

---

## OLR Bill Analysis

### sHB 6944

#### ***AN ACT REQUIRING A MUNICIPALITY TO INCLUDE CERTAIN INFORMATION IN ITS AFFORDABLE HOUSING PLAN.***

#### **SUMMARY**

This bill changes the requirements for most municipal affordable housing plans adopted under CGS § 8-30j, generally requiring these plans to “create a realistic opportunity” for developers to build the amount of affordable housing that was allocated to the municipality under the “municipal affordable housing allocation” (i.e. the fair share allocation established under existing law, see BACKGROUND). Municipalities must also change local regulations and policies to create a “reasonable opportunity” for the development of such allocation. The bill makes the Office of Policy and Management (OPM) secretary responsible for reviewing and approving these priority affordable housing plans and policy changes. Certain nonprofits and housing developers may bring an action in Superior Court requiring the secretary to defend his approval.

If a municipality complies with the bill’s requirements, or is exempt from them (i.e. has a relatively low per-capita grand list), it may be prioritized for certain discretionary state funding.

Municipalities that do not have to adopt priority plans must still adopt affordable housing plans every five years, as existing law requires. But the bill eliminates the requirements in current law that the plans show how municipalities will increase their affordable housing stock (as defined for purposes of bringing suit under the affordable housing land use appeals procedure) and improve the accessibility of these units for people with disabilities, as well as other requirements. It does not replace these provisions with any specific requirements for the non-priority plans. But, as noted above, it does establish new content requirements for priority plans. The bill requires the OPM secretary to

post all affordable housing plans on OPM's website.

The bill requires the OPM secretary, by December 15, 2035, and then every 10 years, to update affordable housing "estimates" and fair share allocations (these must be completed only once under existing law). (Presumably, "estimates" refers to need for affordable housing units.)

The bill also requires the OPM secretary, or if designated by the secretary, the housing commissioner or Connecticut Housing Finance Authority's chief executive officer, to make grants available (within available funding) to municipalities and regional councils of governments to support compliance with the bill's provisions through municipal planning and zoning technical assistance.

EFFECTIVE DATE: July 1, 2025

#### **PRIORITY FOR CERTAIN DISCRETIONARY FUNDING**

Municipalities are eligible for prioritized discretionary funding from certain state programs if they (1) comply with the bill's requirements for adopting priority plans and implementing changes to zoning and related policies or (2) are exempt from making priority plans.

Specifically, the bill requires the OPM secretary to make recommendations to the state agency responsible for the specified funding and permits the agency to prioritize an eligible municipality if the grant program allows for such priority designation. The funding the bill's provisions prioritize for eligible municipalities is:

1. Small Town Economic Assistance Program grants,
2. Main Street Investment Fund grants,
3. Incentive Housing Zone Program grants, and
4. Town Aid Road Program grants awarded pursuant to a waiver (i.e. for projects not specified in statute).

The bill specifies that if a municipality receives funding specifically related to affordable housing development, the bill does not prohibit it

from using the funding in a way that also benefits real property not being used for affordable housing development.

### **PRIORITY AFFORDABLE HOUSING PLANS AND LOCAL POLICY CHANGES**

Municipalities required to complete priority plans must ensure the plans create a “realistic opportunity” for the development of the number of affordable housing units allocated to the municipality under the fair share allocation. Under the bill, the OPM secretary is responsible for reviewing and approving plans and related adopted changes to local zoning and other policies.

#### ***Covered Municipalities***

Current law requires each municipality to prepare and adopt a municipal affordable housing plan by June 1, 2022, and then at least every five years after that. Under the bill, municipalities will still be required to adopt these plans every five years, but most municipalities will be required to create a more comprehensive priority affordable housing plan (“priority plan”). Specifically, the priority plan requirement applies to any municipality in the highest 80% of net equalized per capita grand list income, as of June 1 of the year prior to the year the plan is due. (Presumably, the OPM secretary will make this determination and inform municipalities.)

#### ***Planning for Fair Share Allocation***

The plan must specify how the municipality will use its powers, including zoning powers, to create a “realistic opportunity” for the development of the number of affordable housing units allocated to the municipality under the fair share allocation. Under the bill, “realistic opportunity” means the possibility for affordable housing to be constructed for the benefit of low-income households (i.e. those at or below 80% of the area median income) in a time frame and with administrative burdens (including fees and hearings) comparable to what the municipality imposes on applicants seeking to build single-family homes. In planning for the affordable housing units, the municipality must take into account financial feasibility and applicable municipal rules, policies, and practices.

The bill further specifies that in making its plan, a municipality must plan for affordable housing of different specified types, as shown in the below table. “Affordable housing units” must be deed-restricted to preserve them as affordable to low-income households (but the bill does not specify for how long).

**Table: Deed-Restricted Affordable Housing Planning Requirements**

<b>Affordable Unit Requirements</b>	<b>Required Share of Affordable Units</b>
Preserved as affordable for very low-income households (i.e. at or below 50% of the area median income)	At least 20%
Rental units	At least 50%
Units unrestricted by occupant age	At least 75%
Units unrestricted by occupant age with two or more bedrooms	At least 50%
Units with at least two bedrooms	At least 80%

As part of their plan, municipalities must also examine zoning and other policies to identify changes required locally to allow for the development of required affordable housing as described above. These proposed changes, like the priority plan, must be submitted to the OPM secretary for approval.

