



REGULAR MEETING LEGISLATIVE ACTION COMMITTEE

North Bay Conference Room (Room 145)
Sunnyvale City Hall
456 W. Olive Avenue
Sunnyvale, CA 94086

**MAY 8, 2025
5:30 PM**

Meeting Information:

- *Legislative Action Committee meetings are open to the public at the location shown above.*
- *Members of the public may use the information below to join the webinar:*

Webinar ID: 823 1430 2917

Passcode: 254352

- *Meeting also livestreamed on YouTube: <https://www.youtube.com/@citiesassoc>*
- *More information on public comment and accessibility is given at the end of the agenda.*

Mayor Pro Tem Marilyn Librers will attend via teleconference from 2228 Brega Court, Morgan Hill CA 95037. This teleconference location is open to the public and any member of the public may address the Board of Directors members from the teleconference location.

WELCOME & CALL TO ORDER – (FRUEN)

ROLL CALL (SIRKAY)

ORAL COMMUNICATIONS FROM THE PUBLIC ON NONAGENDIZED ITEMS

This portion of the meeting is reserved for persons wishing to address the Legislative Action Committee on any matter not on the agenda but within the Committee's jurisdiction. State law prohibits the Legislative Action Committee from discussing and/or acting on nonagendized items.

AGENDA

1. Consent Agenda (FRUEN)

- a. Approve Minutes from Legislative Action Committee meeting on April 10, 2025

2. Chair Update (FRUEN)

3. Potential List of Bills for Legislative Action Committee Consideration: Discussion & Possible Action (ALL)

Including, but not limited to, the following:

- a. AB 650 (Papan) re: Housing Element process reform
- b. SB 79 (Wiener) re: Transit-oriented development
- c. SB 753 (Cortese) re: Local authority on shopping cart retrieval and fines
- d. SB 457 (Becker) re: Housing Accountability Act – housing project application denials

Bills continued from the April 10, 2025 LAC meeting:

- 1. AB 262 (Caloza) - California Individual Assistance Act
- 2. AB 846 (Connolly) – Incidental take permit for endangered species to facilitate
- 3. SB 326 (Becker) - The California Wildfire Mitigation Strategic Planning Act
- 4. SB 252 (Valladares) – CEQA exemption for undergrounding powerlines
- 5. AB 66 (Tangipa) – CEQA exemption for emergency egress routes
- 6. AB 300 (Lackey) – State Fire Marshall – revision of fire hazard severity maps every 5 years
- 7. AB 261 (Quirk-Silva) – State Fire Marshall re fire hazard severity zones

4. Review Legislative Watch List: Discussion and Possible Action (FRUEN)

- 1. SB 607 – CEQA Infill exemption
- 2. SB 677 – SB 9 and SB 35 clean-up (**now a 2-year bill**)
- 3. SB 346 – Transient occupancy tax - short term rental facilitator
- 4. AB 939 – The Safe, Sustainable, Traffic-Reducing Transportation Bond Act of 2026
- 5. AB 476 – Expands list of items junk dealers are prohibited from accepting to include copper wire
- 6. AB 1206 – Single-family home preapproved plans
- 7. AB 726 – Housing Element annual performance report – rehabilitated units
- 8. AB 906 – Housing Elements
- 9. AB 1359 - Exemption from certain statewide housing regulations for jurisdictions meeting pro rata share of Regional Housing Needs Allocation

10. AB 609 - California Environmental Quality Act: exemption: housing development projects.
11. AB 670 - Planning and zoning: housing element: converted affordable housing units.
12. SB 282 - Residential heat pump systems: water heaters and HVAC: installations.
13. AB 11 - The Social Housing Act.
14. AB 590 - Social Housing Bond Act of 2026.
15. SB 336 - Real property tax: welfare exemption: moderate-income housing.

ADJOURN (FRUEN)

PUBLIC PARTICIPATION OPTIONS

Online Participation:

Members of the public may also attend online. However, the Cities Association of Santa Clara County cannot guarantee uninterrupted access to online technology. Technical difficulties may occur from time to time. The meeting will continue even if technical difficulties prevent online participation.

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to shali@citiesassociation.org
 - IMPORTANT: identify the Agenda Item number in the subject line of your email.
 - Emails must be received at least 72 hours before meeting start day/time to be entered into the record for the meeting.
2. Provide oral public comments in-person during the meeting
3. Provide oral public comments virtually during the meeting
 - When the Chair announces the item on which you wish to speak, click the “raise hand” feature in Zoom. Speakers will be notified shortly before they are called to speak.
 - When called to speak, please limit your comments to the time allotted (up to 3 minutes, at the discretion of the Chair).
 - Phone participants:
 - *6 - Toggle mute/unmute
 - *9 - Raise hand

ACCESSIBILITY

We strive for our meetings and materials to be accessible to all members of the public, and welcome feedback and requests for accommodations. Please submit requests for accommodations to shali@citiesassociation.org at least 72 hours in advance of the meeting to allow us to best meet your request.



REGULAR MEETING LEGISLATIVE ACTION COMMITTEE

North Bay Conference Room (Room 145)
Sunnyvale City Hall
456 W. Olive Avenue
Sunnyvale, CA 94086

**APRIL 10, 2025
5:30 PM**

AGENDA IN BLACK/**MINUTES IN RED**

Meeting Information:

- *Legislative Action Committee meetings are open to the public at the location shown above.*
- *Members of the public may use the information below to join the webinar:*
 - **Webinar ID: 823 1430 2917**
 - **Passcode: 254352**
- *Meeting also livestreamed on YouTube: <https://www.youtube.com/@citiesassoc>*
- *More information on public comment and accessibility is given at the end of the agenda.*

Hon. George Casey will attend via teleconference from 200 E. Santa Clara Street, Floor 18, Conference Room 1854, San Jose, CA 95113. This teleconference location is open to the public and any member of the public may address the Board of Directors members from the teleconference location.

WELCOME & CALL TO ORDER – (FRUEN)

Meeting called to order at 5:33 PM

ROLL CALL (SIRKAY)

LAC Members Present (13):

Campbell	Anne Bybee
Cupertino	Kitty Moore
Gilroy	Greg Bozzo
Los Altos	Larry Lang* (@ 6:00 PM)
Milpitas	Carmen Montano
Monte Sereno	Javed Ellahie (@ 5:45 PM)
Morgan Hill	Mark Turner
Mountain View	Chris Clark*
Palo Alto	Ed Lauing
San Jose	George Casey
Santa Clara	Kelly Cox (@5:45 PM)
Saratoga	Tina Walia
Sunnyvale	Charlsie Chang

LAC Members Absent: (2)

Los Altos Hills	Kavita Tankha
Los Gatos	Rob Moore

*Alternate

Staff Present (1):

Shali Sirkay	Executive Director
--------------	--------------------

Members of the Public Present (7):

J.R. Fruen	Councilmember, Cupertino
Terry Hines	Councilmember, Campbell
Victoria Ketell	City Manager's Office, Sunnyvale
Larry Klein	Mayor, Sunnyvale
Elliot Scozzola	Councilmember, Campbell
Carly Shelby	Townsend Public Affairs
Linda Sell	Vice Mayor, Sunnyvale

ORAL COMMUNICATIONS FROM THE PUBLIC ON NONAGENDIZED ITEMS

This portion of the meeting is reserved for persons wishing to address the Legislative Action Committee on any matter not on the agenda but within the Committee's jurisdiction. State law prohibits the Legislative Action Committee from discussing and/or acting on nonagendized items.

NONE

AGENDA

1. Consent Agenda (FRUEN)

- a. Approve Minutes from Legislative Action Committee Meeting on March 13, 2025

Motion to approve the minutes from the March 13, 2025 Legislative Action Committee meeting by Turner

Second by Walia

AYES: 10

NAYES: 0

ABSTENTIONS: 0

ABSENT: 5

Motion passes 10-0-0-5

2. Chair Update (FRUEN)

- 3. Discussion and Possible Action on State Legislation of Interest to Cities Association Member Jurisdictions (FRUEN)

ADJOURN (FRUEN)

Meeting adjourned at 6:39 PM

Respectfully submitted on May 8, 2025,



Vaishali Sirkay

Executive Director

Cities Association of Santa Clara County

PUBLIC PARTICIPATION OPTIONS

Online Participation:

Members of the public may also attend online. However, the Cities Association of Santa Clara County cannot guarantee uninterrupted access to online technology. Technical difficulties may occur from time to time. The meeting will continue even if technical difficulties prevent online participation.

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to shali@citiesassociation.org
 - IMPORTANT: identify the Agenda Item number in the subject line of your email.
 - Emails must be received at least 72 hours before meeting start day/time to be entered into the record for the meeting.
2. Provide oral public comments in-person during the meeting
3. Provide oral public comments virtually during the meeting
 - When the Chair announces the item on which you wish to speak, click the “raise hand” feature in Zoom. Speakers will be notified shortly before they are called to speak.
 - When called to speak, please limit your comments to the time allotted (up to 3 minutes, at the discretion of the Chair).
 - Phone participants:
 - *6 - Toggle mute/unmute
 - *9 - Raise hand

ACCESSIBILITY

We strive for our meetings and materials to be accessible to all members of the public, and welcome feedback and requests for accommodations. Please submit requests for accommodations to shali@citiesassociation.org at least 72 hours in advance of the meeting to allow us to best meet your request.

AMENDED IN ASSEMBLY APRIL 24, 2025

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 650

Introduced by Assembly Member Papan
(Coauthor: Assembly Member Pacheco)

February 13, 2025

An act to amend Sections 65583, 65584, 65584.01, 65584.03, 65584.04, 65584.05, ~~65585, and 65589.5~~ and 65585 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 650, as amended, Papan. Planning and zoning: housing element: regional housing needs allocation.

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, which includes, among other mandatory elements, a housing element. Existing law requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. Existing law defines “affirmatively furthering fair housing,” as provided.

The Planning and Zoning Law requires that a housing element include, among other things, a program that sets forth a schedule of actions during the planning period. Existing law requires the Department of Housing and Community Development to develop a standardized

reporting format for programs and actions taken pursuant to the requirement to affirmatively further fair housing.

This bill would require the department to develop the above-described standardized reporting format on or before December 31, 2026.

(2) Existing law requires, for the 4th and subsequent revisions of the housing element, the department to determine the existing and projected need for housing for each region, as specified. Existing law requires the department, in consultation with the council of governments, to determine the existing and projected need of housing for each region at least 2 years prior to the scheduled revision of the housing element, as provided. Existing law requires the department to meet and consult with the council of governments regarding the assumptions and methodology to be used to determine the region's housing needs at least 26 months prior to the scheduled revision of the housing element, as provided.

~~This bill~~ *bill, except as specified*, would extend the above-described timeline for the department to determine the existing and projected need of housing for each region from 2 years to ~~30 months~~ 3 years prior to the scheduled revision of the housing element, and the above-described timeline to meet and consult with a council of governments from at least 26 months to at least ~~32~~ 38 months prior to the scheduled revision of the housing element, respectively.

(3) Existing law authorizes at least 2 or more cities and a county, or counties, and at least 28 months prior to the scheduled housing element revision, to form a subregional entity to allocate the subregion's existing and projected housing need among its members. If the council of governments does not receive a notification of this formation at least 28 months prior to the update, existing law requires the council of governments to implement specified requirements regarding the regional housing need process. Existing law requires the council of governments to determine the share of regional housing need assigned to each delegate subregion at least 25 months prior to the scheduled revision.

This bill would extend the above-described timeline for cities and counties to form a subregional entity to allocate the subregion's housing need, as provided, from 28 months to 34 months, and the above-described timeline for the council of governments to determine the share of regional housing need assigned to each subregion from 25 months to 31 months, respectively.

(3)

(4) Existing law, at least 2 years before a scheduled revision of the housing element, as specified, requires each council of governments, or delegate subregion as applicable, to develop, in consultation with the department, a proposed methodology for distributing the existing and projected regional housing need to jurisdictions, as specified. Existing law, at least 1 ½ years before a scheduled revision of the housing element, as specified, requires each council of governments and delegate subregion, as applicable, to distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, as specified.

This bill, except with respect to the 7th housing element cycle for councils of governments with a housing element revision due date during the 2027 calendar year, would instead require that the above-described methodology be developed from at least 2 ½ years before a scheduled revision of the housing element, and that the distribution of the draft allocation plan be made at least 2 years before a scheduled revision of the housing element, respectively.

(4)

(5) Existing law requires a planning agency to submit a copy of its draft housing element or amendments to its housing element or housing element revision to the department for review, and requires the department to notify the city, county, or city and county with written findings if the department finds that the housing element or the amendment does not substantially comply with specified law. If the department finds that the draft housing element or draft amendment is not in substantial compliance, existing law requires the jurisdiction to either update the draft to substantially comply with specified law, or adopt the draft housing element or amendment without changes, as provided.

This bill would require the department, if the department finds that a draft element or draft amendment does not substantially comply, as described above, to (A) identify and explain the specific deficiencies in the draft element or draft amendment and (B) provide the specific analysis or text that the department expects the planning agency to include in the draft element or draft amendment to remedy those deficiencies, as specified. The bill would require a jurisdiction, in updating a noncompliant housing element or amendment under the above-described provisions, to include the specific analysis or text in its draft element or amendment. ~~The bill would also exempt a jurisdiction from certain requirements to approve a so-called “builder’s~~

remedy project” under specified law for the period during which the department is reviewing that jurisdiction’s updated draft element or draft amendment after submission of the updated element or amendment, as described above, or for 90 days from the date the department notifies the planning agency of additional deficiencies with the draft, as provided. The bill would make various conforming changes in this regard.

(5)

(6) By imposing additional duties on local governments, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583 of the Government Code is
2 amended to read:

3 65583. The housing element shall consist of an identification
4 and analysis of existing and projected housing needs and a
5 statement of goals, policies, quantified objectives, financial
6 resources, and scheduled programs for the preservation,
7 improvement, and development of housing. The housing element
8 shall identify adequate sites for housing, including rental housing,
9 factory-built housing, mobilehomes, and emergency shelters, and
10 shall make adequate provision for the existing and projected needs
11 of all economic segments of the community. The housing element
12 shall contain all of the following:

13 (a) An assessment of housing needs and an inventory of
14 resources and constraints that are relevant to the meeting of these
15 needs. The assessment and inventory shall include all of the
16 following:

17 (1) An analysis of population and employment trends and
18 documentation of projections and a quantification of the locality’s
19 existing and projected housing needs for all income levels. These

1 existing and projected needs shall include the locality's share of
2 the regional housing need in accordance with Section 65584.

3 (2) An analysis and documentation of household characteristics,
4 including level of payment compared to ability to pay, housing
5 characteristics, including overcrowding, and housing stock
6 condition.

7 (3) An inventory of land suitable and available for residential
8 development, including vacant sites and sites having realistic and
9 demonstrated potential for redevelopment during the planning
10 period to meet the locality's housing need for a designated income
11 level, and an analysis of the relationship of zoning and public
12 facilities and services to these sites, and an analysis of the
13 relationship of the sites identified in the land inventory to the
14 jurisdiction's duty to affirmatively further fair housing.

15 (4) (A) The identification of one or more zoning designations
16 that allow residential uses, including mixed uses, where emergency
17 shelters are allowed as a permitted use without a conditional use
18 or other discretionary permit and that are suitable for residential
19 uses. The identified zoning designations shall include sufficient
20 sites meeting the requirements of subparagraph (H) with sufficient
21 capacity, as described in subparagraph (I), to accommodate the
22 need for emergency shelter identified in paragraph (7), except that
23 each local government shall identify a zoning designation or
24 designations that can accommodate at least one year-round
25 emergency shelter. If the local government cannot identify a zoning
26 designation or designations with sufficient capacity, the local
27 government shall include a program to amend its zoning ordinance
28 to meet the requirements of this paragraph within one year of the
29 adoption of the housing element. The local government may
30 identify additional zoning designations where emergency shelters
31 are permitted with a conditional use permit. The local government
32 shall also demonstrate that existing or proposed permit processing,
33 development, and management standards that apply to emergency
34 shelters are objective and encourage and facilitate the development
35 of, or conversion to, emergency shelters.

36 (B) Emergency shelters shall only be subject to the following
37 written, objective standards:

38 (i) The maximum number of beds or persons permitted to be
39 served nightly by the facility.

1 (ii) Sufficient parking to accommodate all staff working in the
2 emergency shelter, provided that the standards do not require more
3 parking for emergency shelters than other residential or commercial
4 uses within the same zone.

5 (iii) The size and location of exterior and interior onsite waiting
6 and client intake areas.

7 (iv) The provision of onsite management.

8 (v) The proximity to other emergency shelters, provided that
9 emergency shelters are not required to be more than 300 feet apart.

10 (vi) The length of stay.

11 (vii) Lighting.

12 (viii) Security during hours that the emergency shelter is in
13 operation.

14 (C) For purposes of this paragraph, “emergency shelter” shall
15 include other interim interventions, including, but not limited to,
16 a navigation center, bridge housing, and respite or recuperative
17 care.

18 (D) The permit processing, development, and management
19 standards applied under this paragraph shall not be deemed to be
20 discretionary acts within the meaning of the California
21 Environmental Quality Act (Division 13 (commencing with Section
22 21000) of the Public Resources Code).

23 (E) If a local government has adopted written, objective
24 standards pursuant to subparagraph (B), the local government shall
25 include an analysis of the standards in the analysis of constraints
26 pursuant to paragraph (5).

27 (F) A local government that can demonstrate, to the satisfaction
28 of the department, the existence of one or more emergency shelters
29 either within its jurisdiction or pursuant to a multijurisdictional
30 agreement that can accommodate that jurisdiction’s need and the
31 needs of the other jurisdictions that are a part of the agreement for
32 emergency shelter identified in paragraph (7) may comply with
33 the zoning requirements of subparagraph (A) by identifying a
34 zoning designation where new emergency shelters are allowed
35 with a conditional use permit.

36 (G) A local government with an existing ordinance or ordinances
37 that comply with this paragraph shall not be required to take
38 additional action to identify zoning designations for emergency
39 shelters. The housing element must only describe how existing

ordinances, policies, and standards are consistent with the requirements of this paragraph.

(H) The zoning designation or designations where emergency shelters are allowed, as described in subparagraph (A), shall include sites that meet at least one of the following standards:

(i) Vacant sites zoned for residential use.

(ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with this zoning designation that are being used to satisfy the requirements of paragraph (1) are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for the current uses, market conditions, and incentives or standards to encourage shelter development.

(I) The zoning designation or designations shall have sufficient sites meeting the requirements of subparagraph (H) to accommodate the need for shelters identified pursuant to paragraph (7). The number of people experiencing homelessness that can be accommodated on any site shall be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person, unless the locality can demonstrate that one or more shelters were developed on sites that have fewer square feet per person during the prior planning period or the locality provides similar evidence to the department demonstrating that the site can accommodate more people experiencing homelessness. Any standard applied pursuant to this subparagraph is intended only for calculating site capacity pursuant to this section, and shall not be construed as establishing a development standard applicable to the siting, development, or approval of a shelter.

(J) Notwithstanding subparagraph (H), a local government may accommodate the need for emergency shelters identified pursuant to paragraph (7) on sites owned by the local government if it demonstrates with substantial evidence that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees, and other exactions required of developers, local processing and permit procedures, historic preservation practices and policies and an assessment of how existing and proposed historic designations affect the locality's ability to meet its share of the housing need pursuant to paragraph (1), and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts

1 to remove nongovernmental constraints that create a gap between
2 the locality's planning for the development of housing for all
3 income levels and the construction of that housing.

4 (7) (A) An analysis of any special housing needs, such as those
5 of the elderly; persons with disabilities, including a developmental
6 disability, as defined in Section 4512 of the Welfare and
7 Institutions Code; extremely low income households; large
8 families; farmworkers; families with female heads of households;
9 and families and persons in need of emergency shelter. The need
10 for emergency shelter shall be assessed based on the capacity
11 necessary to accommodate the most recent homeless point-in-time
12 count conducted before the start of the planning period, the need
13 for emergency shelter based on number of beds available on a
14 year-round and seasonal basis, the number of shelter beds that go
15 unused on an average monthly basis within a one-year period, and
16 the percentage of those in emergency shelters that move to
17 permanent housing solutions. The need for emergency shelter may
18 be reduced by the number of supportive housing units that are
19 identified in an adopted 10-year plan to end chronic homelessness
20 and that are either vacant or for which funding has been identified
21 to allow construction during the planning period. An analysis of
22 special housing needs by a city or county may include an analysis
23 of the need for frequent user coordinated care housing services.

24 (B) For the seventh and subsequent revisions of the housing
25 element, the analysis required in subparagraph (A) shall also
26 include an analysis of the housing needs of acutely and extremely
27 low income households.

28 (8) An analysis of opportunities for energy conservation with
29 respect to residential development. Cities and counties are
30 encouraged to include weatherization and energy efficiency
31 improvements as part of publicly subsidized housing rehabilitation
32 projects. This may include energy efficiency measures that
33 encompass the building envelope, its heating and cooling systems,
34 and its electrical system.

35 (9) An analysis of existing assisted housing developments that
36 are eligible to change from low-income housing uses during the
37 next 10 years due to termination of subsidy contracts, mortgage
38 prepayment, or expiration of restrictions on use. "Assisted housing
39 developments," for the purpose of this section, shall mean
40 multifamily rental housing that receives governmental assistance

1 under federal programs listed in subdivision (a) of Section
2 65863.10, state and local multifamily revenue bond programs,
3 local redevelopment programs, the federal Community
4 Development Block Grant Program, or local in-lieu fees. “Assisted
5 housing developments” shall also include multifamily rental units
6 that were developed pursuant to a local inclusionary housing
7 program or used to qualify for a density bonus pursuant to Section
8 65916.

9 (A) The analysis shall include a listing of each development by
10 project name and address, the type of governmental assistance
11 received, the earliest possible date of change from low-income
12 use, and the total number of elderly and nonelderly units that could
13 be lost from the locality’s low-income housing stock in each year
14 during the 10-year period. For purposes of state and federally
15 funded projects, the analysis required by this subparagraph need
16 only contain information available on a statewide basis.

17 (B) The analysis shall estimate the total cost of producing new
18 rental housing that is comparable in size and rent levels, to replace
19 the units that could change from low-income use, and an estimated
20 cost of preserving the assisted housing developments. This cost
21 analysis for replacement housing may be done aggregately for
22 each five-year period and does not have to contain a
23 project-by-project cost estimate.

