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## SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

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**Bill No:** SB 672 **Hearing Date:** 4/22/2019  
**Author:** Hill  
**Version:** 4/3/2019  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Erin Riches

**SUBJECT:** Planning and zoning: regional housing need allocation: City of Brisbane

**DIGEST:** This bill prohibits the Association of Bay Area Governments (ABAG) from allocating to the City of Brisbane a regional housing needs allocation (RHNA) share that exceeds the city's allocation for the prior planning period, if specified conditions are met.

### **ANALYSIS:**

#### *Existing law:*

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 2) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years, following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.
- 3) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.

- 4) Requires COGs to provide specified data assumptions to HCD from each COG's projections.
- 5) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 6) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 7) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low- and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.
- 8) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.
- 9) Requires each jurisdiction to submit an annual progress report (APR) to HCD regarding its progress in meeting its RHNA allocation.
- 10) Authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

**This bill:**

- 1) Prohibits the Association of Bay Area Governments (ABAG), in the current and next planning period, from allocating to the City of Brisbane a RHNA share that exceeds Brisbane's RHNA allocation for the prior planning period, if all of the following apply:
  - a) Brisbane has taken action during the current planning period to zone or rezone sites sufficient to accommodate 350% or more of its RHNA for the current planning period.
  - b) Brisbane maintains or rezones sites sufficient to accommodate 350% or more of its RHNA for the next planning period.
  - c) Brisbane agrees to provide a copy of its APR to ABAG for each year of the current and next planning period.

- 2) Requires Brisbane, in the current and next planning period, to include in its APR information regarding demonstrable progress on meeting the 350% RHNA share.
- 3) Provides that if Brisbane fails to provide information in its APR showing demonstrable progress, as determined by HCD, or fails to comply with the other requirements of this bill, HCD shall immediately determine that Brisbane's housing element is out of compliance and report it to the Attorney General.
- 4) Provides that this bill does not waive or reduce Brisbane's obligation to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining unmet share of its regional housing need.
- 5) Provides that if at any time the site used to comply with this bill is deemed no longer adequate to meet the 350% zoning requirement, the city shall comply with that zoning requirement within 80 days.
- 6) States legislative intent regarding the unique circumstances relating to the RHNA allocation needs in the county.

## COMMENTS

- 1) *Purpose of the bill.* The author states that in November 2018, the voters in Brisbane made a significant commitment to regional housing when they approved Measure JJ. This measure would permit the development of 1,800-2,200 units of housing on the Baylands, more than doubling the city's housing stock. Passing Measure JJ was a watershed moment for Brisbane and the state. This measure, which reverses early 50 years of votes against development of the Baylands, represents the type of local leadership we need throughout the Bay Area and the state if we are to solve the housing crisis. Given the complexity of the remediation and development process, Brisbane will be working for many years in coordination with the developer, state and regional agencies, and community members to keep the project on track and moving towards the ultimate goal of developing housing that will double the size of the city. This bill creates an environment where Brisbane can focus its efforts on getting this important regional project developed properly. This bill does this by ensuring consistency in Brisbane's RHNA allocations during this planning cycle and the next, in recognition of the significant commitment already made by the city's voters. This bill is not a gift; the benefit to Brisbane under this bill is only available if the city continues to steadily move the Baylands development forward under the oversight of HCD.

- 2) *Background: the Baylands.* The genesis of this bill is a project called the Brisbane Baylands. This roughly 660-acre tract is located just south of San Francisco (between San Francisco International Airport and downtown San Francisco, near Hunters Point/Candlestick). The site location is highly desirable, as it is located close to rapidly developing southeast San Francisco and at the confluence of multiple modes of transportation. However, decades of industrial uses, including a municipal landfill and a railyard, have made the land toxic and costly to develop.

In 1989, the Baylands site was purchased by Universal Paragon Corporation (UPC), a real estate design and development firm based in San Francisco. UPC underwent various concept plans for the site before submitting a specific plan in 2006, which was later updated significantly and eventually became the “Developer Sponsored Plan” (DSP). (A specific plan guides zoning rules, subdivisions, public facilities, and future development agreements for a specific geographic area.) In 2009, the city began developing an alternative, the “Community Proposed Plan” (CPP) with input from residents. The key difference between the two plans was that the CPP did not include any housing, while the DSP included 4,434 housing units. The environmental impact report on the DSP was completed in 2015 and the planning commission completed its review the following year, with the proposal going to city council in the fall of 2016.

By 2017, the growing housing crisis in the Bay Area and beyond led local elected officials, legislators, and housing advocates to pressure Brisbane to build housing on the Baylands site. Legislators considered introducing legislation to fast-track development at the site with limited local discretion. The city objected, asking for more time to develop the CPP. The city ultimately developed Measure JJ as an alternative to the DSP. Measure JJ amends the general plan to rezone the Baylands site to allow for up to 2,200 units of housing, of which at least 15% must be affordable. While the general plan amendment did not require voter approval, the city council opted to place the measure on the November 2018 ballot, where it was approved by a narrow 200-vote margin.