### ***OPM Approval Process for Priority Plans***

Municipalities must submit their priority plans to OPM for approval using a written application. In applying for approval, the municipality must submit any evidence required by statute or regulation (presumably, evidence of how the plan complies with applicable requirements).

The OPM secretary must promptly have notice of the pending application published in the Connecticut Law Journal, including notice that he will be accepting public comments for 30 days following the notice’s publication. Within 90 days of receiving the application, he must approve or reject it, accompanied by a written statement with his reasons. If the application is approved, the secretary must promptly publish notice of the certificate of priority affordable housing plan approval in the Connecticut Law Journal.

If no action is taken within 90 days, the plan is deemed provisionally approved and retains that status unless the secretary acts to reject the application and notifies the municipality. It is unclear whether provisionally approved plans qualify a municipality for prioritized discretionary funding.

***Standards Set in Regulation.*** Within available appropriations, the secretary must adopt regulations on the review and approval of these priority plans. They must include criteria for evaluating whether the plan creates a “reasonable opportunity” for the creation of the required units (it is unclear if this is the same standard as “realistic opportunity,” which applies to municipalities as they create their plans).

In addition to any criteria the secretary deems appropriate, the regulations must require:

1. identification of specific zones or parcels in the municipality sufficient to build its affordable housing allocation as-of-right;
2. that the permitted density for the zones or parcels be specified;
3. a summary of the appropriate and necessary changes to other municipal processes and procedures that will be made to allow for the creation of the municipality’s affordable housing allocation; and
4. an explanation, documented by evidence, of (a) how the plan complies with the bill’s requirements or (b) why the municipality is unable to create such a plan.

The bill requires the regulations to also specify the process for reviewing and approving the municipality’s related local zoning and other policy changes to ensure they create a “reasonable opportunity” for the development of the affordable housing allocation (see below).

***OPM Approval Process for Zoning and Other Policy Changes***

Within 12 months of having its priority plan approved (or,

presumably, having it deemed provisionally approved), a municipality must submit to the secretary its application for approval of amended and adopted zoning and other policy changes.

The secretary has 90 days to approve or reject them in writing, and must include the reasons for the decision. If approved, the secretary must have published in the Connecticut Law Journal a “certificate of zoning and policy changes approval.” If no action is taken within 90 days, the application is deemed provisionally approved and retains that status unless the secretary acts to reject the application and notifies the municipality. (It is unclear whether provisionally approved applications qualify a municipality for prioritization of discretionary state funding.)

### **REMEDY FOR IMPROPERLY APPROVED PLAN**

The bill allows any “interested party” (see below) to bring an action in Superior Court to review, and seek a declaratory judgement on, any approved priority plan’s conformity with the bill’s requirements. The bill specifies that the court must determine whether the plan “substantially complies.” The burden is on the OPM secretary to prove, based on the evidence in the record upon which the approval was made, that the approval and the reasons cited for it are supported by sufficient evidence.

If the interested party prevails, the court may grant legal and equitable relief it deems appropriate, including temporary or permanent injunctive relief, punitive damages, attorney’s fees, and court costs.

### ***Interested Party Defined***

Under the bill, an “interested party” is a (1) nonprofit organization whose mission is to provide or advocate for increased access to, and supply of, affordable housing or (2) housing developer seeking to construct housing that would contribute to a municipality’s affordable housing allocation. The intended or proposed housing development must qualify as “assisted housing” or a “set-aside development” under the current affordable housing land use appeals procedure statute (CGS § 8-30g), or meet the following minimum requirements relative to the

total number of units in the development:

1. at least 20% must be age unrestricted, deed-restricted affordable units (inclusive of the units described below for very low-income households);
2. at least 5% must be deed-restricted affordable units for households earning up to 50% of area median income (i.e. very low-income households); and
3. at least 10% of deed-restricted units must have at least two bedrooms (presumably, deed-restricted affordable units).

## **BACKGROUND**

### ***Fair Share Allocation***

A 2023 law required the OPM secretary, in consultation with the housing and economic and community development commissioners, to create a methodology for each municipality's fair share allocation of affordable housing by generally (1) determining the need for affordable housing units in each of the state's planning regions and (2) fairly allocating this need to each region's municipalities.

The OPM secretary must, in consultation with these commissioners, use the methodology to determine the minimum need for affordable housing units for each planning region and a municipal fair share allocation for each region's municipalities. The methodology must generally rely on specified federal data and meet certain requirements.

### ***Related Bills***

sSB 1252, favorably reported by the Housing Committee, makes it easier for a municipality that adopts an overlay zone covering at least 10% of its developable land, in which multifamily housing is allowed as-of-right, to qualify for a moratorium under the affordable housing land use appeals procedure (i.e. CGS § 8-30g).

sHB 6831, favorably reported by the Planning and Development Committee, makes municipalities that plan to adopt zoning regulations allowing certain housing developments to be built as-of-right in a

transit-oriented district eligible for prioritization of infrastructure funding for use within the district.

**COMMITTEE ACTION**

Housing Committee

Joint Favorable Substitute

Yea 12 Nay 6 (03/06/2025)