24 (C) The analysis shall identify public and private nonprofit
25 corporations known to the local government that have legal and
26 managerial capacity to acquire and manage these housing
27 developments.

28 (D) The analysis shall identify and consider the use of all federal,
29 state, and local financing and subsidy programs that can be used
30 to preserve, for lower income households, the assisted housing
31 developments, identified in this paragraph, including, but not
32 limited to, federal Community Development Block Grant Program
33 funds, tax increment funds received by a redevelopment agency
34 of the community, and administrative fees received by a housing
35 authority operating within the community. In considering the use
36 of these financing and subsidy programs, the analysis shall identify
37 the amounts of funds under each available program that have not
38 been legally obligated for other purposes and that could be
39 available for use in preserving assisted housing developments.

1 (b) (1) A statement of the community's goals, quantified
2 objectives, and policies relative to affirmatively furthering fair
3 housing and to the maintenance, preservation, improvement, and
4 development of housing.

5 (2) It is recognized that the total housing needs identified
6 pursuant to subdivision (a) may exceed available resources and
7 the community's ability to satisfy this need within the content of
8 the general plan requirements outlined in Article 5 (commencing
9 with Section 65300). Under these circumstances, the quantified
10 objectives need not be identical to the total housing needs. The
11 quantified objectives shall establish the maximum number of
12 housing units by income category that can be constructed,
13 rehabilitated, and conserved over a five-year time period.

14 (c) A program that sets forth a schedule of actions during the
15 planning period, each with a timeline for implementation, that may
16 recognize that certain programs are ongoing, such that there will
17 be beneficial impacts of the programs within the planning period,
18 that the local government is undertaking or intends to undertake
19 to implement the policies and achieve the goals and objectives of
20 the housing element through the administration of land use and
21 development controls, the provision of regulatory concessions and
22 incentives, the utilization of appropriate federal and state financing
23 and subsidy programs when available, and the utilization of moneys
24 in a low- and moderate-income housing fund of an agency if the
25 locality has established a redevelopment project area pursuant to
26 the Community Redevelopment Law (Division 24 (commencing
27 with Section 33000) of the Health and Safety Code). In order to
28 make adequate provision for the housing needs of all economic
29 segments of the community, the program shall do all of the
30 following:

31 (1) Identify actions that will be taken to make sites available
32 during the planning period with appropriate zoning and
33 development standards and with services and facilities to
34 accommodate that portion of the city's or county's share of the
35 regional housing need for all income levels that could not be
36 accommodated on sites identified in the inventory completed
37 pursuant to paragraph (3) of subdivision (a) without rezoning, and
38 to comply with the requirements of Section 65584.09. Sites shall
39 be identified as needed to affirmatively further fair housing and
40 to facilitate and encourage the development of a variety of types

1 of housing for all income levels, including multifamily rental
2 housing, factory-built housing, mobilehomes, housing for
3 agricultural employees, supportive housing, single-room occupancy
4 units, emergency shelters, and transitional housing.

5 (A) Where the inventory of sites, pursuant to paragraph (3) of
6 subdivision (a), does not identify adequate sites to accommodate
7 the need for groups of all household income levels pursuant to
8 Section 65584, a program for rezoning of those sites, subject to
9 the following deadlines:

10 (i) For the adoption of the sixth revision of the housing element,
11 jurisdictions with an eight-year housing element planning period
12 pursuant to Section 65588, including adoption of minimum density
13 and development standards or, for a jurisdiction in the coastal zone,
14 any necessary local coastal program amendments related to land
15 use designations, changes in intensity of land use, zoning
16 ordinances, or zoning district maps, consistent with Sections 30512,
17 30512.2, 30513, and 30514 of the Public Resources Code, shall
18 be completed no later than three years after either the date the
19 housing element is adopted pursuant to subdivision (f) of Section
20 65585 or the date that is 90 days after receipt of comments from
21 the department pursuant to subdivision (b) of Section 65585,
22 whichever is earlier, unless the deadline is extended pursuant to
23 subdivision (f). Notwithstanding the foregoing, for a local
24 government that fails to adopt a housing element that the
25 department has found to be in substantial compliance with this
26 article within 120 days of the statutory deadline in Section 65588
27 for adoption of the housing element, rezoning of those sites,
28 including adoption of minimum density and development standards
29 or, for a jurisdiction in the coastal zone, any necessary local coastal
30 program amendments related to land use designations, changes in
31 intensity of land use, zoning ordinances, or zoning district maps,
32 consistent with Sections 30512, 30512.2, 30513, and 30514 of the
33 Public Resources Code, shall be completed no later than one year
34 from the statutory deadline in Section 65588 for adoption of the
35 housing element.

36 (ii) For adoption of the seventh and all subsequent revisions of
37 the housing element, rezonings shall be completed no later than
38 one year from the statutory deadline in Section 65588 for adoption
39 of the housing element.

1 (iii) Notwithstanding clause (ii), for the adoption of the seventh
2 and all subsequent revisions of the housing element, rezonings
3 shall be completed no later than three years and 90 days after the
4 statutory deadline in Section 65588 for adoption of the housing
5 element, unless the deadline is extended pursuant to subdivision
6 (f). This clause shall apply only if the local government complies
7 with all of the following:

8 (I) The local government submits a draft element or draft
9 amendment to the department for review pursuant to paragraph
10 (1) of subdivision (b) of Section 65585 at least 90 days before the
11 statutory deadline established in Section 65588 for adoption of the
12 housing element.

13 (II) The local government receives from the department findings
14 that the draft element or draft amendment substantially complies
15 with this article pursuant to paragraph (3) of subdivision (b) of
16 Section 65585 on or before the statutory deadline set forth in
17 Section 65588 for adoption of the housing element.

18 (III) The local government adopts the draft element or draft
19 amendment that the department found to substantially comply with
20 this article no later than 120 days after the statutory deadline set
21 forth in Section 65588.

22 (B) Where the inventory of sites, pursuant to paragraph (3) of
23 subdivision (a), does not identify adequate sites to accommodate
24 the need for groups of all household income levels pursuant to
25 Section 65584, the program shall identify sites that can be
26 developed for housing within the planning period pursuant to
27 subdivision (h) of Section 65583.2. The identification of sites shall
28 include all components specified in Section 65583.2.

29 (C) Where the inventory of sites pursuant to paragraph (3) of
30 subdivision (a) does not identify adequate sites to accommodate
31 the need for farmworker housing, the program shall provide for
32 sufficient sites to meet the need with zoning that permits
33 farmworker housing use by right, including density and
34 development standards that could accommodate and facilitate the
35 feasibility of the development of farmworker housing for low- and
36 very low income households.

37 (2) (A) Assist in the development of adequate housing to meet
38 the needs of extremely low, very low, low-, and moderate-income
39 households.

1 (B) For the seventh and subsequent revisions of the housing
2 element, the program shall also assist in the development of
3 adequate housing to meet the needs of acutely low income
4 households.

5 (3) Address and, where appropriate and legally possible, remove
6 governmental and nongovernmental constraints to the maintenance,
7 improvement, and development of housing, including housing for
8 all income levels and housing for persons with disabilities. The
9 program shall remove constraints to, and provide reasonable
10 accommodations for housing designed for, intended for occupancy
11 by, or with supportive services for, persons with disabilities.
12 Transitional housing and supportive housing shall be considered
13 a residential use of property and shall be subject only to those
14 restrictions that apply to other residential dwellings of the same
15 type in the same zone. Supportive housing, as defined in Section
16 65650, shall be a use by right in all zones where multifamily and
17 mixed uses are permitted, as provided in Article 11 (commencing
18 with Section 65650).

19 (4) Conserve and improve the condition of the existing
20 affordable housing stock, which may include addressing ways to
21 mitigate the loss of dwelling units demolished by public or private
22 action.

23 (5) Promote and affirmatively further fair housing opportunities
24 and promote housing throughout the community or communities
25 for all persons regardless of race, religion, sex, marital status,
26 ancestry, national origin, color, familial status, or disability, and
27 other characteristics protected by the California Fair Employment
28 and Housing Act (Part 2.8 (commencing with Section 12900) of
29 Division 3 of Title 2), Section 65008, and any other state and
30 federal fair housing and planning law.

31 (6) Preserve for lower income households the assisted housing
32 developments identified pursuant to paragraph (9) of subdivision
33 (a). The program for preservation of the assisted housing
34 developments shall utilize, to the extent necessary, all available
35 federal, state, and local financing and subsidy programs identified
36 in paragraph (9) of subdivision (a), except where a community has
37 other urgent needs for which alternative funding sources are not
38 available. The program may include strategies that involve local
39 regulation and technical assistance.

1 (7) Develop a plan that incentivizes and promotes the creation
2 of accessory dwelling units that can be offered at affordable rent,
3 as defined in Section 50053 of the Health and Safety Code, for
4 very low, low-, or moderate-income households. For purposes of
5 this paragraph, “accessory dwelling units” has the same meaning
6 as “accessory dwelling unit” as defined in subdivision (a) of
7 Section 66313.

8 (8) Include an identification of the agencies and officials
9 responsible for the implementation of the various actions and the
10 means by which consistency will be achieved with other general
11 plan elements and community goals.

12 (9) Include a diligent effort by the local government to achieve
13 public participation of all economic segments of the community
14 in the development of the housing element, and the program shall
15 describe this effort.

16 (10) (A) Affirmatively further fair housing in accordance with
17 Chapter 15 (commencing with Section 8899.50) of Division 1 of
18 Title 2. The program shall include an assessment of fair housing
19 in the jurisdiction that shall include all of the following
20 components:

21 (i) A summary of fair housing issues in the jurisdiction and an
22 assessment of the jurisdiction’s fair housing enforcement and fair
23 housing outreach capacity.

24 (ii) An analysis of available federal, state, and local data and
25 knowledge to identify integration and segregation patterns and
26 trends, racially or ethnically concentrated areas of poverty and
27 affluence, disparities in access to opportunity, and disproportionate
28 housing needs, including displacement risk. The analysis shall
29 identify and examine such patterns, trends, areas, disparities, and
30 needs, both within the jurisdiction and comparing the jurisdiction
31 to the region in which it is located, based on race and other
32 characteristics protected by the California Fair Employment and
33 Housing Act (Part 2.8 (commencing with Section 12900) of
34 Division 3 of Title 2) and Section 65008.

35 (iii) An assessment of the contributing factors, including the
36 local and regional historical origins and current policies and
37 practices, for the fair housing issues identified under clauses (i)
38 and (ii).

39 (iv) An identification of the jurisdiction’s fair housing priorities
40 and goals, giving highest priority to those factors identified in

1 clause (iii) that limit or deny fair housing choice or access to
2 opportunity, or negatively impact fair housing or civil rights
3 compliance, and identifying the metrics and milestones for
4 determining what fair housing results will be achieved.

5 (v) Strategies and actions to implement those priorities and
6 goals, which may include, but are not limited to, enhancing
7 mobility strategies and encouraging development of new affordable
8 housing in areas of opportunity, as well as place-based strategies
9 to encourage community revitalization, including preservation of
10 existing affordable housing, and protecting existing residents from
11 displacement.

12 (B) A jurisdiction that completes or revises an assessment of
13 fair housing pursuant to Subpart A (commencing with Section
14 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal
15 Regulations, as published in Volume 80 of the Federal Register,
16 Number 136, page 42272, dated July 16, 2015, or an analysis of
17 impediments to fair housing choice in accordance with the
18 requirements of Section 91.225 of Title 24 of the Code of Federal
19 Regulations in effect before August 17, 2015, may incorporate
20 relevant portions of that assessment or revised assessment of fair
21 housing or analysis or revised analysis of impediments to fair
22 housing into its housing element.

23 (C) (i) The requirements of this paragraph shall apply to housing
24 elements due to be revised pursuant to Section 65588 on or after
25 January 1, 2021.

26 (ii) The assessment required pursuant to this paragraph shall be
27 completed before the planning agency makes its first draft revision
28 of a housing element available for public comment pursuant to
29 subdivision (b) of Section 65585.

30 (D) (i) On or before December 31, 2026, the department shall
31 develop a standardized reporting format for programs and actions
32 taken pursuant to this paragraph. The standardized reporting format
33 shall enable the reporting of all of the assessment components
34 listed in subparagraph (A) and, at a minimum, include all of the
35 following fields:

36 (I) Timelines for implementation.

37 (II) Responsible party or parties.

38 (III) Resources committed from the local budget to affirmatively
39 further fair housing.

40 (IV) Action areas.

1 (V) Potential impacts of the program.

2 (ii) A local government shall utilize the standardized report
3 format developed pursuant to this subparagraph for the seventh
4 and each subsequent revision of the housing element.

5 (d) (1) A local government may satisfy all or part of its
6 requirement to identify a zone or zones suitable for the
7 development of emergency shelters pursuant to paragraph (4) of
8 subdivision (a) by adopting and implementing a multijurisdictional
9 agreement, with a maximum of two other adjacent communities,
10 that requires the participating jurisdictions to develop at least one
11 year-round emergency shelter within two years of the beginning
12 of the planning period.

13 (2) The agreement shall allocate a portion of the new shelter
14 capacity to each jurisdiction as credit toward its emergency shelter
15 need, and each jurisdiction shall describe how the capacity was
16 allocated as part of its housing element.

17 (3) Each member jurisdiction of a multijurisdictional agreement
18 shall describe in its housing element all of the following:

19 (A) How the joint facility will meet the jurisdiction's emergency
20 shelter need.

21 (B) The jurisdiction's contribution to the facility for both the
22 development and ongoing operation and management of the
23 facility.

24 (C) The amount and source of the funding that the jurisdiction
25 contributes to the facility.

26 (4) The aggregate capacity claimed by the participating
27 jurisdictions in their housing elements shall not exceed the actual
28 capacity of the shelter.

29 (e) Except as otherwise provided in this article, amendments to
30 this article that alter the required content of a housing element
31 shall apply to both of the following:

32 (1) A housing element or housing element amendment prepared
33 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
34 when a city, county, or city and county submits a draft to the
35 department for review pursuant to Section 65585 more than 90
36 days after the effective date of the amendment to this section.

37 (2) Any housing element or housing element amendment
38 prepared pursuant to subdivision (e) of Section 65588 or Section
39 65584.02, when the city, county, or city and county fails to submit

1 the first draft to the department before the due date specified in
2 Section 65588 or 65584.02.

3 (f) The deadline for completing required rezoning pursuant to
4 subparagraph (A) of paragraph (1) of subdivision (c) shall be
5 extended by one year if the local government has completed the
6 rezoning at densities sufficient to accommodate at least 75 percent
7 of the units for lower income households and if the legislative
8 body at the conclusion of a public hearing determines, based upon
9 substantial evidence, that any of the following circumstances exists:

10 (1) The local government has been unable to complete the
11 rezoning because of the action or inaction beyond the control of
12 the local government of any other state, federal, or local agency.

13 (2) The local government is unable to complete the rezoning
14 because of infrastructure deficiencies due to fiscal or regulatory
15 constraints.

16 (3) The local government must undertake a major revision to
17 its general plan in order to accommodate the housing-related
18 policies of a sustainable communities strategy or an alternative
19 planning strategy adopted pursuant to Section 65080.

20 The resolution and the findings shall be transmitted to the
21 department together with a detailed budget and schedule for
22 preparation and adoption of the required rezonings, including plans
23 for citizen participation and expected interim action. The schedule
24 shall provide for adoption of the required rezoning within one year
25 of the adoption of the resolution.

26 (g) (1) If a local government fails to complete the rezoning by
27 the deadline provided in subparagraph (A) of paragraph (1) of
28 subdivision (c), as it may be extended pursuant to subdivision (f),
29 except as provided in paragraph (2), a local government may not
30 disapprove a housing development project, nor require a
31 conditional use permit, planned unit development permit, or other
32 locally imposed discretionary permit, or impose a condition that
33 would render the project infeasible, if the housing development
34 project, (A) is proposed to be located on a site required to be
35 rezoned pursuant to the program action required by that
36 subparagraph and, (B) complies with applicable, objective general
37 plan and zoning standards and criteria, including design review
38 standards, described in the program action required by that
39 subparagraph. Any subdivision of sites shall be subject to the
40 Subdivision Map Act (Division 2 (commencing with Section

66410)). Design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, “housing development project” means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

1 (h) An action to enforce the program actions of the housing
2 element shall be brought pursuant to Section 1085 of the Code of
3 Civil Procedure.

4 (i) Notwithstanding any other law, the otherwise applicable
5 timeframe set forth in paragraph (2) of subdivision (b) and
6 subdivision (d) of Section 21080.3.1 of the Public Resources Code,
7 and paragraph (3) of subdivision (d) of Section 21082.3 of the
8 Public Resources Code, for a Native American tribe to respond to
9 a lead agency and request consultation in writing is extended by
10 30 days for any housing development project application
11 determined or deemed to be complete on or after March 4, 2020,
12 and prior to December 31, 2021.

13 (j) On or after January 1, 2024, at the discretion of the
14 department, the analysis of government constraints pursuant to
15 paragraph (5) of subdivision (a) may include an analysis of
16 constraints upon the maintenance, improvement, or development
17 of housing for persons with a characteristic identified in subdivision
18 (b) of Section 51 of the Civil Code. The implementation of this
19 subdivision is contingent upon an appropriation by the Legislature
20 in the annual Budget Act or another statute for this purpose.

21 SEC. 2. Section 65584 of the Government Code is amended
22 to read:

23 65584. (a) (1) For the fourth and subsequent revisions of the
24 housing element pursuant to Section 65588, the department shall
25 determine the existing and projected need for housing for each
26 region pursuant to this article. For purposes of subdivision (a) of
27 Section 65583, the share of a city or county of the regional housing
28 need shall include that share of the housing need of persons at all
29 income levels within the area significantly affected by the general
30 plan of the city or county.

31 (2) It is the intent of the Legislature that cities, counties, and
32 cities and counties should undertake all necessary actions to
33 encourage, promote, and facilitate the development of housing to
34 accommodate the entire regional housing need, and reasonable
35 actions should be taken by local and regional governments to
36 ensure that future housing production meets, at a minimum, the
37 regional housing need established for planning purposes. These
38 actions shall include applicable reforms and incentives in Section
39 65582.1.

(3) The Legislature finds and declares that insufficient housing in job centers hinders the state's environmental quality and runs counter to the state's environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants are released and puts in jeopardy the achievement of the state's climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.

(b) (1) (A) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least ~~30 months~~ *three years* prior to the scheduled revision required pursuant to Section ~~65588~~. *The 65588, except in the following circumstances:*

(i) *For regions with a scheduled housing element revision due date in the 2027 calendar year, the department shall determine the region's housing need at least two years before the scheduled revision.*

(ii) *For regions with a scheduled housing element revision due date in the 2028 calendar year or the first six months of the 2029 calendar year, the department shall determine the region's housing need at least 32 months before the scheduled revision.*

(B) *For cities and counties without a council of governments, the department shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least 30 months before the scheduled revision required pursuant to Section 65588, except for cities and counties with a scheduled housing element revision due date in the 2027 calendar year or the first six months of the 2028 calendar year, the department shall determine their existing and projected housing need at least two years before the scheduled revision.*

(2) The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall further all of the following objectives:

(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, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households. The regional housing needs allocation plan shall allocate units for extremely ~~low~~ low and acutely low income households in a manner that is roughly proportional to, and within a range of 3 percent of, the housing need for very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(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, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to

1 combating discrimination, that overcome patterns of segregation
 2 and foster inclusive communities free from barriers that restrict
 3 access to opportunity based on protected characteristics.
 4 Specifically, affirmatively furthering fair housing means taking
 5 meaningful actions that, taken together, address significant
 6 disparities in housing needs and in access to opportunity, replacing
 7 segregated living patterns with truly integrated and balanced living
 8 patterns, transforming racially and ethnically concentrated areas
 9 of poverty into areas of opportunity, and fostering and maintaining
 10 compliance with civil rights and fair housing laws.

11 (f) (1) Subject to paragraph (2), for purposes of this section
 12 with respect to revisions of the housing element through the sixth
 13 revision, “household income levels” are as determined by the
 14 department pursuant to the following code sections:

15 (A) Very low incomes, as defined by Section 50105 of the
 16 Health and Safety Code.

17 (B) Lower incomes, as defined by Section 50079.5 of the Health
 18 and Safety Code.

19 (C) Moderate incomes, as defined by Section 50093 of the
 20 Health and Safety Code.

21 (D) Above moderate incomes are those exceeding the
 22 moderate-income level of Section 50093 of the Health and Safety
 23 Code.

24 (2) For purposes of this section with respect to the seventh and
 25 subsequent revisions of the housing element, “household income
 26 levels” are as determined by the department in accordance with
 27 the definitions of acutely low, extremely low, very low, low,
 28 moderate, and above moderate income in Section 65582.

29 (g) Notwithstanding any other provision of law, determinations
 30 made by the department, a council of governments, or a city or
 31 county pursuant to this section or Section 65584.01, 65584.02,
 32 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08
 33 are exempt from the California Environmental Quality Act
 34 (Division 13 (commencing with Section 21000) of the Public
 35 Resources Code).

36 SEC. 3. Section 65584.01 of the Government Code is amended
 37 to read:

38 65584.01. For the fourth and subsequent revision of the housing
 39 element pursuant to Section 65588, the department, in consultation
 40 with each council of governments, where applicable, shall

1 determine the existing and projected need for housing for each
2 region in the following manner:

3 (a) The department's determination shall be based upon
4 population projections produced by the Department of Finance
5 and regional population forecasts used in preparing regional
6 transportation plans, in consultation with each council of
7 governments. If the total regional population forecast for the
8 projection year, developed by the council of governments and used
9 for the preparation of the regional transportation plan, is within a
10 range of 1.5 percent of the total regional population forecast for
11 the projection year by the Department of Finance, then the
12 population forecast developed by the council of governments shall
13 be the basis from which the department determines the existing
14 and projected need for housing in the region. If the difference
15 between the total population projected by the council of
16 governments and the total population projected for the region by
17 the Department of Finance is greater than 1.5 percent, then the
18 department and the council of governments shall meet to discuss
19 variances in methodology used for population projections and seek
20 agreement on a population projection for the region to be used as
21 a basis for determining the existing and projected housing need
22 for the region. If agreement is not reached, then the population
23 projection for the region shall be the population projection for the
24 region prepared by the Department of Finance as may be modified
25 by the department as a result of discussions with the council of
26 governments.