- 3) *Status of the Baylands project.* Before housing can be built on the Baylands site, a great deal of remediation will be necessary, which will take a number of years. But first, a new specific plan must be developed for the entire site because the old plan was aligned with the DSP. The revised specific plan must address issues such as securing an adequate water supply, protecting key habitat areas, flood protection and sea-level rise, and providing revenue-positive

development for the city. In January 2019, UPC delivered a letter of intent to the Brisbane City Council declaring its intent to revise the specific plan to conform with Measure JJ. The city is also working with Home For All, a local community engagement initiative, to solicit public input. The city council must approve the final specific plan.

- 4) *No guarantees.* It is important to note that Measure JJ did not grant approval for any actual housing; rather, it approved a general plan amendment to allow for up to 2,200 units of housing. Before that housing can be developed, UPC must revise the specific plan and get it approved by the city council. Measure JJ passed by a very narrow margin, and garnered strong opposition; the opposition ballot argument stated that Brisbane would be “crushed by a behemoth of a development” and that “the people who live and work on the Baylands will suffer greater health risk due to the contaminants in the air, soil, and groundwater.” It is possible that these opponents will resurface when it is time for the city council to approve the specific plan, which could potentially delay the project.
  
- 5) *Why can't Brisbane meet its RHNA obligation elsewhere?* The city argues that this bill is needed because it will take a number of years to plan, remediate, and develop the Baylands site. The city could meet its RHNA obligation in the meantime by building housing elsewhere within city limits. The city states, however, that it has limited site to accommodate housing, due at least in part to the fact that the city is nestled against the San Bruno Mountains. In addition, the lack of vacant sites, and ownership patterns of small lots under multiple ownership, make it difficult to find areas available for significant amounts of housing.
  
- 6) *Status of Brisbane's current RHNA obligation.* The city's total obligation for the fifth housing element cycle (2015-2022) is 293 units, for which 56 permits have been issued. Almost all of these permits are for above moderate income; the city has not issued a single permit for very low or low-income housing. The city's actual obligation for the current cycle is 83 units, but a shortfall of 210 units was carried over from the prior cycle.

	RHNA Obligation	Permits Issued
Very low income	114	0
Low income	67	0
Moderate income	82	8
Above moderate	30	48
<b>Total</b>	<b>293</b>	<b>56</b>

7) *Committee concerns.* California is currently experiencing a serious housing crisis and it is essential to expedite construction of critically needed housing units. In order to make this happen, it is important for every jurisdiction to strive to meet its full RHNA obligation and help provide housing to Californians of all income levels. The committee recognizes, however, that the City of Brisbane faces a unique situation: although it has identified a site that will provide for a large amount of housing, the site will take a number of years to develop.

To address the committee's concerns, the author and sponsor worked with the committee to craft language, which is included in the April 3, 2019 version of the bill, to limit its scope as follows:

- a) Include legislative intent and findings to indicate the uniqueness of the Brisbane situation.
  - b) Limit the bill to the current and immediately subsequent housing element cycle (*e.g.*, through 2030).
  - c) Require Brisbane to maintain or rezone sites sufficient to accommodate 350% or more of its RHNA in the subsequent planning period as well as the current planning period (*e.g.*, rather than just freezing it at the current year).
  - d) Require Brisbane to report annually on the status of the Baylands project to both ABAG and HCD.
  - e) Require HCD to report Brisbane to the Attorney General's office if Brisbane fails to meet the requirements of this bill or to provide evidence of demonstrable progress on the project.
- 8) *Committee amendments.* Brisbane's current RHNA allocation is 293 units; Measure JJ amends the general plan to allow for 1,800 to 2,200 units. This bill currently requires Brisbane to zone for 350% of its RHNA allocation, which is the equivalent of a little over 1,000 units. **The author will accept amendments to increase the requirement to 615%, the equivalent of 1,802 units, in line with the minimum 1,800 units authorized for the Baylands project. In order to help ensure the project keeps moving forward on a timely basis, the committee may also wish to consider amending this bill to condition it upon the city council approving the specific plan for the site within 24 months of receiving it from the developer.**

**RELATED LEGISLATION:**

**SB 235 (Dodd, 2019)** — allows the City of Napa and the County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's (RHNA) requirement. *This bill will be heard in the Senate Appropriations Committee on April 22nd.*

**SB 695 (Portantino, 2019)** — allows jurisdictions to count foster youth placements toward their RHNA requirements and allows jurisdictions to deem certain senior or disabled households towards their very low income RHNA requirement. *This bill will be heard in the Human Services Committee on April 22nd.*

**AB 738 (Mullin, 2019)** — allows San Mateo County or a city within its jurisdiction to count housing units it has funded in another city within San Mateo County, toward its own RHNA requirement. *This bill is pending hearing in the Assembly Housing Committee.*

**AB 1239 (Cunningham, 2019)** — reduces a jurisdiction's RHNA obligation by 25% if it has enacted an ADU ordinance. *This bill is pending hearing in the Assembly Housing Committee.*

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, April 17, 2019.)

**SUPPORT:**

Brisbane; City of (Sponsor)

**OPPOSITION:**

None received.

**-- END --**