include within its resolution of adoption written findings as to why the COG believes that the methodology is consistent with the objectives despite HCD’s findings.

Upon either action the COG shall provide notice of adoption of the methodology and shall publish the methodology on its Web site. The resolution approving the final RHNA plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan and furthers the RHNA objectives.

- The bill would alter the process for appeals of the RHNA by jurisdictions, including shortening or specifying timelines, requiring supporting documentation and consistency with the RHNA objectives, as well as transparency including public notification and release of supporting documents for the final appeal decision.
- The bill removes the ability of two or more governments within a region to make an agreement on an alternate distribution of RHNA between themselves.

## **Planning Department Analysis of SB 1771**

### **Increased Transparency and Equity in the RHNA Process**

AB 1771 would make the RHNA process clearer in terms of how the methodology will be created and how the RHNA allocation plan will be set. ABAG and MTC have tried to offer much of this information already, however, other regions of the state may not have been as transparent and AB 1771 will help change that.

AB 1771 will also provide more structure for the allocation process, helping to ensure that all cities in the region play some role in accommodating RHNA. In particular, the focus on low-wage jobs and housing affordable at those income levels could increase the RHNA allocation for high income communities with many service jobs but relatively few affordable units for these workers. While San Francisco has many lower wage workers, the presence of relatively more affordable units due to investment in income-targeted affordable housing and rent-controlled units means that San Francisco may perform relatively well on these metrics compared to higher income suburban jurisdictions with little affordable housing.

### **Likely Effects Similar to SB 828 on Increased RHNA, Up-zoning, and SB 35**

Like SB 828, AB 1771 incorporates additional factors in the RHNA methodology such as current cost burden and concentrations of lower-wage jobs relative to affordable units. AB 1771 overlaps significantly with SB 828 in these sections and, like SB 828, would likely increase RHNA for San Francisco as well as other cities around the region. Like SB 828, changes to RHNA as a result of AB 1771 are not likely to be large enough to require additional up-zoning in the next housing element cycle in 2022. Because both AB 1771 and SB 828 are likely to increase RHNA for low income households, SB 35 streamlining could continue to be in effect in San Francisco if the city is not able to meet its low income housing production targets.

### **Removal of “Market Demand for Housing” from Statute**

AB 1771 would remove an existing statutory provision that the RHNA methodology consider “market demand for housing”. The intent of AB 1771 appears to be to replace this analysis of market demand with the factors that it adds to the methodology including housing cost burdens and the number of units affordable to lower wage workers relative to the number of lower wage jobs. While the inclusion of these additional provisions is important to address housing need among lower income workers and households and provide additional zoned capacity for multifamily housing in higher income communities, the removal of “market demand” from consideration may undermine housing outcomes for low and moderate income

households given that demand from higher income households in part has driven the large increases in housing prices and rents in regions around the state.

In recent decades, the Bay Area and San Francisco have seen growth in income overall and in particular growth in higher income households that evidence suggests has outstripped housing construction and lead to increased housing prices and rents.<sup>4</sup> Removal of market demand from the methodology might limit RHNA's ability to address the impact that higher income households are having on housing markets statewide and make it more difficult to achieve the improved outcomes for lower income households that appear to be the bill's focus. In addition, this provision of AB 1771 is not included in SB 828 so its status will need to be resolved between the two bills if they both move forward in the legislature.

### **Inconsistencies Between the Bills**

While SB 828 and AB 1771 overlap on a variety of content, there are differences that will likely need to be resolved through the legislative process.

- AB 1771 makes changes to the RHNA objectives not present in SB 828 including the addition of a 5<sup>th</sup> objective regarding access to areas of high opportunity for lower-income residents, avoiding displacement, and affirmatively furthering fair housing. AB 1771 also adds to objectives 3 and 4 with language not present in SB 828 that addresses availability of housing units affordable to low wage workers and RHNA allocations based on jurisdictions' share of households by income relative to the county.
- While both SB 828 and AB 1771 add language on housing cost burdens and overcrowding, SB 828 adds language on measurement of these factors in relation to comparable regions not present in AB 1771.
- As discussed in the section above, AB 1771 removes "market demand" from the RHNA methodology while SB 828 does not.
- The two bills also have differences in how to address racial and economic disparities through the RHNA process though both include language meant to address these issues.

### **Conclusion**

Both SB 828 and AB 1771 could make significant changes to the RHNA process. While they overlap extensively, the two bills do have some significant differences that will have to be resolved. Planning will continue to track the evolving bills and would be pleased to present updates at the Commission's request.

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<sup>4</sup> See the Executive Summary of Housing Needs and Trends Report published July 5<sup>th</sup> 2018 and the full report published July 12<sup>th</sup>, 2018 for more information on household income and wage trends.  
[http://default.sfplanning.org/publications\\_reports/Housing-Needs-and-Trends-Report-2018-ExecutiveSummary.pdf](http://default.sfplanning.org/publications_reports/Housing-Needs-and-Trends-Report-2018-ExecutiveSummary.pdf)  
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