27 (b) (1) At least ~~32~~ 38 months prior to the scheduled revision
28 pursuant to Section 65588 and prior to developing the existing and
29 projected housing need for a region, the department shall meet and
30 consult with the council of governments regarding the assumptions
31 and methodology to be used by the department to determine the
32 region's housing ~~needs~~. *needs, except for the seventh housing*
33 *element cycle, for which the department shall meet and consult*
34 *with the council of governments at least two months prior to*
35 *developing the existing and projected housing need for a region*
36 *pursuant to the timelines in subparagraph (A) of paragraph (1)*
37 *of subdivision (b) of Section 65584. The council of governments*
38 *shall provide data assumptions from the council's projections,*
39 *including, if available, the following data for the region:*

1 (A) Anticipated household growth associated with projected
2 population increases.

3 (B) Household size data and trends in household size.

4 (C) The percentage of households that are overcrowded and the
5 overcrowding rate for a comparable housing market. For purposes
6 of this subparagraph:

7 (i) The term “overcrowded” means more than one resident per
8 room in each room in a dwelling.

9 (ii) The term “overcrowded rate for a comparable housing
10 market” means that the overcrowding rate is no more than the
11 average overcrowding rate in comparable regions throughout the
12 nation, as determined by the council of governments.

13 (D) The rate of household formation, or headship rates, based
14 on age, gender, ethnicity, or other established demographic
15 measures.

16 (E) The vacancy rates in existing housing stock, and the vacancy
17 rates for healthy housing market functioning and regional mobility,
18 as well as housing replacement needs. For purposes of this
19 subparagraph, the vacancy rate for a healthy rental housing market
20 shall be considered no less than 5 percent.

21 (F) Other characteristics of the composition of the projected
22 population.

23 (G) The relationship between jobs and housing, including any
24 imbalance between jobs and housing.

25 (H) The percentage of households that are cost burdened and
26 the rate of housing cost burden for a healthy housing market. For
27 the purposes of this subparagraph:

28 (i) The term “cost burdened” means the share of very low, low-,
29 moderate-, and above moderate-income households that are paying
30 more than 30 percent of household income on housing costs.

31 (ii) The term “rate of housing cost burden for a healthy housing
32 market” means that the rate of households that are cost burdened
33 is no more than the average rate of households that are cost
34 burdened in comparable regions throughout the nation, as
35 determined by the council of governments.

36 (I) The loss of units during a state of emergency that was
37 declared by the Governor pursuant to the California Emergency
38 Services Act (Chapter 7 (commencing with Section 8550) of
39 Division 1 of Title 2), during the planning period immediately

preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the data request.

(J) The housing needs of individuals and families experiencing homelessness.

(i) The data utilized by the council of governments shall align with homelessness data best practices as determined by the department.

(ii) Sources of homelessness data may include the Homeless Data Integration System administered by the Interagency Council on Homelessness, the homeless point-in-time count, or other sources deemed appropriate by the department.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (I), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments. The methodology submitted by the department may make adjustments based on the region's total projected households, which includes existing households as well as projected households.

(c) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (b). The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (a), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (b). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (b), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (b).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

(4) In regions in which the department is required to distribute the regional housing need pursuant to Section 65584.06, no city or county may file an objection to the regional housing need determination.

(d) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

SEC. 4. Section 65584.03 of the Government Code is amended to read:

65584.03. (a) At least ~~28~~ 34 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of

1 governments. All decisions of the subregion shall be approved by
 2 vote as provided for in rules adopted by the local governments
 3 comprising the subregion or shall be approved by vote of the
 4 county or counties, if any, and the majority of the cities with the
 5 majority of population within a county or counties.

6 (b) Upon formation of the subregional entity, the entity shall
 7 notify the council of governments of this formation. If the council
 8 of governments has not received notification from an eligible
 9 subregional entity at least-28 34 months prior to the scheduled
 10 housing element update required by Section 65588, the council of
 11 governments shall implement the provisions of Sections 65584
 12 and 65584.04. The delegate subregion and the council of
 13 governments shall enter into an agreement that sets forth the
 14 process, timing, and other terms and conditions of the delegation
 15 of responsibility by the council of governments to the subregion.

16 (c) At least-25 31 months prior to the scheduled revision, the
 17 council of governments shall determine the share of regional
 18 housing need assigned to each delegate subregion. The share or
 19 shares allocated to the delegate subregion or subregions by a
 20 council of governments shall be in a proportion consistent with
 21 the distribution of households assumed for the comparable time
 22 period of the applicable regional transportation plan. Prior to
 23 allocating the regional housing needs to any delegate subregion
 24 or subregions, the council of governments shall hold at least one
 25 public hearing, and may consider requests for revision of the
 26 proposed allocation to a subregion. If a proposed revision is
 27 rejected, the council of governments shall respond with a written
 28 explanation of why the proposed revised share has not been
 29 accepted.

30 (d) Each delegate subregion shall fully allocate its share of the
 31 regional housing need to local governments within its subregion.
 32 If a delegate subregion fails to complete the regional housing need
 33 allocation process among its member jurisdictions in a manner
 34 consistent with this article and with the delegation agreement
 35 between the subregion and the council of governments, the
 36 allocations to member jurisdictions shall be made by the council
 37 of governments.

38 ~~SEC. 4.~~

39 *SEC. 5.* Section 65584.04 of the Government Code is amended
 40 to read:

1 65584.04. (a) At least two and one-half years before a
2 scheduled revision required by Section 65588, each council of
3 governments, or delegate subregion as applicable, shall develop,
4 in consultation with the department, a proposed methodology for
5 distributing the existing and projected regional housing need to
6 cities, counties, and cities and counties within the region or within
7 the subregion, where applicable pursuant to this section. The
8 methodology shall further the objectives listed in subdivision (d)
9 of Section 65584.

10 (b) (1) No more than six months before the development of a
11 proposed methodology for distributing the existing and projected
12 housing need, each council of governments shall survey each of
13 its member jurisdictions to request, at a minimum, information
14 regarding the factors listed in subdivision (e) that will allow the
15 development of a methodology based upon the factors established
16 in subdivision (e).

17 (2) With respect to the objective in paragraph (5) of subdivision
18 (d) of Section 65584, the survey shall review and compile
19 information that will allow the development of a methodology
20 based upon the issues, strategies, and actions that are included, as
21 available, in an Analysis of Impediments to Fair Housing Choice
22 or an Assessment of Fair Housing completed by any city or county
23 or the department that covers communities within the area served
24 by the council of governments, and in housing elements adopted
25 pursuant to this article by cities and counties within the area served
26 by the council of governments.

27 (3) The council of governments shall seek to obtain the
28 information in a manner and format that is comparable throughout
29 the region and utilize readily available data to the extent possible.

30 (4) The information provided by a local government pursuant
31 to this section shall be used, to the extent possible, by the council
32 of governments, or delegate subregion as applicable, as source
33 information for the methodology developed pursuant to this section.
34 The survey shall state that none of the information received may
35 be used as a basis for reducing the total housing need established
36 for the region pursuant to Section 65584.01.

37 (5) If the council of governments fails to conduct a survey
38 pursuant to this subdivision, a city, county, or city and county may
39 submit information related to the items listed in subdivision (e)
40 before the public comment period provided for in subdivision (d).

1 (c) The council of governments shall electronically report the
2 results of the survey of fair housing issues, strategies, and actions
3 compiled pursuant to paragraph (2) of subdivision (b). The report
4 shall describe common themes and effective strategies employed
5 by cities and counties within the area served by the council of
6 governments, including common themes and effective strategies
7 around avoiding the displacement of lower income households.
8 The council of governments shall also identify significant barriers
9 to affirmatively furthering fair housing at the regional level and
10 may recommend strategies or actions to overcome those barriers.
11 A council of governments or metropolitan planning organization,
12 as appropriate, may use this information for any other purpose,
13 including publication within a regional transportation plan adopted
14 pursuant to Section 65080 or to inform the land use assumptions
15 that are applied in the development of a regional transportation
16 plan.

17 (d) Public participation and access shall be required in the
18 development of the methodology and in the process of drafting
19 and adoption of the allocation of the regional housing needs.
20 Participation by organizations other than local jurisdictions and
21 councils of governments shall be solicited in a diligent effort to
22 achieve public participation of all economic segments of the
23 community as well as members of protected classes under Section
24 12955 and households with special housing needs under paragraph
25 (7) of subdivision (a) of Section 65583. The proposed
26 methodology, along with any relevant underlying data and
27 assumptions, an explanation of how information about local
28 government conditions gathered pursuant to subdivision (b) has
29 been used to develop the proposed methodology, how each of the
30 factors listed in subdivision (e) is incorporated into the
31 methodology, and how the proposed methodology furthers the
32 objectives listed in subdivision (d) of Section 65584, shall be
33 distributed to all cities, counties, any subregions, and members of
34 the public who have made a written or electronic request for the
35 proposed methodology and published on the council of
36 governments', or delegate subregion's, internet website. The
37 council of governments, or delegate subregion, as applicable, shall
38 conduct at least one public hearing to receive oral and written
39 comments on the proposed methodology.

(e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall consider including the following factors in developing the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for

1 agricultural protection or preservation that is subject to a local
2 ballot measure that was approved by the voters of that jurisdiction
3 that prohibits or restricts conversion to nonagricultural uses.

4 (D) County policies to preserve prime agricultural land, as
5 defined pursuant to Section 56064, within an unincorporated area
6 and land within an unincorporated area zoned or designated for
7 agricultural protection or preservation that is subject to a local
8 ballot measure that was approved by the voters of that jurisdiction
9 that prohibits or restricts its conversion to nonagricultural uses.

10 (E) Emergency evacuation route capacity, wildfire risk, sea
11 level rise, and other impacts caused by climate change.

12 (3) The distribution of household growth assumed for purposes
13 of a comparable period of regional transportation plans and
14 opportunities to maximize the use of public transportation and
15 existing transportation infrastructure.

16 (4) Agreements between a county and cities in a county to direct
17 growth toward incorporated areas of the county and land within
18 an unincorporated area zoned or designated for agricultural
19 protection or preservation that is subject to a local ballot measure
20 that was approved by the voters of the jurisdiction that prohibits
21 or restricts conversion to nonagricultural uses.

22 (5) The loss of units contained in assisted housing developments,
23 as defined in paragraph (9) of subdivision (a) of Section 65583,
24 that changed to non-low-income use through mortgage prepayment,
25 subsidy contract expirations, or termination of use restrictions.

26 (6) The percentage of existing households at each of the income
27 levels listed in subdivision (f) of Section 65584 that are paying
28 more than 30 percent and more than 50 percent of their income in
29 rent.

30 (7) The rate of overcrowding.

31 (8) The housing needs of farmworkers.

32 (9) The housing needs generated by the presence of a private
33 university or a campus of the California State University or the
34 University of California within any member jurisdiction.

35 (10) The housing needs of individuals and families experiencing
36 homelessness. If a council of governments has surveyed each of
37 its member jurisdictions pursuant to subdivision (b) on or before
38 January 1, 2020, this paragraph shall apply only to the development
39 of methodologies for the seventh and subsequent revisions of the
40 housing element.

1 (11) The loss of units during a state of emergency that was
2 declared by the Governor pursuant to the California Emergency
3 Services Act (Chapter 7 (commencing with Section 8550) of
4 Division 1 of Title 2), during the planning period immediately
5 preceding the relevant revision pursuant to Section 65588 that
6 have yet to be rebuilt or replaced at the time of the analysis.

7 (12) The region's greenhouse gas emissions targets provided
8 by the State Air Resources Board pursuant to Section 65080.

9 (13) Any other factors adopted by the council of governments,
10 that further the objectives listed in subdivision (d) of Section
11 65584, provided that the council of governments specifies which
12 of the objectives each additional factor is necessary to further. The
13 council of governments may include additional factors unrelated
14 to furthering the objectives listed in subdivision (d) of Section
15 65584 so long as the additional factors do not undermine the
16 objectives listed in subdivision (d) of Section 65584 and are applied
17 equally across all household income levels as described in
18 subdivision (f) of Section 65584 and the council of governments
19 makes a finding that the factor is necessary to address significant
20 health and safety conditions.

21 (f) The council of governments, or delegate subregion, as
22 applicable, shall explain in writing how each of the factors
23 described in subdivision (e) was incorporated into the methodology
24 and how the methodology furthers the objectives listed in
25 subdivision (d) of Section 65584. The methodology may include
26 numerical weighting. This information, and any other supporting
27 materials used in determining the methodology, shall be posted
28 on the council of governments', or delegate subregion's, internet
29 website.

30 (g) The following criteria shall not be a justification for a
31 determination or a reduction in a jurisdiction's share of the regional
32 housing need:

33 (1) Any ordinance, policy, voter-approved measure, or standard
34 of a city or county that directly or indirectly limits the number of
35 residential building permits issued by a city or county.

36 (2) Prior underproduction of housing in a city or county from
37 the previous regional housing need allocation, as determined by
38 each jurisdiction's annual production report submitted pursuant
39 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
40 65400.

1 (3) Stable population numbers in a city or county from the
2 previous regional housing needs cycle.

3 (h) Following the conclusion of the public comment period
4 described in subdivision (d) on the proposed allocation
5 methodology, and after making any revisions deemed appropriate
6 by the council of governments, or delegate subregion, as applicable,
7 as a result of comments received during the public comment period,
8 and as a result of consultation with the department, each council
9 of governments, or delegate subregion, as applicable, shall publish
10 a draft allocation methodology on its internet website and submit
11 the draft allocation methodology, along with the information
12 required pursuant to subdivision (e), to the department.

13 (i) Within 60 days, the department shall review the draft
14 allocation methodology and report its written findings to the
15 council of governments, or delegate subregion, as applicable. In
16 its written findings the department shall determine whether the
17 methodology furthers the objectives listed in subdivision (d) of
18 Section 65584. If the department determines that the methodology
19 is not consistent with subdivision (d) of Section 65584, the council
20 of governments, or delegate subregion, as applicable, shall take
21 one of the following actions:

22 (1) Revise the methodology to further the objectives listed in
23 subdivision (d) of Section 65584 and adopt a final regional, or
24 subregional, housing need allocation methodology.

25 (2) Adopt the regional, or subregional, housing need allocation
26 methodology without revisions and include within its resolution
27 of adoption findings, supported by substantial evidence, as to why
28 the council of governments, or delegate subregion, believes that
29 the methodology furthers the objectives listed in subdivision (d)
30 of Section 65584 despite the findings of the department.

31 (j) If the department's findings are not available within the time
32 limits set by subdivision (i), the council of governments, or delegate
33 subregion, may act without them.

34 (k) Upon either action pursuant to subdivision (i), the council
35 of governments, or delegate subregion, shall provide notice of the
36 adoption of the methodology to the jurisdictions within the region,
37 or delegate subregion, as applicable, and to the department, and
38 shall publish the adopted allocation methodology, along with its
39 resolution and any adopted written findings, on its internet website.

(l) The department may, within 45 days, review the adopted methodology and report its findings to the council of governments, or delegate subregion.

(m) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) (A) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(B) For the seventh and subsequent revisions of the housing element, the allocation to each region required under subparagraph (A) shall also include an allocation of units for acutely low and extremely low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan and furthers the objectives listed in subdivision (d) of Section 65584.

(n) This section shall become operative on January 1, 2025.

(o) For the seventh housing element cycle, the changes to this section made by the act adding this subdivision shall not apply to councils of governments with a housing element revision due date during the 2027 calendar year.

~~SEC. 5.~~

SEC. 6. Section 65584.05 of the Government Code is amended to read:

65584.05. (a) At least two years before the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, based on the methodology adopted pursuant to Section 65584.04 and shall publish the draft allocation on its internet website. The council of governments may additionally distribute the draft allocation plan upon adoption of the final methodology reviewed and accepted by the department pursuant to paragraph (2) of subdivision (i) of

1 Section 65584.04. The draft allocation shall include the underlying
2 data and methodology on which the allocation is based, and a
3 statement as to how it furthers the objectives listed in subdivision
4 (d) of Section 65584. It is the intent of the Legislature that the draft
5 allocation should be distributed before the completion of the update
6 of the applicable regional transportation plan. The draft allocation
7 shall distribute to localities and subregions, if any, within the region
8 the entire regional housing need determined pursuant to Section
9 65584.01 or within subregions, as applicable, the subregion's entire
10 share of the regional housing need determined pursuant to Section
11 65584.03.

12 (b) Within 30 days following receipt of the draft allocation, a
13 local government within the region or the delegate subregion, as
14 applicable, or the department may appeal to the council of
15 governments or the delegate subregion for a revision of the share
16 of the regional housing need proposed to be allocated to one or
17 more local governments. Appeals shall be based upon comparable
18 data available for all affected jurisdictions and accepted planning
19 methodology, and supported by adequate documentation, and shall
20 include a statement as to why the revision is necessary to further
21 the intent of the objectives listed in subdivision (d) of Section
22 65584. An appeal pursuant to this subdivision shall be consistent
23 with, and not to the detriment of, the development pattern in an
24 applicable sustainable communities strategy developed pursuant
25 to paragraph (2) of subdivision (b) of Section 65080. Appeals shall
26 be limited to any of the following circumstances:

27 (1) The council of governments or delegate subregion, as
28 applicable, failed to adequately consider the information submitted
29 pursuant to subdivision (b) of Section 65584.04.

30 (2) The council of governments or delegate subregion, as
31 applicable, failed to determine the share of the regional housing
32 need in accordance with the information described in, and the
33 methodology established pursuant to, Section 65584.04, and in a
34 manner that furthers, and does not undermine, the intent of the
35 objectives listed in subdivision (d) of Section 65584.

36 (3) A significant and unforeseen change in circumstances has
37 occurred in the local jurisdiction or jurisdictions that merits a
38 revision of the information submitted pursuant to subdivision (b)
39 of Section 65584.04. Appeals on this basis shall only be made by

1 the jurisdiction or jurisdictions where the change in circumstances
2 has occurred.

3 (c) At the close of the period for filing appeals pursuant to
4 subdivision (b), the council of governments or delegate subregion,
5 as applicable, shall notify all other local governments within the
6 region or delegate subregion and the department of all appeals and
7 shall make all materials submitted in support of each appeal
8 available on a publicly available internet website. Local
9 governments and the department may, within 45 days, comment
10 on one or more appeals. If no appeals are filed, the draft allocation
11 may be adopted pursuant to subdivision (g).

12 (d) No later than 30 days after the close of the comment period,
13 and after providing all local governments within the region or
14 delegate subregion, as applicable, at least 10 days prior notice, the
15 council of governments or delegate subregion shall conduct one
16 public hearing to consider all appeals filed pursuant to subdivision
17 (b) and all comments received pursuant to subdivision (c).

18 (e) No later than 45 days after the public hearing pursuant to
19 subdivision (d), the council of governments or delegate subregion,
20 as applicable, shall do all of the following:

21 (1) Make a final determination that either accepts, rejects, or
22 modifies each appeal for a revised share filed pursuant to
23 subdivision (b). Final determinations shall be based upon the
24 information and methodology described in Section 65584.04 and
25 whether the revision is necessary to further the objectives listed
26 in subdivision (d) of Section 65584. The final determination shall
27 be in writing and shall include written findings as to how the
28 determination is consistent with this article. The final determination
29 on an appeal may require the council of governments or delegate
30 subregion, as applicable, to adjust the share of the regional housing
31 need allocated to one or more local governments that are not the
32 subject of an appeal.

33 (2) Issue a proposed final allocation plan.

34 (3) Submit the proposed final allocation plan to the department.

35 (4) Set a date for a public hearing to adopt a final allocation
36 plan pursuant to subdivision (g).

37 (f) In the proposed final allocation plan, the council of
38 governments or delegate subregion, as applicable, shall adjust
39 allocations to local governments based upon the results of the
40 appeals process. If the adjustments total 7 percent or less of the

1 regional housing need determined pursuant to Section 65584.01,
2 or, as applicable, total 7 percent or less of the subregion's share
3 of the regional housing need as determined pursuant to Section
4 65584.03, then the council of governments or delegate subregion,
5 as applicable, shall distribute the adjustments proportionally to all
6 local governments. If the adjustments total more than 7 percent of
7 the regional housing need, then the council of governments or
8 delegate subregion, as applicable, shall develop a methodology to
9 distribute the amount greater than the 7 percent to local
10 governments. The total distribution of housing need shall not equal
11 less than the regional housing need, as determined pursuant to
12 Section 65584.01, nor shall the subregional distribution of housing
13 need equal less than its share of the regional housing need as
14 determined pursuant to Section 65584.03.

15 (g) Within 45 days after the issuance of the proposed final
16 allocation plan by the council of governments and each delegate
17 subregion, as applicable, the council of governments shall hold a
18 public hearing to adopt a final allocation plan. To the extent that
19 the final allocation plan fully allocates the regional share of
20 statewide housing need, as determined pursuant to Section
21 65584.01 and has taken into account all appeals, the council of
22 governments shall have final authority to determine the distribution
23 of the region's existing and projected housing need as determined
24 pursuant to Section 65584.01. The council of governments shall
25 submit its final allocation plan to the department within three days
26 of adoption. Within 15 days after the department's receipt of the
27 final allocation plan adopted by the council of governments, the
28 department shall determine if the final allocation plan is consistent
29 with the existing and projected housing need for the region, as
30 determined pursuant to Section 65584.01. The department may
31 revise the determination of the council of governments if necessary
32 to obtain this consistency.

33 (h) Any authority of the council of governments to review and
34 revise the share of a city or county of the regional housing need
35 under this section shall not constitute authority to revise, approve,
36 or disapprove the manner in which the share of the city or county
37 of the regional housing need is implemented through its housing
38 program.

39 (i) Any time period in subdivision (d) or (e) may be extended
40 by a council of governments or delegate subregion, as applicable,

for up to 30 days. Any time period in subdivision (b), (c), (d), (e), or (g) may be reduced by a council of governments or delegate subregion, as applicable, to facilitate earlier adoption of the final allocation plan. No time period shall be reduced to fewer than a minimum of 10 days.

(j) The San Diego Association of Governments may follow the process in this section for the draft and final allocation plan for the sixth revision of the housing element notwithstanding such actions being carried out before the adoption of an updated regional transportation plan and sustainable communities strategy.

(k) For the seventh housing element cycle, the changes to this section made by the act adding this subdivision shall not apply to councils of governments with a housing element revision due date during the 2027 calendar year.

~~SEC. 6.~~

SEC. 7. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) (A) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

1 (B) The planning agency staff shall collect and compile the
2 public comments regarding the housing element received by the
3 city, county, or city and county and provide these comments to
4 each member of the legislative body before it adopts the housing
5 element.

6 (C) The department shall review the draft and report its written
7 findings to the planning agency within 90 days of its receipt of the
8 first draft submittal for each housing element revision pursuant to
9 subdivision (e) of Section 65588 or within 60 days of its receipt
10 of a subsequent draft amendment or an adopted revision or adopted
11 amendment to an element. The department shall not review the
12 first draft submitted for each housing element revision pursuant
13 to subdivision (e) of Section 65588 until the local government has
14 made the draft available for public comment for at least 30 days
15 and, if comments were received, has taken at least 10 business
16 days to consider and incorporate public comments pursuant to
17 paragraph (1).

18 (2) (A) At least 90 days prior to the initial adoption of a revision
19 of its housing element pursuant to subdivision (e) of Section 65588,
20 and at least 7 days prior to any subsequent adoption submittal if
21 changes have occurred to the inventory of sites, a local government
22 shall do both of the following:

23 (i) Make a draft of its inventory of sites required pursuant to
24 paragraph (3) of subdivision (a) of Section 65583 available to the
25 department and the public and post the draft inventory on its
26 internet website.

27 (ii) Send an email to all individuals and organizations that have
28 previously requested notices notifying them that the inventory has
29 been updated that includes a link to the draft inventory on its
30 website.

31 (B) The requirements of this paragraph shall apply to the seventh
32 and each subsequent revision of the housing element.

33 (c) In the preparation of its findings, the department may consult
34 with any public agency, group, or person. The department shall
35 receive and consider any written comments from any public
36 agency, group, or person regarding the draft or adopted element
37 or amendment under review.

38 (d) In its written findings, the department shall determine
39 whether the draft element or draft amendment substantially
40 complies with this article. If the department finds that the draft

1 element or draft amendment does not substantially comply with
2 this article, the department shall in a written communication to the
3 planning agency do both of the following:

4 (1) Identify and explain the specific deficiencies in the draft
5 element or draft amendment, including a reference to each
6 subdivision of Section 65583 that the draft element or draft
7 amendment does not comply with.

8 (2) Provide the specific analysis or text that the department
9 expects the planning agency to include in the draft element or draft
10 amendment to remedy the deficiencies identified in paragraph (1).

11 (e) Prior to the adoption of its draft element or draft amendment,
12 the legislative body shall consider the findings made, and the
13 specific analysis or text required, by the department. If the
14 department's findings are not available within the time limits set
15 by this section, the legislative body may act without them.

16 (f) If the department finds that the draft element or draft
17 amendment does not substantially comply with this article, the
18 legislative body shall take one of the following actions:

19 (1) (A) Include the specific analysis or text in the draft element
20 or draft amendment to substantially comply with this article, as
21 required by the department pursuant to subdivision (d).

22 (B) Any change to a draft element or draft amendment pursuant
23 to subparagraph (A) shall be completed in accordance with
24 subdivision (b). This subparagraph does not constitute a change
25 in, but is declaratory of, existing law.

26 ~~(C) Notwithstanding Section 65589.5, a jurisdiction shall not~~
27 ~~be required to approve a builder's remedy project, as defined in~~
28 ~~paragraph (11) of subdivision (h) of Section 65889.5, within the~~
29 ~~planning agency's jurisdiction during either of the following~~
30 ~~periods:~~

31 ~~(i) The duration of the department's review of a draft element~~
32 ~~or draft amendment revised pursuant to this paragraph.~~

33 ~~(ii) Ninety days from the date the department notifies the~~
34 ~~planning agency of additional deficiencies not previously identified~~
35 ~~by the department in response to the prior submission of the draft~~
36 ~~element or draft amendment.~~

37 (2) Adopt the draft element or draft amendment without the
38 specific analysis or text required by the department pursuant to
39 subdivision (d). The legislative body shall include in its resolution
40 of adoption written findings that explain the reasons the legislative

body believes that the draft element or draft amendment substantially complies with this article despite the findings of, and specific analysis or text required by, the department.

(g) (1) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy of the adopted element or amendment and any findings made pursuant to paragraph (2) of subdivision (f) to the department.

(2) This subdivision shall not be construed to excuse a legislative body from complying with subdivision (f). This paragraph does not constitute a change in, but is declaratory of, existing law.

(h) The department shall, within 60 days, review adopted housing elements or amendments and any findings pursuant to paragraph (2) of subdivision (f), make a finding as to whether the adopted element or amendment is in substantial compliance with this article, and report its findings to the planning agency. If the department finds that the adopted element or amendment is not in substantial compliance with this article, the department shall identify each subdivision of Section 65583 that the housing element does not substantially comply with and provide the specific analysis or text to the planning agency that, if adopted, would bring the housing element or amendment into substantial compliance.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (C).

(B) If the department finds that the city's, county's, or city and county's action or failure to act does not substantially comply with its adopted housing element or its obligations pursuant to Section 65583, there shall be a rebuttable presumption of invalidity in any legal action challenging that action or failure to act.

(C) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section

1 that an amendment to the housing element substantially complies
 2 with this article, the department may revoke its findings until it
 3 determines that the city, county, or city and county has come into
 4 compliance with this article.

5 (2) The department may consult with any local government,
 6 public agency, group, or person, and shall receive and consider
 7 any written comments from any public agency, group, or person,
 8 regarding the action or failure to act by the city, county, or city
 9 and county described in paragraph (1), in determining whether the
 10 housing element substantially complies with this article.

11 (j) The department shall notify the city, county, or city and
 12 county and may notify the office of the Attorney General that the
 13 city, county, or city and county is in violation of state law if the
 14 department finds that the housing element or an amendment to this
 15 element, or any action or failure to act described in subdivision
 16 (j), does not substantially comply with this article or that any local
 17 government has taken an action in violation of the following:

- 18 (1) Housing Accountability Act (Section 65589.5).
- 19 (2) Section 65863.
- 20 (3) Chapter 4.3 (commencing with Section 65915).
- 21 (4) Section 65008.
- 22 (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019,
 23 Sections 65941.1, 65943, and 66300).
- 24 (6) Section 8899.50.
- 25 (7) Section 65913.4.
- 26 (8) Article 11 (commencing with Section 65650).
- 27 (9) Article 12 (commencing with Section 65660).
- 28 (10) Section 65913.11.
- 29 (11) Section 65400.
- 30 (12) Section 65863.2.
- 31 (13) Chapter 4.1 (commencing with Section 65912.100).
- 32 (14) Section 65905.5.
- 33 (15) Chapter 13 (commencing with Section 66310).
- 34 (16) Section 65852.21.
- 35 (17) Section 65852.24.
- 36 (18) Section 66411.7.
- 37 (19) Section 65913.16.
- 38 (20) Article 2 (commencing with Section 66300.5) of Chapter
 39 12.
- 40 (21) Section 65852.28.

1 (22) Section 65913.4.5.

2 (23) Section 66499.41.

3 (24) Homeless Housing, Assistance, and Prevention program
4 (Chapter 6 (commencing with Section 50216) and Chapter 6.5
5 (commencing with Section 50230) of Part 1 of Division 31 of the
6 Health and Safety Code).

7 (25) Encampment Resolution Funding program (Chapter 7
8 (commencing with Section 50250) of Part 1 of Division 31 of the
9 Health and Safety Code).

10 (26) Family Homelessness Challenge Grants and Technical
11 Assistance Program (Chapter 8 (commencing with Section 50255)
12 of Part 1 of Division 31 of the Health and Safety Code).

13 (27) (A) Article 11.5 (commencing with Section 65658).

14 (B) This paragraph shall become operative only if Assembly
15 Bill 3068 of the 2023–24 Regular Session of the Legislature is
16 enacted and takes effect on or before January 1, 2025.

17 (k) Commencing July 1, 2019, prior to the Attorney General
18 bringing any suit for a violation of the provisions identified in
19 subdivision (j) related to housing element compliance and seeking
20 remedies available pursuant to this subdivision, the department
21 shall offer the jurisdiction the opportunity for two meetings in
22 person or via telephone to discuss the violation, and shall provide
23 the jurisdiction written findings regarding the violation. This
24 paragraph does not affect any action filed prior to the effective
25 date of this section. The requirements set forth in this subdivision
26 do not apply to any suits brought for a violation or violations of
27 paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

28 (l) In any action or special proceeding brought by the Attorney
29 General relating to housing element compliance pursuant to a
30 notice or referral under subdivision (j), the Attorney General may
31 request, upon a finding of the court that the housing element does
32 not substantially comply with the requirements of this article
33 pursuant to this section, that the court issue an order or judgment
34 directing the jurisdiction to bring its housing element into
35 substantial compliance with the requirements of this article. The
36 court shall retain jurisdiction to ensure that its order or judgment
37 is carried out. If a court determines that the housing element of
38 the jurisdiction substantially complies with this article, it shall
39 have the same force and effect, for purposes of eligibility for any
40 financial assistance that requires a housing element in substantial

1 compliance and for purposes of any incentives provided under
2 Section 65589.9, as a determination by the department that the
3 housing element substantially complies with this article.

4 (1) If the jurisdiction has not complied with the order or
5 judgment after 12 months, the court shall conduct a status
6 conference. Following the status conference, upon a determination
7 that the jurisdiction failed to comply with the order or judgment
8 compelling substantial compliance with the requirements of this
9 article, the court shall impose fines on the jurisdiction, which shall
10 be deposited into the Building Homes and Jobs Trust Fund. Any
11 fine levied pursuant to this paragraph shall be in a minimum
12 amount of ten thousand dollars (\$10,000) per month, but shall not
13 exceed one hundred thousand dollars (\$100,000) per month, except
14 as provided in paragraphs (2) and (3). In the event that the
15 jurisdiction fails to pay fines imposed by the court in full and on
16 time, the court may require the Controller to intercept any available
17 state and local funds and direct such funds to the Building Homes
18 and Jobs Trust Fund to correct the jurisdiction's failure to pay.
19 The intercept of the funds by the Controller for this purpose shall
20 not violate any provision of the California Constitution.

21 (2) If the jurisdiction has not complied with the order or
22 judgment after three months following the imposition of fees
23 described in paragraph (1), the court shall conduct a status
24 conference. Following the status conference, if the court finds that
25 the fees imposed pursuant to paragraph (1) are insufficient to bring
26 the jurisdiction into compliance with the order or judgment, the
27 court may multiply the fine determined pursuant to paragraph (1)
28 by a factor of three. In the event that the jurisdiction fails to pay
29 fines imposed by the court in full and on time, the court may
30 require the Controller to intercept any available state and local
31 funds and direct such funds to the Building Homes and Jobs Trust
32 Fund to correct the jurisdiction's failure to pay. The intercept of
33 the funds by the Controller for this purpose shall not violate any
34 provision of the California Constitution.

35 (3) If the jurisdiction has not complied with the order or
36 judgment six months following the imposition of fees described
37 in paragraph (1), the court shall conduct a status conference. Upon
38 a determination that the jurisdiction failed to comply with the order
39 or judgment, the court may impose the following:

1 (A) If the court finds that the fees imposed pursuant to
2 paragraphs (1) and (2) are insufficient to bring the jurisdiction into
3 compliance with the order or judgment, the court may multiply
4 the fine determined pursuant to paragraph (1) by a factor of six.
5 In the event that the jurisdiction fails to pay fines imposed by the
6 court in full and on time, the court may require the Controller to
7 intercept any available state and local funds and direct such funds
8 to the Building Homes and Jobs Trust Fund to correct the
9 jurisdiction's failure to pay. The intercept of the funds by the
10 Controller for this purpose shall not violate any provision of the
11 California Constitution.

12 (B) The court may order remedies available pursuant to Section
13 564 of the Code of Civil Procedure, under which the agent of the
14 court may take all governmental actions necessary to bring the
15 jurisdiction's housing element into substantial compliance pursuant
16 to this article in order to remedy identified deficiencies. The court
17 shall determine whether the housing element of the jurisdiction
18 substantially complies with this article and, once the court makes
19 that determination, it shall have the same force and effect, for all
20 purposes, as the department's determination that the housing
21 element substantially complies with this article. An agent appointed
22 pursuant to this paragraph shall have expertise in planning in
23 California.

24 (4) This subdivision does not limit a court's discretion to apply
25 any and all remedies in an action or special proceeding for a
26 violation of any law identified in subdivision (j).

27 (m) In determining the application of the remedies available
28 under subdivision (l), the court shall consider whether there are
29 any mitigating circumstances delaying the jurisdiction from coming
30 into compliance with state housing law. The court may consider
31 whether a city, county, or city and county is making a good faith
32 effort to come into substantial compliance or is facing substantial
33 undue hardships.

34 (n) Nothing in this section shall limit the authority of the office
35 of the Attorney General to bring a suit to enforce state law in an
36 independent capacity. The office of the Attorney General may seek
37 all remedies available under law including those set forth in this
38 section.

39 (o) Notwithstanding Sections 11040 and 11042, if the Attorney
40 General declines to represent the department in any action or

1 special proceeding brought pursuant to a notice or referral under
 2 subdivision (j), the department may appoint or contract with other
 3 counsel for purposes of representing the department in the action
 4 or special proceeding.

5 (p) Notwithstanding any other provision of law, the statute of
 6 limitations set forth in subdivision (a) of Section 338 of the Code
 7 of Civil Procedure shall apply to any action or special proceeding
 8 brought by the office of the Attorney General or pursuant to a
 9 notice or referral under subdivision (j), or by the department
 10 pursuant to subdivision (o).

11 (q) The amendments to this section made by the act adding this
 12 subdivision shall not be construed to limit the department's ability
 13 to enforce programmatic requirements or remedies against cities,
 14 counties, and continuums of care pursuant to the Homeless
 15 Housing, Assistance, and Prevention program (Chapter 6
 16 commencing with Section 50216) and Chapter 6.5 (commencing
 17 with Section 50230) of Part 1 of Division 31 of the Health and
 18 Safety Code), the Encampment Resolution Funding program
 19 (Chapter 7 (commencing with Section 50250)), and the Family
 20 Homelessness Challenge Grants and Technical Assistance Program
 21 (Chapter 8 (commencing with Section 50255)).

22 SEC. 7. ~~Section 65589.5 of the Government Code is amended~~
 23 ~~to read:~~

24 ~~65589.5. (a) (1) The Legislature finds and declares all of the~~
 25 ~~following:~~

26 ~~(A) The lack of housing, including emergency shelters, is a~~
 27 ~~critical problem that threatens the economic, environmental, and~~
 28 ~~social quality of life in California.~~

29 ~~(B) California housing has become the most expensive in the~~
 30 ~~nation. The excessive cost of the state's housing supply is partially~~
 31 ~~caused by activities and policies of many local governments that~~
 32 ~~limit the approval of housing, increase the cost of land for housing,~~
 33 ~~and require that high fees and exactions be paid by producers of~~
 34 ~~housing.~~

35 ~~(C) Among the consequences of those actions are discrimination~~
 36 ~~against low-income and minority households, lack of housing to~~
 37 ~~support employment growth, imbalance in jobs and housing,~~
 38 ~~reduced mobility, urban sprawl, excessive commuting, and air~~
 39 ~~quality deterioration.~~

1 (D) Many local governments do not give adequate attention to
 2 the economic, environmental, and social costs of decisions that
 3 result in disapproval of housing development projects, reduction
 4 in density of housing projects, and excessive standards for housing
 5 development projects.

6 (2) In enacting the amendments made to this section by the act
 7 adding this paragraph, the Legislature further finds and declares
 8 the following:

9 (A) California has a housing supply and affordability crisis of
 10 historic proportions. The consequences of failing to effectively
 11 and aggressively confront this crisis are hurting millions of
 12 Californians, robbing future generations of the chance to call
 13 California home, stifling economic opportunities for workers and
 14 businesses, worsening poverty and homelessness, and undermining
 15 the state's environmental and climate objectives.

16 (B) While the causes of this crisis are multiple and complex,
 17 the absence of meaningful and effective policy reforms to
 18 significantly enhance the approval and supply of housing affordable
 19 to Californians of all income levels is a key factor.

20 (C) The crisis has grown so acute in California that supply,
 21 demand, and affordability fundamentals are characterized in the
 22 negative: underserved demands, constrained supply, and protracted
 23 unaffordability.

24 (D) According to reports and data, California has accumulated
 25 an unmet housing backlog of nearly 2,000,000 units and must
 26 provide for at least 180,000 new units annually to keep pace with
 27 growth through 2025.

28 (E) California's overall home ownership rate is at its lowest
 29 level since the 1940s. The state ranks 49th out of the 50 states in
 30 home ownership rates as well as in the supply of housing per capita.
 31 Only one-half of California's households are able to afford the
 32 cost of housing in their local regions.

33 (F) Lack of supply and rising costs are compounding inequality
 34 and limiting advancement opportunities for many Californians.

35 (G) The majority of California renters, more than 3,000,000
 36 households, pay more than 30 percent of their income toward rent
 37 and nearly one-third, more than 1,500,000 households, pay more
 38 than 50 percent of their income toward rent.

39 (H) When Californians have access to safe and affordable
 40 housing, they have more money for food and health care; they are

1 less likely to become homeless and in need of
2 government-subsidized services; their children do better in school;
3 and businesses have an easier time recruiting and retaining
4 employees.

5 (I) An additional consequence of the state's cumulative housing
6 shortage is a significant increase in greenhouse gas emissions
7 caused by the displacement and redirection of populations to states
8 with greater housing opportunities, particularly working- and
9 middle-class households. California's cumulative housing shortfall
10 therefore has not only national but international environmental
11 consequences.

12 (J) California's housing picture has reached a crisis of historic
13 proportions despite the fact that, for decades, the Legislature has
14 enacted numerous statutes intended to significantly increase the
15 approval, development, and affordability of housing for all income
16 levels, including this section.

17 (K) The Legislature's intent in enacting this section in 1982 and
18 in expanding its provisions since then was to significantly increase
19 the approval and construction of new housing for all economic
20 segments of California's communities by meaningfully and
21 effectively curbing the capability of local governments to deny,
22 reduce the density for, or render infeasible housing development
23 projects and emergency shelters. That intent has not been fulfilled.

24 (L) It is the policy of the state that this section be interpreted
25 and implemented in a manner to afford the fullest possible weight
26 to the interest of, and the approval and provision of, housing.

27 (3) It is the intent of the Legislature that the conditions that
28 would have a specific, adverse impact upon the public health and
29 safety, as described in paragraph (2) of subdivision (d) and
30 paragraph (1) of subdivision (j), arise infrequently.

31 (4) It is the intent of the Legislature that the amendments
32 removing provisions from subparagraphs (D) and (E) of paragraph
33 (6) of subdivision (h) and adding those provisions to Sections
34 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
35 as they are substantially the same as existing law, shall be
36 considered restatements and continuations of existing law, and not
37 new enactments.

38 (b) It is the policy of the state that a local government not reject
39 or make infeasible housing development projects, including
40 emergency shelters, that contribute to meeting the need determined

1 pursuant to this article without a thorough analysis of the economic,
2 social, and environmental effects of the action and without
3 complying with subdivision (d).

4 (c) The Legislature also recognizes that premature and
5 unnecessary development of agricultural lands for urban uses
6 continues to have adverse effects on the availability of those lands
7 for food and fiber production and on the economy of the state.
8 Furthermore, it is the policy of the state that development should
9 be guided away from prime agricultural lands; therefore, in
10 implementing this section, local jurisdictions should encourage,
11 to the maximum extent practicable, in filling existing urban areas.

12 (d) For a housing development project for very low, low-, or
13 moderate-income households, or an emergency shelter, a local
14 agency shall not disapprove the housing development project or
15 emergency shelter, or condition approval in a manner that renders
16 the housing development project or emergency shelter infeasible,
17 including through the use of design review standards, unless it
18 makes written findings, based upon a preponderance of the
19 evidence in the record, as to one of the following:

20 (1) The jurisdiction has adopted a housing element pursuant to
21 this article that has been revised in accordance with Section 65588,
22 is in substantial compliance with this article, and the jurisdiction
23 has met or exceeded its share of the regional housing need
24 allocation pursuant to Section 65584 for the planning period for
25 the income category proposed for the housing development project,
26 provided that any disapproval or conditional approval shall not be
27 based on any of the reasons prohibited by Section 65008. If the
28 housing development project includes a mix of income categories,
29 and the jurisdiction has not met or exceeded its share of the regional
30 housing need for one or more of those categories, then this
31 paragraph shall not be used to disapprove or conditionally approve
32 the housing development project. The share of the regional housing
33 need met by the jurisdiction shall be calculated consistently with
34 the forms and definitions that may be adopted by the Department
35 of Housing and Community Development pursuant to Section
36 65400. In the case of an emergency shelter, the jurisdiction shall
37 have met or exceeded the need for emergency shelter, as identified
38 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
39 disapproval or conditional approval pursuant to this paragraph
40 shall be in accordance with applicable law, rule, or standards.

~~(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:~~

~~(A) Inconsistency with the zoning ordinance or general plan land use designation.~~

~~(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.~~

~~(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.~~

~~(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.~~

~~(5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan.~~

~~(A) This paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed on a site, including a candidate site for rezoning, that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction’s housing element if the housing~~

1 development project is consistent with the density specified in the
2 housing element, even though the housing development project
3 was inconsistent with both the jurisdiction's zoning ordinance and
4 general plan land use designation on the date the application was
5 deemed complete.

6 (B) If the local agency has failed to identify a zone or zones
7 where emergency shelters are allowed as a permitted use without
8 a conditional use or other discretionary permit, has failed to
9 demonstrate that the identified zone or zones include sufficient
10 capacity to accommodate the need for emergency shelter identified
11 in paragraph (7) of subdivision (a) of Section 65583, or has failed
12 to demonstrate that the identified zone or zones can accommodate
13 at least one emergency shelter, as required by paragraph (4) of
14 subdivision (a) of Section 65583, then this paragraph shall not be
15 utilized to disapprove or conditionally approve an emergency
16 shelter proposed for a site designated in any element of the general
17 plan for industrial, commercial, or multifamily residential uses. In
18 any action in court, the burden of proof shall be on the local agency
19 to show that its housing element does satisfy the requirements of
20 paragraph (4) of subdivision (a) of Section 65583.

21 (6) On the date an application for the housing development
22 project or emergency shelter was deemed complete, the jurisdiction
23 did not have an adopted revised housing element that was in
24 substantial compliance with this article and the housing
25 development project is not a builder's remedy project.

26 (7) On the date an application for the housing development
27 project or emergency shelter was deemed complete, the jurisdiction
28 did not have an adopted revised housing element that was in
29 substantial compliance with this article, and the housing
30 development project is a builder's remedy project, and at least one
31 of the conditions described in subparagraph (C) of paragraph (1)
32 of subdivision (f) of Section 65585 applies.

33 (e) Nothing in this section shall be construed to relieve the local
34 agency from complying with the congestion management program
35 required by Chapter 2.6 (commencing with Section 65088) of
36 Division 1 of Title 7 or the California Coastal Act of 1976
37 (Division 20 (commencing with Section 30000) of the Public
38 Resources Code). Neither shall anything in this section be
39 construed to relieve the local agency from making one or more of
40 the findings required pursuant to Section 21081 of the Public

Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

1 ~~(5) For purposes of this section, a change to the zoning ordinance~~
2 ~~or general plan land use designation subsequent to the date the~~
3 ~~application was deemed complete shall not constitute a valid basis~~
4 ~~to disapprove or condition approval of the housing development~~
5 ~~project or emergency shelter.~~

6 ~~(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the~~
7 ~~following apply to a housing development project that is a builder's~~
8 ~~remedy project:~~

9 ~~(A) A local agency may only require the project to comply with~~
10 ~~the objective, quantifiable, written development standards,~~
11 ~~conditions, and policies that would have applied to the project had~~
12 ~~it been proposed on a site with a general plan designation and~~
13 ~~zoning classification that allow the density and unit type proposed~~
14 ~~by the applicant. If the local agency has no general plan designation~~
15 ~~or zoning classification that would have allowed the density and~~
16 ~~unit type proposed by the applicant, the development proponent~~
17 ~~may identify any objective, quantifiable, written development~~
18 ~~standards, conditions, and policies associated with a different~~
19 ~~general plan designation or zoning classification within that~~
20 ~~jurisdiction, that facilitate the project's density and unit type, and~~
21 ~~those shall apply.~~

22 ~~(B) (i) Except as authorized by paragraphs (1) to (4), inclusive,~~
23 ~~of subdivision (d), a local agency shall not apply any individual~~
24 ~~or combination of objective, quantifiable, written development~~
25 ~~standards, conditions, and policies to the project that do any of the~~
26 ~~following:~~

27 ~~(I) Render the project infeasible.~~

28 ~~(II) Preclude a project that meets the requirements allowed to~~
29 ~~be imposed by subparagraph (A), as modified by any density bonus,~~
30 ~~incentive, or concession, or waiver or reduction of development~~
31 ~~standards and parking ratios, pursuant to Section 65915, from~~
32 ~~being constructed as proposed by the applicant.~~

33 ~~(ii) The local agency shall bear the burden of proof of complying~~
34 ~~with clause (i).~~

35 ~~(C) (i) A project applicant that qualifies for a density bonus~~
36 ~~pursuant to Section 65915 shall receive two incentives or~~
37 ~~concessions in addition to those granted pursuant to paragraph (2)~~
38 ~~of subdivision (d) of Section 65915.~~

39 ~~(ii) For a project seeking density bonuses, incentives,~~
40 ~~concessions, or any other benefits pursuant to Section 65915, and~~

1 notwithstanding paragraph (6) of subdivision (o) of Section 65915,
2 for purposes of this paragraph, maximum allowable residential
3 density or base density means the density permitted for a builder's
4 remedy project pursuant to subparagraph (C) of paragraph (11) of
5 subdivision (h):

6 (iii) A local agency shall grant any density bonus pursuant to
7 Section 65915 based on the number of units proposed and
8 allowable pursuant to subparagraph (C) of paragraph (11) of
9 subdivision (h):

10 (iv) A project that dedicates units to extremely low-income
11 households pursuant to subclause (I) of clause (i) of subparagraph
12 (C) of paragraph (3) of subdivision (h) shall be eligible for the
13 same density bonus, incentives or concessions, and waivers or
14 reductions of development standards as provided to a housing
15 development project that dedicates three percentage points more
16 units to very low income households pursuant to paragraph (2) of
17 subdivision (f) of Section 65915:

18 (v) All units dedicated to extremely low-income, very low
19 income, low-income, and moderate-income households pursuant
20 to paragraph (11) of subdivision (h) shall be counted as affordable
21 units in determining whether the applicant qualifies for a density
22 bonus pursuant to Section 65915:

23 (D) (i) The project shall not be required to apply for, or receive
24 approval of, a general plan amendment, specific plan amendment,
25 rezoning, or other legislative approval:

26 (ii) The project shall not be required to apply for, or receive,
27 any approval or permit not generally required of a project of the
28 same type and density proposed by the applicant:

29 (iii) Any project that complies with this paragraph shall be
30 deemed consistent, compliant, and in conformity with an applicable
31 plan, program, policy, ordinance, standard, requirement,
32 redevelopment plan and implementing instruments, or other similar
33 provision for all purposes, and shall not be considered or treated
34 as a nonconforming lot, use, or structure for any purpose:

35 (E) A local agency shall not adopt or impose any requirement,
36 process, practice, or procedure or undertake any course of conduct,
37 including, but not limited to, increased fees or inclusionary housing
38 requirements, that applies to a project solely or partially on the
39 basis that the project is a builder's remedy project:

1 ~~(F) (i) A builder's remedy project shall be deemed to be in~~
2 ~~compliance with the residential density standards for the purposes~~
3 ~~of complying with subdivision (b) of Section 65912.123.~~

4 ~~(ii) A builder's remedy project shall be deemed to be in~~
5 ~~compliance with the objective zoning standards, objective~~
6 ~~subdivision standards, and objective design review standards for~~
7 ~~the purposes of complying with paragraph (5) of subdivision (a)~~
8 ~~of Section 65913.4.~~

9 ~~(G) (i) (I) If the local agency had a local affordable housing~~
10 ~~requirement, as defined in Section 65912.101, that on January 1,~~
11 ~~2024, required a greater percentage of affordable units than~~
12 ~~required under subparagraph (A) of paragraph (11) of subdivision~~
13 ~~(h), or required an affordability level deeper than what is required~~
14 ~~under subparagraph (A) of paragraph (11) of subdivision (h), then,~~
15 ~~except as provided in subclauses (II) and (III), the local agency~~
16 ~~may require a housing development for mixed-income households~~
17 ~~to comply with an otherwise lawfully applicable local affordability~~
18 ~~percentage or affordability level. The local agency shall not require~~
19 ~~housing for mixed-income households to comply with any other~~
20 ~~aspect of the local affordable housing requirement.~~

21 ~~(II) Notwithstanding subclause (I), the local affordable housing~~
22 ~~requirements shall not be applied to require housing for~~
23 ~~mixed-income households to dedicate more than 20 percent of the~~
24 ~~units to affordable units of any kind.~~

25 ~~(III) Housing for mixed-income households that is required to~~
26 ~~dedicate 20 percent of the units to affordable units shall not be~~
27 ~~required to dedicate any of the affordable units at an income level~~
28 ~~deeper than lower income households, as defined in Section~~
29 ~~50079.5 of the Health and Safety Code.~~

30 ~~(IV) A local agency may only require housing for mixed-income~~
31 ~~households to comply with the local percentage requirement or~~
32 ~~affordability level described in subclause (I) if it first makes written~~
33 ~~findings, supported by a preponderance of evidence, that~~
34 ~~compliance with the local percentage requirement or the~~
35 ~~affordability level, or both, would not render the housing~~
36 ~~development project infeasible. If a reasonable person could find~~
37 ~~compliance with either requirement, either alone or in combination,~~
38 ~~would render the project infeasible, the project shall not be required~~
39 ~~to comply with that requirement.~~

~~(ii) Affordable units in the development project shall have a comparable bedroom and bathroom count as the market rate units.~~

~~(iii) Each affordable unit dedicated pursuant to this subparagraph shall count toward satisfying a local affordable housing requirement. Each affordable unit dedicated pursuant to a local affordable housing requirement that meets the criteria established in this subparagraph shall count towards satisfying the requirements of this subparagraph. This is declaratory of existing law.~~

~~(7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder's remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.~~

~~(B) Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.~~

~~(8) A housing development project proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).~~

~~(9) For purposes of this subdivision, "objective, quantifiable, written development standards, conditions, and policies" means criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o).~~

1 Nothing herein shall affect the obligation of the housing
2 development project to comply with the minimum building
3 standards approved by the California Building Standards
4 Commission as provided in Part 2.5 (commencing with Section
5 18901) of Division 13 of the Health and Safety Code. In the event
6 that applicable objective, quantifiable, written development
7 standards, conditions, and policies are mutually inconsistent, a
8 development shall be deemed consistent with the criteria that
9 permits the density and unit type closest to that of the proposed
10 project.

11 (g) This section shall be applicable to charter cities because the
12 Legislature finds that the lack of housing, including emergency
13 shelter, is a critical statewide problem.

14 (h) The following definitions apply for the purposes of this
15 section:

16 (1) "Feasible" means capable of being accomplished in a
17 successful manner within a reasonable period of time, taking into
18 account economic, environmental, social, and technological factors.

19 (2) "Housing development project" means a use consisting of
20 any of the following:

21 (A) Residential units only.

22 (B) Mixed-use developments consisting of residential and
23 nonresidential uses that meet any of the following conditions:

24 (i) At least two-thirds of the new or converted square footage
25 is designated for residential use.

26 (ii) At least 50 percent of the new or converted square footage
27 is designated for residential use and the project meets both of the
28 following:

29 (I) The project includes at least 500 net new residential units.

30 (II) No portion of the project is designated for use as a hotel,
31 motel, bed and breakfast inn, or other transient lodging, except a
32 portion of the project may be designated for use as a residential
33 hotel, as defined in Section 50519 of the Health and Safety Code.

34 (iii) At least 50 percent of the net new or converted square
35 footage is designated for residential use and the project meets all
36 of the following:

37 (I) The project includes at least 500 net new residential units.

38 (II) The project involves the demolition or conversion of at least
39 100,000 square feet of nonresidential use.

1 ~~(III) The project demolishes at least 50 percent of the existing~~
 2 ~~nonresidential uses on the site.~~

3 ~~(IV) No portion of the project is designated for use as a hotel,~~
 4 ~~motel, bed and breakfast inn, or other transient lodging, except a~~
 5 ~~portion of the project may be designated for use as a residential~~
 6 ~~hotel, as defined in Section 50519 of the Health and Safety Code.~~

7 ~~(C) Transitional housing or supportive housing.~~

8 ~~(D) Farmworker housing, as defined in subdivision (h) of~~
 9 ~~Section 50199.7 of the Health and Safety Code.~~

10 ~~(3) (A) "Housing for very low, low-, or moderate-income~~
 11 ~~households" means housing for lower income households,~~
 12 ~~mixed-income households, or moderate-income households.~~

13 ~~(B) "Housing for lower income households" means a housing~~
 14 ~~development project in which 100 percent of the units, excluding~~
 15 ~~managers' units, are dedicated to lower income households, as~~
 16 ~~defined in Section 50079.5 of the Health and Safety Code, at an~~
 17 ~~affordable cost, as defined by Section 50052.5 of the Health and~~
 18 ~~Safety Code, or an affordable rent set in an amount consistent with~~
 19 ~~the rent limits established by the California Tax Credit Allocation~~
 20 ~~Committee. The units shall be subject to a recorded deed restriction~~
 21 ~~for a period of 55 years for rental units and 45 years for~~
 22 ~~owner-occupied units.~~

23 ~~(C) (i) "Housing for mixed-income households" means any of~~
 24 ~~the following:~~

25 ~~(I) A housing development project in which at least 7 percent~~
 26 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
 27 ~~of subdivision (o) of Section 65915, are dedicated to extremely~~
 28 ~~low income households, as defined in Section 50106 of the Health~~
 29 ~~and Safety Code.~~

30 ~~(II) A housing development project in which at least 10 percent~~
 31 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
 32 ~~of subdivision (o) of Section 65915, are dedicated to very low~~
 33 ~~income households, as defined in Section 50105 of the Health and~~
 34 ~~Safety Code.~~

35 ~~(III) A housing development project in which at least 13 percent~~
 36 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
 37 ~~of subdivision (o) of Section 65915, are dedicated to lower income~~
 38 ~~households, as defined in Section 50079.5 of the Health and Safety~~
 39 ~~Code.~~

~~(IV) A housing development project in which there are 10 or fewer total units, as defined in subparagraph (A) of paragraph (8) of subdivision (e) of Section 65915, that is on a site that is smaller than one acre, and that is proposed for development at a minimum density of 10 units per acre.~~

~~(ii) All units dedicated to extremely low income, very low income, and low-income households pursuant to clause (i) shall meet both of the following:~~

~~(I) The units shall have an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.~~

~~(II) The development proponent shall agree to, and the local agency shall ensure, the continued affordability of all affordable rental units included pursuant to this section for 55 years and all affordable ownership units included pursuant to this section for a period of 45 years.~~

~~(D) "Housing for moderate-income households" means a housing development project in which 100 percent of the units are sold or rented to moderate-income households, as defined in Section 50093 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.~~

~~(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.~~

~~(5) Notwithstanding any other law, until January 1, 2030, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.~~

~~(6) "Disapprove the housing development project" includes any instance in which a local agency does any of the following:~~

~~(A) Votes or takes final administrative action on a proposed housing development project application and the application is~~

1 disapproved, including any required land use approvals or
2 entitlements necessary for the issuance of a building permit.

3 (B) Fails to comply with the time periods specified in
4 subdivision (a) of Section 65950. An extension of time pursuant
5 to Article 5 (commencing with Section 65950) shall be deemed to
6 be an extension of time pursuant to this paragraph.

7 (C) Fails to meet the time limits specified in Section 65913.3.

8 (D) Fails to cease a course of conduct undertaken for an
9 improper purpose, such as to harass or to cause unnecessary delay
10 or needless increases in the cost of the proposed housing
11 development project, that effectively disapproves the proposed
12 housing development without taking final administrative action if
13 all of the following conditions are met:

14 (i) The project applicant provides written notice detailing the
15 challenged conduct and why it constitutes disapproval to the local
16 agency established under Section 65100.

17 (ii) Within five working days of receiving the applicant's written
18 notice described in clause (i), the local agency shall post the notice
19 on the local agency's internet website, provide a copy of the notice
20 to any person who has made a written request for notices pursuant
21 to subdivision (f) of Section 21167 of the Public Resources Code,
22 and file the notice with the county clerk of each county in which
23 the project will be located. The county clerk shall post the notice
24 and make it available for public inspection in the manner set forth
25 in subdivision (c) of Section 21152 of the Public Resources Code.

26 (iii) The local agency shall consider all objections, comments,
27 evidence, and concerns about the project or the applicant's written
28 notice and shall not make a determination until at least 60 days
29 after the applicant has given written notice to the local agency
30 pursuant to clause (i).

31 (iv) Within 90 days of receipt of the applicant's written notice
32 described in clause (i), the local agency shall issue a written
33 statement that it will immediately cease the challenged conduct or
34 issue written findings that comply with both of the following
35 requirements:

36 (I) The findings articulate an objective basis for why the
37 challenged course of conduct is necessary.

38 (II) The findings provide clear instructions on what the applicant
39 must submit or supplement so that the local agency can make a

1 final determination regarding the next necessary approval or set
2 the date and time of the next hearing.

3 (v) (I) If a local agency continues the challenged course of
4 conduct described in the applicant's written notice and fails to
5 issue the written findings described in clause (iv), the local agency
6 shall bear the burden of establishing that its course of conduct does
7 not constitute a disapproval of the housing development project
8 under this subparagraph in an action taken by the applicant.

9 (II) If an applicant challenges a local agency's course of conduct
10 as a disapproval under this subparagraph, the local agency's written
11 findings described in clause (iv) shall be incorporated into the
12 administrative record and be deemed to be the final administrative
13 action for purposes of adjudicating whether the local agency's
14 course of conduct constitutes a disapproval of the housing
15 development project under this subparagraph.

16 (vi) A local agency's action in furtherance of complying with
17 the California Environmental Quality Act (Division 13
18 (commencing with Section 21000) of the Public Resources Code),
19 including, but not limited to, imposing mitigating measures, shall
20 not constitute project disapproval under this subparagraph.

21 (E) Fails to comply with Section 65905.5. For purposes of this
22 subparagraph, a builder's remedy project shall be deemed to
23 comply with the applicable, objective general plan and zoning
24 standards in effect at the time an application is deemed complete.

25 (F) (i) Determines that an application for a housing development
26 project is incomplete pursuant to subdivision (a) or (b) of Section
27 65943 and includes in the determination an item that is not required
28 on the local agency's submittal requirement checklist. The local
29 agency shall bear the burden of proof that the required item is
30 listed on the submittal requirement checklist.

31 (ii) In a subsequent review of an application pursuant to Section
32 65943, requests the applicant provide new information that was
33 not identified in the initial determination and upholds this
34 determination in the final written determination on an appeal filed
35 pursuant to subdivision (c) of Section 65943. The local agency
36 shall bear the burden of proof that the required item was identified
37 in the initial determination.

38 (iii) Determines that an application for a housing development
39 project is incomplete pursuant to subdivision (a) or (b) of Section
40 65943, a reasonable person would conclude that the applicant has

submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.

(iv) If a local agency determines that an application is incomplete under Section 65943 after two resubmittals of the application by the applicant, the local agency shall bear the burden of establishing that the determination is not an effective disapproval of a housing development project under this section.

(G) Violates subparagraph (D) or (E) of paragraph (6) of subdivision (f).

(H) Makes a written determination that a preliminary application described in subdivision (a) of Section 65941.1 has expired or that the applicant has otherwise lost its vested rights under the preliminary application for any reason other than those described in subdivisions (c) and (d) of Section 65941.1.

(I) (i) Fails to make a determination of whether the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or commits an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 if all of the conditions in Section 65589.5.1 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(J) (i) Fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the conditions in Section 65589.5.2 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(7) (A) For purposes of this section and Sections 65589.5.1 and 65589.5.2, "lawful determination" means any final decision about whether to approve or disapprove a statutory or categorical exemption or a negative declaration, addendum, environmental impact report, or comparable environmental review document

~~1 under the California Environmental Quality Act (Division 13
2 (commencing with Section 21000) of the Public Resources Code)
3 that is not an abuse of discretion, as defined in subdivision (b) of
4 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.~~

~~5 (B) This paragraph shall become inoperative on January 1, 2031.~~

~~6 (8) "Lower density" includes any conditions that have the same
7 effect or impact on the ability of the project to provide housing.~~

~~8 (9) Until January 1, 2030, "objective" means involving no
9 personal or subjective judgment by a public official and being
10 uniformly verifiable by reference to an external and uniform
11 benchmark or criterion available and knowable by both the
12 development applicant or proponent and the public official.~~

~~13 (10) Notwithstanding any other law, until January 1, 2030,
14 "determined to be complete" means that the applicant has submitted
15 a complete application pursuant to Section 65943.~~

~~16 (11) "Builder's remedy project" means a project that meets all
17 of the following criteria:~~

~~18 (A) The project is a housing development project that provides
19 housing for very low, low-, or moderate-income households.~~

~~20 (B) On or after the date an application for the housing
21 development project or emergency shelter was deemed complete,
22 the jurisdiction did not have a housing element that was in
23 substantial compliance with this article.~~

~~24 (C) The project has a density such that the number of units, as
25 calculated before the application of a density bonus pursuant to
26 Section 65915, complies with all of the following conditions:~~

~~27 (i) The density does not exceed the greatest of the following
28 densities:~~

~~29 (I) Fifty percent greater than the minimum density deemed
30 appropriate to accommodate housing for that jurisdiction as
31 specified in subparagraph (B) of paragraph (3) of subdivision (c)
32 of Section 65583.2.~~

~~33 (II) Three times the density allowed by the general plan, zoning
34 ordinance, or state law, whichever is greater.~~

~~35 (III) The density that is consistent with the density specified in
36 the housing element.~~

~~37 (ii) Notwithstanding clause (i), the greatest allowable density
38 shall be 35 units per acre more than the amount allowable pursuant
39 to clause (i), if any portion of the site is located within any of the
40 following:~~

1 ~~(I) One-half mile of a major transit stop, as defined in Section~~
 2 ~~21064.3 of the Public Resources Code.~~

3 ~~(II) A very low vehicle travel area, as defined in subdivision~~
 4 ~~(h).~~

5 ~~(III) A high or highest resource census tract, as identified by~~
 6 ~~the latest edition of the "CTCAC/HCD Opportunity Map"~~
 7 ~~published by the California Tax Credit Allocation Committee and~~
 8 ~~the Department of Housing and Community Development.~~

9 ~~(D) (i) On sites that have a minimum density requirement and~~
 10 ~~are located within one-half mile of a commuter rail station or a~~
 11 ~~heavy rail station, the density of the project shall not be less than~~
 12 ~~the minimum density required on the site.~~

13 ~~(I) For purposes of this subparagraph, "commuter rail" means~~
 14 ~~a railway that is not a light rail, streetcar, trolley, or tramway and~~
 15 ~~that is for urban passenger train service consisting of local short~~
 16 ~~distance travel operating between a central city and adjacent suburb~~
 17 ~~with service operated on a regular basis by or under contract with~~
 18 ~~a transit operator for the purpose of transporting passengers within~~
 19 ~~urbanized areas, or between urbanized areas and outlying areas,~~
 20 ~~using either locomotive-hauled or self-propelled railroad passenger~~
 21 ~~cars, with multitrip tickets and specific station-to-station fares.~~

22 ~~(II) For purposes of this subparagraph, "heavy rail" means an~~
 23 ~~electric railway with the capacity for a heavy volume of traffic~~
 24 ~~using high speed and rapid acceleration passenger rail cars~~
 25 ~~operating singly or in multicar trains on fixed rails, separate~~
 26 ~~rights-of-way from which all other vehicular and foot traffic are~~
 27 ~~excluded, and high platform loading.~~

28 ~~(ii) On all other sites with a minimum density requirement, the~~
 29 ~~density of the project shall not be less than the local agency's~~
 30 ~~minimum density or one-half of the minimum density deemed~~
 31 ~~appropriate to accommodate housing for that jurisdiction as~~
 32 ~~specified in subparagraph (B) of paragraph (3) of subdivision (c)~~
 33 ~~of Section 65583.2, whichever is lower.~~

34 ~~(E) The project site does not abut a site where more than~~
 35 ~~one-third of the square footage on the site has been used, within~~
 36 ~~the past three years, by a heavy industrial use, or a Title V~~
 37 ~~industrial use, as those terms are defined in Section 65913.16.~~

38 ~~(12) "Condition approval" includes imposing on the housing~~
 39 ~~development project, or attempting to subject it to, development~~
 40 ~~standards, conditions, or policies.~~

(13) “Unit type” means the form of ownership and the kind of residential unit, including, but not limited to, single-family detached, single-family attached, for-sale, rental, multifamily, townhouse, condominium, apartment, manufactured homes and mobilehomes, factory-built housing, and residential hotel.

(14) “Proposed by the applicant” means the plans and designs as submitted by the applicant, including, but not limited to, density, unit size, unit type, site plan, building massing, floor area ratio, amenity areas, open space, parking, and ancillary commercial uses.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the housing development project’s application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (c).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public

1 health or safety standards, policies, or conditions as they existed
2 on the date the application was deemed complete.

3 ~~(B) There is no feasible method to satisfactorily mitigate or~~
4 ~~avoid the adverse impact identified pursuant to paragraph (1), other~~
5 ~~than the disapproval of the housing development project or the~~
6 ~~approval of the project upon the condition that it be developed at~~
7 ~~a lower density.~~

8 ~~(2) (A) If the local agency considers a proposed housing~~
9 ~~development project to be inconsistent, not in compliance, or not~~
10 ~~in conformity with an applicable plan, program, policy, ordinance,~~
11 ~~standard, requirement, or other similar provision as specified in~~
12 ~~this subdivision, it shall provide the applicant with written~~
13 ~~documentation identifying the provision or provisions, and an~~
14 ~~explanation of the reason or reasons it considers the housing~~
15 ~~development to be inconsistent, not in compliance, or not in~~
16 ~~conformity as follows:~~

17 ~~(i) Within 30 days of the date that the application for the housing~~
18 ~~development project is determined to be complete, if the housing~~
19 ~~development project contains 150 or fewer housing units.~~

20 ~~(ii) Within 60 days of the date that the application for the~~
21 ~~housing development project is determined to be complete, if the~~
22 ~~housing development project contains more than 150 units.~~

23 ~~(B) If the local agency fails to provide the required~~
24 ~~documentation pursuant to subparagraph (A), the housing~~
25 ~~development project shall be deemed consistent, compliant, and~~
26 ~~in conformity with the applicable plan, program, policy, ordinance,~~
27 ~~standard, requirement, or other similar provision.~~

28 ~~(3) For purposes of this section, the receipt of a density bonus,~~
29 ~~incentive, concession, waiver, or reduction of development~~
30 ~~standards pursuant to Section 65915 shall not constitute a valid~~
31 ~~basis on which to find a proposed housing development project is~~
32 ~~inconsistent, not in compliance, or not in conformity, with an~~
33 ~~applicable plan, program, policy, ordinance, standard, requirement,~~
34 ~~or other similar provision specified in this subdivision.~~

35 ~~(4) For purposes of this section, a proposed housing development~~
36 ~~project is not inconsistent with the applicable zoning standards~~
37 ~~and criteria, and shall not require a rezoning, if the housing~~
38 ~~development project is consistent with the objective general plan~~
39 ~~standards and criteria but the zoning for the project site is~~
40 ~~inconsistent with the general plan. If the local agency has complied~~

with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2030.

(IV) The local agency violated a provision of this section applicable to a builder's remedy project.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within a time period not to exceed 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in

1 ~~bad faith when it disapproved or conditionally approved the~~
2 ~~housing development or emergency shelter in violation of this~~
3 ~~section. The court shall retain jurisdiction to ensure that its order~~
4 ~~or judgment is carried out and shall award reasonable attorney's~~
5 ~~fees and costs of suit to the plaintiff or petitioner, provided,~~
6 ~~however, that the court shall not award attorney's fees in either of~~
7 ~~the following instances:~~

8 ~~(I) The court finds, under extraordinary circumstances, that~~
9 ~~awarding fees would not further the purposes of this section.~~

10 ~~(II) (ia) In a case concerning a disapproval within the meaning~~
11 ~~of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the~~
12 ~~court finds that the local agency acted in good faith and had~~
13 ~~reasonable cause to disapprove the housing development project~~
14 ~~due to the existence of a controlling question of law about the~~
15 ~~application of the California Environmental Quality Act (Division~~
16 ~~13 (commencing with Section 21000) of the Public Resources~~
17 ~~Code) or implementing guidelines as to which there was a~~
18 ~~substantial ground for difference of opinion at the time of the~~
19 ~~disapproval.~~

20 ~~(ib) This subclause shall become inoperative on January 1, 2031.~~

21 ~~(B) Upon a determination that the local agency has failed to~~
22 ~~comply with the order or judgment compelling compliance with~~
23 ~~this section within the time period prescribed by the court, the~~
24 ~~court shall impose fines on a local agency that has violated this~~
25 ~~section and require the local agency to deposit any fine levied~~
26 ~~pursuant to this subdivision into a local housing trust fund. The~~
27 ~~local agency may elect to instead deposit the fine into the Building~~
28 ~~Homes and Jobs Trust Fund. The fine shall be in a minimum~~
29 ~~amount of ten thousand dollars (\$10,000) per housing unit in the~~
30 ~~housing development project on the date the application was~~
31 ~~deemed complete pursuant to Section 65943. In determining the~~
32 ~~amount of the fine to impose, the court shall consider the local~~
33 ~~agency's progress in attaining its target allocation of the regional~~
34 ~~housing need pursuant to Section 65584 and any prior violations~~
35 ~~of this section. Fines shall not be paid out of funds already~~
36 ~~dedicated to affordable housing, including, but not limited to, Low~~
37 ~~and Moderate Income Housing Asset Funds, funds dedicated to~~
38 ~~housing for very low, low-, and moderate-income households, and~~
39 ~~federal HOME Investment Partnerships Program and Community~~
40 ~~Development Block Grant Program funds. The local agency shall~~

1 commit and expend the money in the local housing trust fund
 2 within five years for the sole purpose of financing newly
 3 constructed housing units affordable to extremely low, very low,
 4 or low-income households. After five years, if the funds have not
 5 been expended, the money shall revert to the state and be deposited
 6 in the Building Homes and Jobs Trust Fund for the sole purpose
 7 of financing newly constructed housing units affordable to
 8 extremely low, very low, or low-income households.

9 (C) If the court determines that its order or judgment has not
 10 been carried out within 60 days, the court may issue further orders
 11 as provided by law to ensure that the purposes and policies of this
 12 section are fulfilled, including, but not limited to, an order to vacate
 13 the decision of the local agency and to approve the housing
 14 development project, in which case the application for the housing
 15 development project, as proposed by the applicant at the time the
 16 local agency took the initial action determined to be in violation
 17 of this section, along with any standard conditions determined by
 18 the court to be generally imposed by the local agency on similar
 19 projects, shall be deemed to be approved unless the applicant
 20 consents to a different decision or action by the local agency.

21 (D) Nothing in this section shall limit the court's inherent
 22 authority to make any other orders to compel the immediate
 23 enforcement of any writ brought under this section, including the
 24 imposition of fees and other sanctions set forth under Section 1097
 25 of the Code of Civil Procedure.

26 (2) For purposes of this subdivision, "housing organization"
 27 means a trade or industry group whose local members are primarily
 28 engaged in the construction or management of housing units or a
 29 nonprofit organization whose mission includes providing or
 30 advocating for increased access to housing for low-income
 31 households and have filed written or oral comments with the local
 32 agency prior to action on the housing development project. A
 33 housing organization may only file an action pursuant to this
 34 section to challenge the disapproval of a housing development by
 35 a local agency. A housing organization shall be entitled to
 36 reasonable attorney's fees and costs if it is the prevailing party in
 37 an action to enforce this section.

38 (f) If the court finds that the local agency (1) acted in bad faith
 39 when it violated this section and (2) failed to carry out the court's
 40 order or judgment within the time period prescribed by the court,

the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a court has previously found that the local agency violated this section within the same planning period, the court shall multiply the fines by an additional factor for each previous violation. For purposes of this section, “bad faith” includes, but is not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit.

(m) (1) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court’s order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(2) (A) A disapproval within the meaning of subparagraph (I) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within the time period set forth in paragraph (5) of subdivision (a) of Section 65589.5.1 after the applicant’s timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

~~(3) (A) A disapproval within the meaning of subparagraph (J) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within 90 days of the applicant's timely written notice.~~

~~(B) This paragraph shall become inoperative on January 1, 2031.~~

~~(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.~~

~~(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.~~

~~(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:~~

~~(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.~~

~~(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.~~

~~(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(D) The housing development project has not commenced construction within two and one-half years, or three and one-half years for an affordable housing project, following the date that the project received final approval. For purposes of this subparagraph:~~

~~(i) "Affordable housing project" means a housing development that satisfies both of the following requirements:~~

~~(I) Units within the development are subject to a recorded affordability restriction for at least 55 years for rental housing and 45 years for owner-occupied housing, or the first purchaser of each unit participates in an equity sharing agreement as described in subparagraph (C) of paragraph (2) of subdivision (c) of Section 65915.~~

~~(II) All of the units within the development, excluding managers' units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.~~

~~(ii) "Final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:~~

~~(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.~~

~~(II) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.~~

~~(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, "square footage of construction"~~

1 means the building area, as defined by the California Building
 2 Standards Code (Title 24 of the California Code of Regulations):

3 (3) This subdivision does not prevent a local agency from
 4 subjecting the additional units or square footage of construction
 5 that result from project revisions occurring after a preliminary
 6 application is submitted pursuant to Section 65941.1 to the
 7 ordinances, policies, and standards adopted and in effect when the
 8 preliminary application was submitted:

9 (4) For purposes of this subdivision, “ordinances, policies, and
 10 standards” includes general plan, community plan, specific plan,
 11 zoning, design review standards and criteria, subdivision standards
 12 and criteria, and any other rules, regulations, requirements, and
 13 policies of a local agency, as defined in Section 66000, including
 14 those relating to development impact fees, capacity or connection
 15 fees or charges, permit or processing fees, and other exactions:

16 (5) This subdivision shall not be construed in a manner that
 17 would lessen the restrictions imposed on a local agency, or lessen
 18 the protections afforded to a housing development project, that are
 19 established by any other law, including any other part of this
 20 section:

21 (6) This subdivision shall not restrict the authority of a public
 22 agency or local agency to require mitigation measures to lessen
 23 the impacts of a housing development project under the California
 24 Environmental Quality Act (Division 13 (commencing with Section
 25 21000) of the Public Resources Code):

26 (7) With respect to completed residential units for which the
 27 project approval process is complete and a certificate of occupancy
 28 has been issued, nothing in this subdivision shall limit the
 29 application of later enacted ordinances, policies, and standards
 30 that regulate the use and occupancy of those residential units, such
 31 as ordinances relating to rental housing inspection, rent
 32 stabilization, restrictions on short-term renting, and business
 33 licensing requirements for owners of rental housing:

34 (8) (A) This subdivision shall apply to a housing development
 35 project that submits a preliminary application pursuant to Section
 36 65941.1 before January 1, 2030.

37 (B) This subdivision shall become inoperative on January 1,
 38 2034:

39 (p) (1) Upon any motion for an award of attorney’s fees
 40 pursuant to Section 1021.5 of the Code of Civil Procedure, in a

~~case challenging a local agency's approval of a housing development project, a court, in weighing whether a significant benefit has been conferred on the general public or a large class of persons and whether the necessity of private enforcement makes the award appropriate, shall give due weight to the degree to which the local agency's approval furthers policies of this section, including, but not limited to, subdivisions (a), (b), and (c), the suitability of the site for a housing development, and the reasonableness of the decision of the local agency. It is the intent of the Legislature that attorney's fees and costs shall rarely, if ever, be awarded if a local agency, acting in good faith, approved a housing development project that satisfies conditions established in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.~~

~~(2) This subdivision shall become inoperative on January 1, 2031.~~

~~(q) This section shall be known, and may be cited, as the Housing Accountability Act.~~

~~(r) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

REVISIONS:

Heading—Line 2.

O

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 650 (Papan) – As Amended April 24, 2025

SUBJECT: Planning and zoning: housing element: regional housing needs allocation.

SUMMARY: Extends a number of timelines in the process of determining regional housing needs and regional housing needs allocations (RHNA) and housing element revisions, and requires the Department of Housing and Community Development (HCD) to provide specific analysis or text to local governments to remedy deficiencies in their draft housing element revisions. Specifically, **this bill:**

- 1) Revises the time by which HCD, in consultation with each council of governments (COG), shall determine each region's existing and projected housing need as required by Housing Element Law from two years prior to the scheduled housing element revision in existing law, to three years prior to the scheduled revision.
- 2) Provides an exception to 1), above, in the following circumstances:
 - a) For regions with a scheduled housing element revision due date in the 2027 calendar year, HCD shall determine the region's housing need at least two years before the scheduled revision.
 - b) For regions with a scheduled housing element revision due date in the 2028 calendar year or the first six months of the 2029 calendar year, HCD shall determine the region's housing need at least 32 months before the scheduled revision.
- 3) Specifies that, for cities and counties without a COG, HCD shall determine each region's existing and projected housing need at least 30 months before the scheduled revision required pursuant to Housing Element Law.
- 4) Provides an exception to 3), above, for cities and counties with a scheduled housing element revision due date in the 2027 calendar year or the first six months of the 2028 calendar year, by requiring HCD to determine their existing and projected housing need at least two years before the scheduled revision.
- 5) Revises the required timeline for HCD to meet and consult with each COG regarding the assumptions and methodology to be used by HCD to determine the region's housing needs, from at least 26 months prior to the scheduled housing element revision in existing law, to 38 months prior to the due date.
- 6) Provides an exception to 5), above, for the seventh housing element cycle, by requiring HCD to meet and consult with the COG at least two months prior to developing the existing and projected housing need pursuant to the timelines in 1) and 2), above.
- 7) Revises the time by which two or more cities and a county, or counties, may form a subregional entity for the purpose of allocating the subregion's existing and projected need

for housing among its members, from 28 months prior to the scheduled housing element update to 34 months prior to the scheduled housing element update.

- 8) Revises the time by which a COG shall determine the share of regional housing need assigned to each delegate subregion specified in 7), above, from 25 months prior to the scheduled revision to 31 months prior to the scheduled revision.
- 9) Revises the time by which each COG or delegate subregion shall develop, in consultation with HCD, a proposed methodology for distributing the RHNA to local governments within the region or subregion, from at least two years prior to the scheduled housing element revision in existing law, to at least two and one-half years prior to the scheduled revision.
- 10) Provides an exemption to 9), above, for COGs with a housing element revision due date during the 2027 calendar year.
- 11) Revises the time by which each COG and delegate subregion shall distribute a draft RHNA to each local government in the region or subregion and to HCD based on the methodology described in 5) above and to publish the draft RHNA on its website, from at least one and one-half years before the scheduled housing element revision in existing law, to at least two years prior to the scheduled revision.
- 12) Provides an exemption to 11), above, for the seventh housing element cycle for COGs with a housing element revision due date during the 2027 calendar year.
- 13) Requires HCD, if it finds that a draft housing element or draft amendment does not substantially comply with Housing Element Law, to do both of the following in a written communication to the planning agency:
 - a) Identify and explain the specific deficiencies in the draft element or draft amendment, including a reference to each subdivision of specified portions of Housing Element Law that the draft does not comply with.
 - b) Provide the specific analysis or text that HCD expects the planning agency to include in the draft to remedy the deficiencies identified pursuant to a), above.
- 14) Requires a local government's legislative body to consider HCD's findings and the specific analysis or text required by HCD pursuant to 13), above, prior to the adoption of its draft element or draft amendment.
- 15) Requires the local government's legislative body, if HCD finds that the draft element or draft amendment does not substantially comply with Housing Element Law, to do one of the following:
 - a) Include the specific analysis or text from HCD specified in 13), above, in the draft element or draft amendment to substantially comply with Housing Element Law.
 - b) Adopt the draft element or draft amendment without the specific analysis or text required by HCD and include written findings in its resolution of adoption that explain the reasons the legislative body believes that the draft substantially complies with Housing Element Law, despite the specific analysis or text required by HCD.

- 16) Requires HCD, when reviewing adopted housing elements or amendments and any findings under 15) b) above, if it finds the adopted element or amendment is not in substantial compliance with Housing Element Law, to identify each subdivision of specified portions of Housing Element Law that the housing element does not substantially comply with and provide the specific analysis or text to the planning agency that, if adopted, would bring the housing element or amendment into substantial compliance.
- 17) Adds a deadline of December 31, 2026, to an existing law requirement for HCD to develop a standardized reporting format for programs and actions taken to affirmatively further fair housing via the housing element, as specified.
- 18) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, as specified.

EXISTING LAW:

- 1) Provides that each community's fair share of housing be determined through the Regional Housing Needs Determination (RHND)/RHNA process. Sets out the process as follows: (a) Department of Finance (DOF) and HCD develop regional housing needs determination estimates or RHNDs; (b) COGs allocate housing via RHNA within each region based on these determinations, and where a COG does not exist, HCD conducts the allocations; and (c) cities and counties incorporate these allocations into their housing elements. (Government Code (GOV) 65584 and 65584.01)
- 2) Requires HCD, in consultation with each COG, to determine each region's existing and projected housing need at least two years prior to the scheduled revision of the housing element, as provided, and requires the COG or HCD to adopt a final RHNA that allocates a share of the regional housing need to each city or county at least one year prior to the housing element due date for the region. (GOV 65584(b))
- 3) Requires HCD to meet and consult with each COG regarding the assumptions and methodology to be used in determining the region's housing needs at least 26 months prior to the housing element due date for the region. (GOV 65584.01(b)(1))
- 4) Allows two or more cities and a county, or counties, to form a subregional entity for the purpose of allocating the subregion's existing and projected need for housing among its members 28 months prior to the scheduled housing element update. (GOV 65584.03)
- 5) Requires a COG to determine the share of regional housing need assigned to each delegate subregion specified in 4), above, 25 months prior to the scheduled housing element revision. (GOV 65584.03)
- 6) Requires each COG or delegate subregion to develop, in consultation with HCD, a proposed methodology for distributing the RHNA to local governments within the region or subregion at least two years prior to the housing element due date for the region. (GOV 65584.04(a))
- 7) Requires each COG or delegate subregion to distribute a draft RHNA based on the methodology under 3) above to each local government in the region and to HCD, and to

publish the draft RHNA on its website, at least one and one-half years prior to the housing element due date for the region. (GOV 65584.05(a))

- 8) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
 - a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs, including a quantification of the locality's existing and projected housing needs for all income levels; an inventory of land suitable and available for residential development; an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels; and a demonstration of local efforts to remove constraints that hinder the locality from meeting its share of the regional housing need, among other things;
 - b) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and
 - c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element, including actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. (Government Code (GOV) Section 65583(a)-(c))
- 9) Requires a local government to submit a draft housing element revision or amendment to HCD at least 90 days prior to adoption of a revision of its housing element, as specified, or at least 60 days prior to the adoption of a subsequent amendment to the housing element. (GOV 65585(b)(1)(A))
- 10) Requires HCD to review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision or within 60 days of its receipt of a subsequent draft. Prohibits HCD from reviewing the first draft submitted for each housing element revision until the local government has made the draft available for public comment for at least 30 days and, if comments were received, as taken at least 10 business days to consider and incorporate public comments, as provided. (GOV 65585(b)(1)(C))
- 11) Requires HCD, in its written findings under 10) above, to determine whether the draft element or amendment substantially complies with housing element law. (GOV 65585(d))
- 12) Requires the legislative body of a local government to consider the findings made by HCD under 10) above prior to the adoption of its draft element or amendment. Allows the legislative body to act without the findings if HCD's findings are not available within specified time limits. (GOV 65585(e))

- 13) Requires the legislative body of a local government, if HCD finds the draft element or amendment does not substantially comply with housing element law, to take one of the following actions:
 - a) Change the draft element or amendment to substantially comply with housing element law, as provided; or
 - b) Adopt the draft element or amendment without changes, and include written findings in its adoption resolution that explain the reasons the legislative body believes the draft element or amendment substantially complies with housing element law despite the findings of HCD. (GOV 65585(f))
- 14) Requires HCD to review adopted housing elements or amendments and any findings described under 11) b) above within 60 days and make a finding as to whether the adopted element or amendment is in substantial compliance with housing element law, and report its findings to the planning agency. (GOV 65585(h))
- 15) Requires HCD to develop a standardized reporting format for programs and actions taken in a housing element to affirmatively further fair housing, which must enable the reporting of specified components of assessing fair housing and include specified fields. (GOV 65583(c)(10)(D))

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Author's Statement.** According to the author, "AB 650 will improve the housing element review process by addressing the delays and challenges local governments face in dealing with HCD. This bill makes two key improvements: first, it starts the Regional Housing Needs Allocation (RHNA) process six months earlier, giving municipalities more time work on their housing elements and allowing them to engage with HCD sooner; second, it mandates clear and actionable feedback from HCD to ensure local governments have the guidance they need to comply. These changes will help local governments develop compliant housing elements on time, supporting the production of much-needed housing and ensuring clarity in the process."
- 2) **Background.** The RHNA process is used to determine how many new homes, and the affordability level of those homes, each local government must plan for in its housing element to cover the duration of the next planning cycle. The state is currently in the sixth housing element cycle. The RHND is assigned at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. RHNA is currently assigned via six income categories: very low-income (0-50% of AMI), low-income (50-80% of AMI), moderate income (80-120% of AMI), and above moderate income (120% or more of AMI). Beginning with the seventh cycle, two new income categories will be incorporated for acutely low-income (0-15% of AMI) and extremely low-income (15-30% of AMI).

The cycle begins with HCD and DOF projecting new RHND numbers every five or eight years, depending on the region. DOF produces population projections and the COG also develops projections during its Regional Transportation Plan update. Then, 26 months before the housing element due date for the region, HCD must meet and consult with the COG and

share the data assumptions and methodology that they will use to produce the RHND. The COG provides HCD with its own regional data on several criteria, including:

- a) Anticipated household growth associated with projected population increases;
- b) Household size data and trends in household size;
- c) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;
- d) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;
- e) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;
- f) Other characteristics of the composition of the projected population;
- g) The relationship between jobs and housing, including any imbalance between jobs and housing;
- h) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and
- i) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request.

HCD can take this information and use it to modify its own methodology, if it agrees with the data the COG produced, or can reject it if there are other factors or data that HCD feels are better or more accurate. Then, after a consultation with the COG, HCD makes written determinations on the data it is using for each of the factors noted above, and provides that information in writing to the COG. HCD uses that data to produce the final RHND, which must be distributed at least two years prior to the region's expected housing element due date. The COG must then take the RHND and create an allocation methodology that distributes the housing need equitably amongst all the local governments in its region.

The RHNA methodology is statutorily obligated to further all of the following objectives:

- a) Increase the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the regional in an equitable manner, which must result in each jurisdiction receiving an allocation of units for low- and very low-income households;
- b) Promote infill development, socioeconomic equity, the protection of environmental and agricultural resources, and achievement of regional climate change reduction targets;

- c) Promote 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;
 - d) Allocate 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
 - e) Affirmatively further fair housing.
- 3) **Adoption and Implementation of Housing Elements.** Counties and cities must plan for new housing through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including an accelerated deadline for completing rezoning, exposure to the "builder's remedy," public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's RHNA, described above. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Where a community does not already contain the existing capacity to accommodate its fair share of housing, it must undertake a rezoning program to accommodate the housing planned for in the housing element. Depending on whether the jurisdiction met its statutory deadline for housing element adoption, it will have either one year (if it failed to meet the deadline) or three years (if it met the deadline) from its adoption deadline to complete that rezoning program.

Local governments have a statutory deadline to submit a housing element based on region. Ninety days before the deadline to adopt a housing element, localities must submit a draft to HCD. HCD is required to review the draft element within 90 days of receipt and provide written findings as to whether the draft amendment substantially complies with housing element law. If HCD finds that the draft element does not substantially comply with the law, the local agency may either make changes to the draft element to substantially comply with the law or adopt the element and make findings as to why it complies with the law despite the findings of the department.

Following adoption of a housing element, a local agency submits it to HCD. When a local government adopts its housing element without making the changes HCD provides, the process is called "self-certification." Despite the fact that the process allows a local agency to adopt a housing element without making the changes required by HCD to be in substantial compliance, a local agency is not considered compliant until receiving ultimate approval from HCD. Last year, AB 1886 (Alvarez), Chapter 267, further clarified that a housing element is in compliance when both a local agency has adopted a housing element and HCD has found the element in compliance.

- 4) **Bill Summary.** This bill extends a number of timelines in the RHND/RHNA and housing element process. These timelines are generally extended by six months, with an extension of one year for the time by which HCD must determine each region's housing need at the beginning of the process. This bill also contains some differences or exceptions to these extended timelines to provide feasible timelines for the seventh housing element cycle.

This bill also requires HCD to provide specific analysis or text to local governments to remedy deficiencies in their draft housing elements, and adds a deadline of December 31, 2026, to an existing law requirement for HCD to develop a standardized reporting format for programs and actions taken to affirmatively further fair housing via the housing element.

This bill is sponsored by the League of California Cities.

- 5) **Related Legislation.** AB 1275 (Elhawary) requires HCD to determine each region with a COG's existing and projected housing need three years prior to each region's scheduled housing element revision, rather than two years in existing law, and makes changes to how the transportation and job projections in a region's sustainable communities strategy (SCS) must be incorporated into each COG's RHNA methodology and final RHNA plan. AB 1275 is pending in this Committee.
- 6) **Previous Legislation.** AB 1886 (Alvarez), Chapter 267, Statutes of 2024, clarified that a housing element or amendment is not considered substantially compliant with housing element law until the local agency has adopted a housing element that HCD has determined is in substantial compliance with housing element law, as specified.
- 7) **Arguments in Support.** The League of California Cities, sponsor of this measure, writes, "Since 1969, California's local governments have planned and selected sites for housing at all income levels through the housing element portion of a local government's general plan. Every five to eight years, local governments are required to adopt a blueprint outlining where developers can or cannot build residential developments within their respective communities and obtain certification from HCD. Local governments plan for their fair share of housing development as determined through the Regional Housing Needs Allocation (RHNA) process. As part of this complex process, local governments submit in their housing elements a variety of essential data, actions, and programs to promote fair, equitable, and affordable housing in their community. Currently, local jurisdictions are planning and zoning for nearly 2.5 million additional homes statewide.

"During the 6th RHNA cycle, local governments experienced various challenges in obtaining certification from HCD. Some of the challenges include a short timeline for completing these complex documents and responding to HCD's feedback, a lack of clarity regarding what the state expects from local governments when reviewing additional housing element drafts, and the introduction of new requirements late in the housing element review process.

"AB 650 would address these issues by allowing local governments to begin updating their housing element six months early. The bill would also require HCD to provide specific text and analysis that must be included in the housing element to remedy deficiencies, ensuring that local governments are not penalized when HCD identifies additional deficiencies not previously identified in prior review letters. AB 650 would provide greater clarity and

certainty to the housing element process and help ensure that all jurisdictions adopt a certified housing element on time.”

- 8) **Arguments in Opposition.** South Pasadena Residents for Responsible Growth, opposed to a prior version of this bill, states, “The Housing Element process has been a failure. Multiple cities have done things like claim their city halls, golf courses, and malls will all stop functioning and be turned into affordable housing.

“Here in South Pasadena we have a grocery store that underwent a multimillion dollar renovation completed in August of 2022, but somehow HCD allowed us to claim 220 low income units would be built on the site in this planning period. Our general plan said it went site by site and determined that 1,230 units would be built in downtown in 20 years, but our Housing Element claims that 1,600 would be built in the next 5 years.

“Needless to say, if your Housing Element got rejected, it is because the city didn’t make a significant effort to actually produce housing. The cities that got builders remedy projects were the most NIMBY cities in California.

“This bill gives these cities a get our jail card for the next RHNA cycle. Literally the only thing that forced some cities to try and fix their housing elements was the threat of the builders remedy. Removing that threat means these NIMBY cities can delay adopting policies that produce housing for years.

“Even right now, 3.5 years into the RHNA cycle, South Pasadena STILL hasn’t adopted all of the zoning we were required to do. Please oppose AB 650 from the League of California Cities that will allow their NIMBY cities to delay complying with housing laws.”

- 9) **Double-Referral.** This bill is double-referred to the Assembly Housing and Community Development Committee, where it passed on a 11-0 vote on April 24, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

League of California Cities [SPONSOR]

City of Artesia

City of Bell Gardens

City of Belmont

City of Beverly Hills

City of Buena Park

City of Calimesa

City of Chino Hills

City of Citrus Heights

City of Concord

City of Corona

City of Cotati

City of Cypress

City of Dinuba

City of Eastvale

City of Fullerton
City of Garden Grove
City of Glendora
City of Hawaiian Gardens
City of Hermosa Beach
City of Indian Wells
City of Kerman
City of La Habra
City of La Quinta
City of Laguna Beach
City of Lakewood
City of Lakewood CA
City of Lodi
City of Lomita
City of Long Beach
City of Los Alamitos
City of Madera
City of Manhattan Beach
City of Martinez
City of Merced
City of Mission Viejo
City of Oakley
City of Orinda
City of Palm Desert
City of Palm Springs
City of Placentia
City of Redding
City of Redlands
City of Rohnert Park
City of Rolling Hills Estates
City of Salinas
City of San Mateo
City of Scotts Valley
City of Soledad
City of Stanton
City of Temecula
City of Thousand Oaks
City of Tulare
City of Tustin
City of Walnut Creek
City of Whittier
City of Woodland
Liz Morris, Councilmember, City of Delano

Oppose

South Pasadena Residents for Responsible Growth (prior version)

Oppose Unless Amended

California Association of Realtors (prior version)
California Building Industry Association (CBIA) (prior version)
Greenbelt Alliance (prior version)
SPUR (prior version)
The Two Hundred (prior version)

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

SENATE BILL

No. 79

Introduced by Senator Wiener

January 15, 2025

An act to amend Section 54221 of, and to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of, the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Local government land: public transit use: housing development: transit-oriented development.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district, except a local agency whose primary purpose or mission is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, as specified.

This bill would additionally include land leased to support public transit operations in the definition of "agency's use," as described above.

The bill would also revise the definition of “agency’s use” with respect to commercial or industrial uses to instead provide that a district or a public transit operator may use land for commercial or industrial uses or activities, as described above.

(2) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a housing element. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act’s provisions, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, commercial, or light industrial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development’s proximity to

specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed requirements. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, provided that the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would permit a local government to adopt an ordinance to implement these provisions, as provided. The bill would require the local government to submit a copy of this ordinance to the department within 60 days of adoption and require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly separate project from the project described in these provisions and shall not be exempt from CEQA.

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54221 of the Government Code is
2 amended to read:
3 54221. As used in this article, the following definitions shall
4 apply:
5 (a) (1) "Local agency" means every city, whether organized
6 under general law or by charter, county, city and county, district,
7 including school, sewer, water, utility, and local and regional park
8 districts of any kind or class, joint powers authority, successor
9 agency to a former redevelopment agency, housing authority, or
10 other political subdivision of this state and any instrumentality
11 thereof that is empowered to acquire and hold real property.
12 (2) The Legislature finds and declares that the term "district"
13 as used in this article includes all districts within the state,
14 including, but not limited to, all special districts, sewer, water,
15 utility, and local and regional park districts, and any other political
16 subdivision of this state that is a district, and therefore the changes
17 in paragraph (1) made by the act adding this paragraph that specify
18 that the provisions of this article apply to all districts, including
19 school, sewer, water, utility, and local and regional park districts
20 of any kind or class, are declaratory of, and not a change in,
21 existing law.
22 (b) (1) "Surplus land" means land owned in fee simple by any
23 local agency for which the local agency's governing body takes
24 formal action in a regular public meeting declaring that the land
25 is surplus and is not necessary for the agency's use. Land shall be
26 declared either "surplus land" or "exempt surplus land," as
27 supported by written findings, before a local agency may take any
28 action to dispose of it consistent with an agency's policies or
29 procedures. A local agency, on an annual basis, may declare
30 multiple parcels as "surplus land" or "exempt surplus land."
31 (2) "Surplus land" includes land held in the Community
32 Redevelopment Property Trust Fund pursuant to Section 34191.4
33 of the Health and Safety Code and land that has been designated
34 in the long-range property management plan approved by the
35 Department of Finance pursuant to Section 34191.5 of the Health

1 and Safety Code, either for sale or for future development, but
2 does not include any specific disposal of land to an identified entity
3 described in the plan.

4 (3) Nothing in this article prevents a local agency from obtaining
5 fair market value for the disposition of surplus land consistent with
6 Section 54226.

7 (4) Notwithstanding paragraph (1), a local agency is not required
8 to make a declaration at a public meeting for land that is “exempt
9 surplus land” pursuant to subparagraph (A), (B), (E), (K), (L), or
10 (Q) of paragraph (1) of subdivision (f) if the local agency identifies
11 the land in a notice that is published and available for public
12 comment, including notice to the entities identified in subdivision
13 (a) of Section 54222, at least 30 days before the exemption takes
14 effect.

15 (c) (1) Except as provided in paragraph (2), “agency’s use”
16 shall include, but not be limited to, land that is being used, or is
17 planned to be used pursuant to a written plan adopted by the local
18 agency’s governing board, for agency work or operations,
19 including, but not limited to, utility sites, property owned by a port
20 that is used to support logistics uses, watershed property, land
21 being used for conservation purposes, land for demonstration,
22 exhibition, or educational purposes related to greenhouse gas
23 emissions, sites for broadband equipment or wireless facilities,
24 land leased to support public transit operations, and buffer sites
25 near sensitive governmental uses, including, but not limited to,
26 waste disposal sites, and wastewater treatment plants. “Agency’s
27 use” by a local agency that is a district shall also include land
28 disposed for uses described in subparagraph (B) of paragraph (2).

29 (2) (A) “Agency’s use” shall not include commercial or
30 industrial uses or activities, including nongovernmental retail,
31 entertainment, or office development. Property disposed of for the
32 sole purpose of investment or generation of revenue shall not be
33 considered necessary for the agency’s use.

34 (B) In the case of a local agency that is a district or a public
35 transit operator, “agency’s use” may include commercial or
36 industrial uses or activities, including nongovernmental retail,
37 entertainment, or office development or be for the sole purpose of
38 investment or generation of revenue if the agency’s governing
39 body takes action in a public meeting declaring that the use of the
40 site will do one of the following:

1 (i) Directly further the express purpose of agency work or
2 operations.

3 (ii) Be expressly authorized by a statute governing the local
4 agency, provided the district complies with Section 54233.5 if
5 applicable.

6 (d) (1) "Dispose" means either of the following:

7 (A) The sale of the surplus land.

8 (B) The entering of a lease for surplus land, which is for a term
9 longer than 15 years, inclusive of any extension or renewal options
10 included in the terms of the initial lease, entered into on or after
11 January 1, 2024.

12 (2) "Dispose" shall not mean either of the following:

13 (A) The entering of a lease for surplus land, which is for a term
14 of 15 years or less, inclusive of any extension or renewal options
15 included in the terms of the initial lease.

16 (B) The entering of a lease for surplus land on which no
17 development or demolition will occur, regardless of the term of
18 the lease.

19 (e) "Open-space purposes" means the use of land for public
20 recreation, enjoyment of scenic beauty, or conservation or use of
21 natural resources.

22 (f) (1) Except as provided in paragraph (2), "exempt surplus
23 land" means any of the following:

24 (A) Surplus land that is transferred pursuant to Section 25539.4
25 or 37364.

26 (B) Surplus land that is less than one-half acre in area and is
27 not contiguous to land owned by a state or local agency that is
28 used for open-space or low- and moderate-income housing
29 purposes.

30 (C) Surplus land that a local agency is exchanging for another
31 property necessary for the agency's use. "Property" may include
32 easements necessary for the agency's use.

33 (D) Surplus land that a local agency is transferring to another
34 local, state, or federal agency, or to a third-party intermediary for
35 future dedication for the receiving agency's use, or to a federally
36 recognized California Indian tribe. If the surplus land is transferred
37 to a third-party intermediary, the receiving agency's use must be
38 contained in a legally binding agreement at the time of transfer to
39 the third-party intermediary.

1 (E) Surplus land that is a former street, right-of-way, or
2 easement, and is conveyed to an owner of an adjacent property.

3 (F) (i) Surplus land that is to be developed for a housing
4 development, which may have ancillary commercial ground floor
5 uses, that restricts 100 percent of the residential units to persons
6 and families of low or moderate income, with at least 75 percent
7 of the residential units restricted to lower income households, as
8 defined in Section 50079.5 of the Health and Safety Code, with
9 an affordable sales price or an affordable rent, as defined in Section
10 50052.5 or 50053 of the Health and Safety Code, for 55 years for
11 rental housing, 45 years for ownership housing, and 50 years for
12 rental or ownership housing located on tribal trust lands, unless a
13 local ordinance or a federal, state, or local grant, tax credit, or other
14 project financing requires a longer period of affordability, and in
15 no event shall the maximum affordable sales price or rent level be
16 higher than 20 percent below the median market rents or sales
17 prices for the neighborhood in which the site is located.

18 (ii) The requirements of clause (i) shall be contained in a
19 covenant or restriction recorded against the surplus land at the time
20 of sale that shall run with the land and be enforceable against any
21 owner who violates the covenant or restriction and each successor
22 in interest who continues the violation.

23 (G) (i) Surplus land that is subject to a local agency's open,
24 competitive solicitation or that is put to open, competitive bid by
25 a local agency, provided that all entities identified in subdivision
26 (a) of Section 54222 will be invited to participate in the process,
27 for a housing or a mixed-use development that is more than one
28 acre and less than 10 acres in area, consisting of either a single
29 parcel, or two or more adjacent or non-adjacent parcels combined,
30 that includes not less than 300 residential units, and that restricts
31 at least 25 percent of the residential units to lower income
32 households, as defined in Section 50079.5 of the Health and Safety
33 Code, with an affordable sales price or an affordable rent, as
34 defined in Sections 50052.5 and 50053 of the Health and Safety
35 Code, for 55 years for rental housing, 45 years for ownership
36 housing, and 50 years for rental or ownership housing located on
37 tribal trust lands, unless a local ordinance or a federal, state, or
38 local grant, tax credit, or other project financing requires a longer
39 period of affordability.

1 (ii) The requirements of clause (i) shall be contained in a
2 covenant or restriction recorded against the surplus land at the time
3 of sale that shall run with the land and be enforceable against any
4 owner who violates the covenant or restriction and each successor
5 in interest who continues the violation.

6 (H) (i) Surplus land totaling 10 or more acres, consisting of
7 either a single parcel, or two or more adjacent or non-adjacent
8 parcels combined for disposition to one or more buyers pursuant
9 to a plan or ordinance adopted by the legislative body of the local
10 agency, or a state statute. That surplus land shall be subject to a
11 local agency's open, competitive solicitation process or put out to
12 open, competitive bid by a local agency, provided that all entities
13 identified in subdivision (a) of Section 54222 will be invited to
14 participate in the process for a housing or mixed-use development.

15 (ii) The aggregate development shall include the greater of the
16 following:

17 (I) Not less than 300 residential units.

18 (II) A number of residential units equal to 10 times the number
19 of acres of the surplus land or 10,000 residential units, whichever
20 is less.

21 (iii) At least 25 percent of the residential units shall be restricted
22 to lower income households, as defined in Section 50079.5 of the
23 Health and Safety Code, with an affordable sales price or an
24 affordable rent pursuant to Sections 50052.5 and 50053 of the
25 Health and Safety Code, for a minimum of 55 years for rental
26 housing, 45 years for ownership housing, and 50 years for rental
27 or ownership housing located on tribal trust lands, unless a local
28 ordinance or a federal, state, or local grant, tax credit, or other
29 project financing requires a longer period of affordability.

30 (iv) If nonresidential development is included in the
31 development pursuant to this subparagraph, at least 25 percent of
32 the total planned units affordable to lower income households shall
33 be made available for lease or sale and permitted for use and
34 occupancy before or at the same time with every 25 percent of
35 nonresidential development made available for lease or sale and
36 permitted for use and occupancy.

37 (v) A violation of this subparagraph is subject to the penalties
38 described in Section 54230.5. Those penalties are in addition to
39 any remedy a court may order for violation of this subparagraph.
40 A local agency shall only dispose of land pursuant to this

1 subparagraph through a disposition and development agreement
2 that includes an indemnification clause that provides that if an
3 action occurs after disposition violates this subparagraph, the
4 person or entity that acquired the property shall be liable for the
5 penalties.

6 (vi) The requirements of clauses (i) to (v), inclusive, shall be
7 contained in a covenant or restriction recorded against the surplus
8 land at the time of sale that shall run with the land and be
9 enforceable against any owner who violates the covenant or
10 restriction and each successor in interest who continues the
11 violation.

12 (I) A mixed-use development, which may include more than
13 one publicly owned parcel, that meets all of the following
14 conditions:

15 (i) The development restricts at least 25 percent of the residential
16 units to lower income households, as defined in Section 50079.5
17 of the Health and Safety Code, with an affordable sales price or
18 an affordable rent, as defined in Sections 50052.5 and 50053 of
19 the Health and Safety Code, for 55 years for rental housing, 45
20 years for ownership housing, and 50 years for rental or ownership
21 housing located on tribal trust lands, unless a local ordinance or a
22 federal, state, or local grant, tax credit, or other project financing
23 requires a longer period of affordability.

24 (ii) At least 50 percent of the square footage of the new
25 construction associated with the development is designated for
26 residential use.

27 (iii) The development is not located in an urbanized area, as
28 defined in Section 21094.5 of the Public Resources Code.

29 (J) (i) Surplus land that is subject to a valid legal restriction
30 that is not imposed by the local agency and that makes housing
31 prohibited, unless there is a feasible method to satisfactorily
32 mitigate or avoid the prohibition on the site. A declaration of
33 exemption pursuant to this subparagraph shall be supported by
34 documentary evidence establishing the valid legal restriction. For
35 the purposes of this section, "documentary evidence" includes,
36 but is not limited to, a contract, agreement, deed restriction, statute,
37 regulation, or other writing that documents the valid legal
38 restriction.

39 (ii) Valid legal restrictions include, but are not limited to, all of
40 the following:

1 (I) Existing constraints under ownership rights or contractual
2 rights or obligations that prevent the use of the property for
3 housing, if the rights or obligations were agreed to prior to
4 September 30, 2019.

5 (II) Conservation or other easements or encumbrances that
6 prevent housing development.

7 (III) Existing leases, or other contractual obligations or
8 restrictions, if the terms were agreed to prior to September 30,
9 2019.

10 (IV) Restrictions imposed by the source of funding that a local
11 agency used to purchase a property, provided that both of the
12 following requirements are met:

13 (ia) The restrictions limit the use of those funds to purposes
14 other than housing.

15 (ib) The proposed disposal of surplus land meets a use consistent
16 with that purpose.

17 (iii) Valid legal restrictions that would make housing prohibited
18 do not include either of the following:

19 (I) An existing nonresidential land use designation on the surplus
20 land.

21 (II) Covenants, restrictions, or other conditions on the property
22 rendered void and unenforceable by any other law, including, but
23 not limited to, Section 714.6 of the Civil Code.

24 (iv) Feasible methods to mitigate or avoid a valid legal
25 restriction on the site do not include a requirement that the local
26 agency acquire additional property rights or property interests
27 belonging to third parties.

28 (K) Surplus land that was granted by the state in trust to a local
29 agency or that was acquired by the local agency for trust purposes
30 by purchase or exchange, and for which disposal of the land is
31 authorized or required subject to conditions established by statute.

32 (L) Land that is subject to either of the following, unless
33 compliance with this article is expressly required:

34 (i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420,
35 or 81422 of the Education Code.

36 (ii) Part 14 (commencing with Section 53570) of Division 31
37 of the Health and Safety Code.

38 (M) Surplus land that is a former military base that was
39 conveyed by the federal government to a local agency, and is
40 subject to Article 8 (commencing with Section 33492.125) of

Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iii) Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land pursuant to this subparagraph.

(iv) Before disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency's project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient.

(v) The agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph or the settlement agreement.

1 (N) Real property that is used by a district for an agency's use
2 expressly authorized in subdivision (c).

3 (O) Land that has been transferred before June 30, 2019, by the
4 state to a local agency pursuant to Section 32667 of the Streets
5 and Highways Code and has a minimum planned residential density
6 of at least 100 dwelling units per acre, and includes 100 or more
7 residential units that are restricted to persons and families of low
8 or moderate income, with an affordable sales price or an affordable
9 rent, as defined in Sections 50052.5 and 50053 of the Health and
10 Safety Code, for 55 years for rental housing, 45 years for ownership
11 housing, and 50 years for rental or ownership housing located on
12 tribal trust lands, unless a local ordinance or a federal, state, or
13 local grant, tax credit, or other project financing requires a longer
14 period of affordability. For purposes of this subparagraph, not
15 more than 20 percent of the affordable units may be restricted to
16 persons and families of moderate income and at least 80 percent
17 of the affordable units must be restricted to lower income
18 households as defined in Section 50079.5 of the Health and Safety
19 Code.

20 (P) (i) Land that meets the following conditions:

21 (I) Land that is subject to a sectional planning area document
22 that meets both of the following:

23 (ia) The sectional planning area was adopted prior to January
24 1, 2019.

25 (ib) The sectional planning area document is consistent with
26 county and city general plans applicable to the land.

27 (II) The land identified in the adopted sectional planning area
28 document was dedicated prior to January 1, 2019.

29 (III) On January 1, 2019, the parcels on the land met at least
30 one of the following conditions:

31 (ia) The land was subject to an irrevocable offer of dedication
32 of fee interest requiring the land to be used for a specified purpose.

33 (ib) The land was acquired through a land exchange subject to
34 a land offer agreement that grants the land's original owner the
35 right to repurchase the land acquired by the local agency pursuant
36 to the agreement if the land will not be developed in a manner
37 consistent with the agreement.

38 (ic) The land was subject to a grant deed specifying that the
39 property shall be used for educational uses and limiting other types
40 of uses allowed on the property.

1 (IV) At least 25 percent of the units are dedicated to lower
2 income households, as defined in Section 50079.5 of the Health
3 and Safety Code, at an affordable rent, as defined by Section 50053
4 of the Health and Safety Code, or an affordable housing cost, as
5 defined by Section 50052.5 of the Health and Safety Code, and
6 subject to a recorded deed restriction for a period of 55 years for
7 rental units and 45 years for owner-occupied units, unless a local
8 ordinance or a federal, state, or local grant, tax credit, or other
9 project financing requires a longer period of affordability.

10 (V) The land is developed at an average density of at least 10
11 units per acre, calculated with respect to the entire sectional
12 planning area.

13 (VI) No more than 25 percent of the nonresidential square
14 footage identified in the sectional planning area document receives
15 its first certificate of occupancy before at least 25 percent of the
16 residential square footage identified in the sectional planning area
17 document has received its first certificate of occupancy.

18 (VII) No more than 50 percent of the nonresidential square
19 footage identified in the sectional planning area document receives
20 its first certificate of occupancy before at least 50 percent of the
21 residential square footage identified in the sectional planning area
22 document has received its first certificate of occupancy.

23 (VIII) No more than 75 percent of the nonresidential square
24 footage identified in the sectional planning area document shall
25 receive its first certificate of occupancy before at least 75 percent
26 of the residential square footage identified in the sectional planning
27 area document has received its first certificate of occupancy.

28 (ii) The local agency includes in the annual report required by
29 paragraph (2) of subdivision (a) of Section 65400 the status of
30 development, including the total square footage of the residential
31 and nonresidential development, the number of residential units
32 that have been permitted, and what percentage of those residential
33 units are restricted for persons and families of low or moderate
34 income, or lower income households, as defined in Section 50079.5
35 of the Health and Safety Code.

36 (iii) The Department of Housing and Community Development
37 may request additional information from the agency regarding
38 land disposed of pursuant to this subparagraph.

39 (iv) At least 30 days prior to disposing of land declared "exempt
40 surplus land," a local agency shall provide the Department of

1 Housing and Community Development a written notification of
2 its declaration and findings in a form prescribed by the Department
3 of Housing and Community Development. Within 30 days of
4 receipt of the written notification and findings, the department
5 shall notify the local agency if the department has determined that
6 the local agency is in violation of this article. A local agency that
7 fails to submit the written notification and findings shall be liable
8 for a civil penalty pursuant to this subparagraph. A local agency
9 shall not be liable for the civil penalty if the Department of Housing
10 and Community Development does not notify the agency that the
11 agency is in violation of this article within 30 days of receiving
12 the written notification and findings. Once the department
13 determines that the declarations and findings comply with
14 subclauses (I) to (IV), inclusive, of clause (i), the local agency
15 may proceed with disposal of land pursuant to this subparagraph.
16 This clause is declaratory of, and not a change in, existing law.

17 (v) If the local agency disposes of land in violation of this
18 subparagraph, the local agency shall be liable for a civil penalty
19 calculated as follows:

20 (I) For a first violation, 30 percent of the greater of the final
21 sale price or the fair market value of the land at the time of
22 disposition.

23 (II) For a second or subsequent violation, 50 percent of the
24 greater of the final sale price or the fair market value of the land
25 at the time of disposition.

26 (III) For purposes of this subparagraph, fair market value shall
27 be determined by an independent appraisal of the land.

28 (IV) An action to enforce this subparagraph may be brought by
29 any of the following:

30 (ia) An entity identified in subdivisions (a) to (e), inclusive, of
31 Section 54222.

32 (ib) A person who would have been eligible to apply for
33 residency in affordable housing had the agency not violated this
34 section.

35 (ic) A housing organization, as that term is defined in Section
36 65589.5.

37 (id) A beneficially interested person or entity.

38 (ie) The Department of Housing and Community Development.

39 (V) A penalty assessed pursuant to this subparagraph shall,
40 except as otherwise provided, be deposited into a local housing

1 trust fund. The local agency may elect to instead deposit the penalty
2 moneys into the Building Homes and Jobs Trust Fund or the
3 Housing Rehabilitation Loan Fund. Penalties shall not be paid out
4 of funds already dedicated to affordable housing, including, but
5 not limited to, Low and Moderate Income Housing Asset Funds,
6 funds dedicated to housing for very low, low-, and
7 moderate-income households, and federal HOME Investment
8 Partnerships Program and Community Development Block Grant
9 Program funds. The local agency shall commit and expend the
10 penalty moneys deposited into the local housing trust fund within
11 five years of deposit for the sole purpose of financing newly
12 constructed housing units that are affordable to extremely low,
13 very low, or low-income households.

14 (VI) Five years after deposit of the penalty moneys into the
15 local housing trust fund, if the funds have not been expended, the
16 funds shall revert to the state and be deposited in the Building
17 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan
18 Fund for the sole purpose of financing newly constructed housing
19 units located in the same jurisdiction as the surplus land and that
20 are affordable to extremely low, very low, or low-income
21 households. Expenditure of any penalty moneys deposited into the
22 Building Homes and Jobs Trust Fund or the Housing Rehabilitation
23 Loan Fund pursuant to this subdivision shall be subject to
24 appropriation by the Legislature.

25 (vi) For purposes of this subparagraph, the following definitions
26 apply:

27 (I) "Sectional planning area" means an area composed of
28 identifiable planning units, within which common services and
29 facilities, a strong internal unity, and an integrated pattern of land
30 use, circulation, and townscape planning are readily achievable.

31 (II) "Sectional planning area document" means a document or
32 plan that sets forth, at minimum, a site utilization plan of the
33 sectional planning area and development standards for each land
34 use area and designation.

35 (vii) This subparagraph shall become inoperative on January 1,
36 2034.

37 (Q) Land that is owned by a California public-use airport on
38 which residential uses are prohibited pursuant to Federal Aviation
39 Administration Order 5190.6B, Airport Compliance Program,
40 Chapter 20 – Compatible Land Use and Airspace Protection.

(R) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

(iii) (I) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.

(II) For the purpose of this clause, the following definitions apply:

(ia) "A contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units" means a contract described in paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(ib) "A contract or contracts serving as an enforceable restriction on the affordability of rental units" means an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 214 of the Revenue and Taxation Code.

(iv) A copy of the deed restriction or other instrument shall be provided to the assessor.

(S) (i) For local agencies whose primary mission or purpose is to supply the public with a transportation system, surplus land that is developed for commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or for the sole purpose of investment or generation of revenue, if the agency meets all of the following conditions:

(I) The agency has an adopted land use plan or policy that designates at least 50 percent of the gross acreage covered by the

1 adopted land use plan or policy for residential purposes. The
2 adopted land use plan or policy shall also require the development
3 of at least 300 residential units, or at least 10 residential units per
4 gross acre, averaged across all land covered by the land use plan
5 or policy, whichever is greater.

6 (II) The agency has an adopted land use plan or policy that
7 requires at least 25 percent of all residential units to be developed
8 on the parcels covered by the adopted land use plan or policy made
9 available to lower income households, as defined in Section 50079
10 of the Health and Safety Code, at an affordable sales price or rented
11 at an affordable rent, as defined in Sections 50052.5 and 50053 of
12 the Health and Safety Code, for 55 years for rental housing and
13 45 years for ownership housing, unless a local ordinance or the
14 terms of a federal, state, or local grant, tax credit, or other project
15 financing requires a longer period of affordability. These terms
16 shall be included in the land use plan or policy and dictate that
17 they will be contained in a covenant or restriction recorded against
18 the surplus land at the time of disposition that shall run with the
19 land and be enforceable against any owner or lessee who violates
20 the covenant or restriction and each successor in interest who
21 continues the violation.

22 (III) Land disposed of for residential purposes shall issue a
23 competitive request for proposals subject to the local agency's
24 open, competitive solicitation process or put out to open,
25 competitive bid by the local agency, provided that all entities
26 identified in subdivision (a) of Section 54222 are invited to
27 participate.

28 (IV) Prior to entering into an agreement to dispose of a parcel
29 for nonresidential development on land designated for the purposes
30 authorized pursuant to this subparagraph in an agency's adopted
31 land use plan or policy, the agency, since January 1, 2020, must
32 have entered into an agreement to dispose of a minimum of 25
33 percent of the land designated for affordable housing pursuant to
34 subclause (II).

35 (ii) The agency may exempt at one time all parcels covered by
36 the adopted land use plan or policy pursuant to this subparagraph.

37 (2) Notwithstanding paragraph (1), a written notice of the
38 availability of surplus land for open-space purposes shall be sent
39 to the entities described in subdivision (b) of Section 54222 before
40 disposing of the surplus land, provided the land does not meet the

criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

(g) “Persons and families of low or moderate income” has the same meaning as provided in Section 50093 of the Health and Safety Code.

SEC. 2. Chapter 4.1.5 (commencing with Section 65912.155) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT

65912.155. The Legislature finds and declares all of the following:

(a) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.

(b) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.

(c) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state’s major transit agencies’ operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from transit-oriented development at and near their stations.

65912.156. For purposes of this chapter, the following definitions apply:

(a) “Adjacent” means sharing a property line with a transit stop, including any parcels that serve a parking or circulation purpose related to the stop.

1 (b) "Commuter rail" means a rail transit service not meeting
2 the standards for heavy rail or light rail, excluding California
3 High-Speed Rail and Amtrak Long Distance Service.

4 (c) "Department" means the Department of Housing and
5 Community Development.

6 (d) "Frequent commuter rail" means a commuter rail service
7 with a total of at least 24 daily trains per weekday across both
8 directions and not meeting the standard for very high or
9 high-frequency commuter rail at any point in the past three years.

10 (e) "Heavy rail transit" means an electric railway with the
11 capacity for a heavy volume of traffic using high-speed and rapid
12 acceleration passenger rail cars operating singly or in multicar
13 trains on fixed rails, separate rights-of-way from which all other
14 vehicular and foot traffic are excluded, and high platform loading.

15 (f) "High-frequency commuter rail" means a commuter rail
16 service operating a total of at least 48 trains per day across both
17 directions at any point in the past three years.

18 (g) "High-resource area" means a highest resource or
19 high-resource neighborhood opportunity area, as used in the
20 opportunity area maps published annually by the California Tax
21 Credit Allocation Committee and the department.

22 (h) "Housing development project" has the same meaning as
23 defined in Section 65589.5.

24 (i) "Light rail transit" includes streetcar, trolley, and tramway
25 service.

26 (j) "Net habitable square footage" means the finished and heated
27 floor area fully enclosed by the inside surface of walls, windows,
28 doors, and partitions, and having a headroom of at least six and
29 one-half feet, including working, living, eating, cooking, sleeping,
30 stair, hall, service, and storage areas, but excluding garages,
31 carports, parking spaces, cellars, half-stories, and unfinished attics
32 and basements.

33 (k) "Rail transit" has the same meaning as defined in Section
34 99602 of the Public Utilities Code.

35 (l) "Residential floor area ratio" means the ratio of net habitable
36 square footage dedicated to residential use to the area of the lot.

37 (m) "Tier 1 transit-oriented development stop" means a major
38 transit stop, as defined by Section 21155 of the Public Resources
39 Code, served by heavy rail transit or very high frequency commuter
40 rail.

(n) “Tier 2 transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 transit-oriented development stop, served by light rail transit, by high-frequency commuter rail, or by bus service meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code.

(o) “Tier 3 transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 or Tier 2 transit-oriented development stop, served by frequent commuter rail service or by ferry service.

(p) “Transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding any stop served by rail transit with a frequency of fewer than 10 total trains per weekday.

(q) “Very high frequency commuter rail” means a commuter rail service with a total of at least 72 trains per day across both directions at any point in the past three years.

65912.157. (a) A housing development project within one-half or one-quarter mile of a transit-oriented development stop shall be an allowed use on any site zoned for residential, mixed, commercial, or light industrial development, if the development complies with the applicable of all of the following requirements:

(1) For a residential development within one-quarter mile of a Tier 1 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 75 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density of less than 120 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.5.

1 (D) A development that otherwise meets the eligibility
2 requirements of Section 65915, including, but not limited to,
3 affordability requirements, shall be eligible for three additional
4 concessions pursuant to Section 65915.

5 (2) For a residential development further than one-quarter mile
6 but within one-half mile of a Tier 1 transit-oriented development
7 stop, all of the following apply:

8 (A) A development may be built up to 65 feet high, or up to the
9 local height limit, whichever is greater. *If a development proposes*
10 *a height under this subparagraph in excess of the local height*
11 *limit, then a local government shall not be required to grant a*
12 *waiver, incentive, or concession pursuant to Section 65915 for*
13 *additional height beyond that specified under this subparagraph,*
14 *except as provided in subparagraph (D) of paragraph (2) of*
15 *subdivision (d) of Section 65915.*

16 (B) A local government shall not impose any maximum density
17 standard of less than 100 dwelling units per acre. The development
18 proponent may seek a further increased density in accordance with
19 applicable density bonus law.

20 (C) A local government shall not enforce any other local
21 development standard or combination of standards that would
22 prevent achieving a residential floor area ratio of up to 3.

23 (D) A development that otherwise meets the eligibility
24 requirements of Section 65915, including, but not limited to,
25 affordability requirements, shall be eligible for two additional
26 concessions pursuant to Section 65915.

27 (3) For a residential development within one-quarter mile of a
28 Tier 2 transit-oriented development stop, all of the following apply:

29 (A) A development may be built up to 65 feet high, or up to the
30 local height limit, whichever is greater. *If a development proposes*
31 *a height under this subparagraph in excess of the local height*
32 *limit, then a local government shall not be required to grant a*
33 *waiver, incentive, or concession pursuant to Section 65915 for*
34 *additional height beyond that specified under this subparagraph,*
35 *except as provided in subparagraph (D) of paragraph (2) of*
36 *subdivision (d) of Section 65915.*

37 (B) A local government shall not impose any maximum density
38 standard of less than 100 dwelling units per acre. The development
39 proponent may seek a further increased density in accordance with
40 applicable density bonus law.

1 (C) A local government shall not enforce any other local
2 development standard or combination of standards that would
3 prevent achieving a residential floor area ratio of up to 3.

4 (D) A development that otherwise meets the eligibility
5 requirements of Section 65915, including, but not limited to,
6 affordability requirements, shall be eligible for two additional
7 concessions pursuant to Section 65915.

8 (4) For a residential development further than one-quarter mile
9 but within one-half mile of a Tier 2 transit-oriented development
10 stop, all of the following apply:

11 (A) A development may be built up to 55 feet high, or up to the
12 local height limit, whichever is greater. *If a development proposes*
13 *a height under this subparagraph in excess of the local height*
14 *limit, then a local government shall not be required to grant a*
15 *waiver, incentive, or concession pursuant to Section 65915 for*
16 *additional height beyond that specified under this subparagraph,*
17 *except as provided in subparagraph (D) of paragraph (2) of*
18 *subdivision (d) of Section 65915.*

19 (B) A local government shall not impose any maximum density
20 standard of less than 80 dwelling units per acre. The development
21 proponent may seek a further increased density in accordance with
22 applicable density bonus law.

23 (C) A local government shall not enforce any other local
24 development standard or combination of standards that would
25 prevent achieving a residential floor area ratio of up to 2.5.

26 (D) A development that otherwise meets the eligibility
27 requirements of Section 65915, including, but not limited to,
28 affordability requirements, shall be eligible for one additional
29 concession pursuant to Section 65915.

30 (5) For a residential development within one-quarter mile of a
31 Tier 3 transit-oriented development stop, all of the following apply:

32 (A) A development may be built up to 55 feet high, or up to the
33 local height limit, whichever is greater. *If a development proposes*
34 *a height under this subparagraph in excess of the local height*
35 *limit, then a local government shall not be required to grant a*
36 *waiver, incentive, or concession pursuant to Section 65915 for*
37 *additional height beyond that specified under this subparagraph,*
38 *except as provided in subparagraph (D) of paragraph (2) of*
39 *subdivision (d) of Section 65915.*

1 (B) A local government shall not impose any maximum density
2 standard of less than 80 dwelling units per acre. The development
3 proponent may seek a further increased density in accordance with
4 applicable density bonus law.

5 (C) A local government shall not enforce any other local
6 development standard or combination of standards that would
7 prevent achieving a residential floor area ratio of up to 2.5.

8 (D) A development that otherwise meets the eligibility
9 requirements of Section 65915, including, but not limited to,
10 affordability requirements, shall be eligible for one additional
11 concession pursuant to Section 65915.

12 (6) For a residential development further than one-quarter mile
13 but within one-half mile of a Tier 3 transit-oriented development
14 stop, all of the following apply:

15 (A) A development may be built up to 45 feet high, or up to the
16 local height limit, whichever is greater. *If a development proposes*
17 *a height under this subparagraph in excess of the local height*
18 *limit, then a local government shall not be required to grant a*
19 *waiver, incentive, or concession pursuant to Section 65915 for*
20 *additional height beyond that specified under this subparagraph,*
21 *except as provided in subparagraph (D) of paragraph (2) of*
22 *subdivision (d) of Section 65915.*

23 (B) A local government shall not impose any maximum density
24 standard of less than 60 dwelling units per acre. The development
25 proponent may seek a further increased density in accordance with
26 applicable density bonus law.

27 (C) A local government shall not enforce any other local
28 development standard or combination of standards that would
29 prevent achieving a residential floor area ratio of up to 2.

30 (b) Notwithstanding any other law, a housing development
31 project that meets any of the eligibility criteria under subdivision
32 (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3
33 transit-oriented development stop shall be eligible for an adjacency
34 intensifier to increase the height limit by an additional 20 feet, the
35 maximum density standard by an additional 40 dwelling units per
36 acre, and the residential floor area ratio by 1.

37 (c) A development proposed pursuant to this section shall
38 comply with the antidisplacement requirements of Section 66300.6.
39 This subdivision shall apply to any city or county.

1 (d) For purposes of subdivision (j) of Section 65589.5, a
2 proposed housing development project that is consistent with the
3 applicable standards from this chapter shall be deemed consistent,
4 compliant, and in conformity with an applicable plan, program,
5 policy, ordinance, standard, requirement, or other similar provision.

6 (e) A local government that denies a housing development
7 project meeting the requirements of this section that is located in
8 a high-resource area shall be presumed to be in violation of the
9 Housing Accountability Act (Section 65589.5) and immediately
10 liable for penalties pursuant to subparagraph (B) of paragraph (1)
11 of subdivision (k) of Section 65589.5, unless the local government
12 demonstrates, pursuant to the standards in subdivisions (j) and (o)
13 of Section 65589.5, that it has a health, life, or safety reason for
14 denying the project.

15 65912.158. Notwithstanding any other provision of this chapter,
16 a transit agency may adopt objective standards for both residential
17 and commercial developments proposed to be constructed on land
18 owned by the transit agency or on which the transit agency has a
19 permanent operating easement, if the objective standards allow
20 for the same or greater development intensity as that allowed by
21 local standards or applicable state law.

22 65912.159. A housing development project proposed pursuant
23 to Section 65912.157 shall be eligible for streamlined ministerial
24 approval pursuant to Section 65913.4 in accordance with all of the
25 following:

26 (a) The proposed project shall be exempt from subparagraph
27 (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of
28 subparagraph (A) of paragraph (6) of, subdivision (a) of Section
29 65913.4.

30 (b) The proposed project shall comply with the affordability
31 requirements in subclauses (I) through (III), inclusive, of clause
32 (i) of subparagraph (B) of paragraph (4) of subdivision (a) of
33 Section 65913.4.

34 (c) The proposed project shall comply with all other
35 requirements of Section 65913.4, including, but not limited to, the
36 prohibition against a site that is within a very high fire hazard
37 severity zone, pursuant to subparagraph (D) of paragraph (6) of
38 subdivision (a) of Section 65913.4.

39 65912.160. (a) The department shall oversee compliance with
40 this chapter, including, but not limited to, promulgating standards

1 on how to account for capacity pursuant to this chapter in a city
2 or county's inventory of land suitable for residential development,
3 pursuant to Section 65583.2.

4 (b) (1) A local government may adopt an ordinance to
5 implement the provisions of this chapter, which may include
6 revisions to applicable zoning requirements on individual sites
7 within a transit-oriented development zone, provided that those
8 revisions maintain the average density allowed for the applicable
9 tier, or up to a 100-percent increase, subject to review by the
10 department pursuant to paragraph (3).

11 (2) An ordinance adopted to implement this section shall not
12 be considered a project under Division 13 (commencing with
13 Section 21000) of the Public Resources Code.

14 (3) (A) A local government shall submit a copy of any
15 ordinance adopted pursuant to this section to the department within
16 60 days of adoption.

17 (B) Upon receipt of an ordinance pursuant to this paragraph,
18 the department shall review that ordinance and determine whether
19 it complies with this section. If the department determines that the
20 ordinance does not comply with this section, the department shall
21 notify the local government in writing and provide the local
22 government a reasonable time, not to exceed 30 days, to respond
23 before taking further action as authorized by this section.

24 (C) The local government shall consider any findings made by
25 the department pursuant to subparagraph (B) and shall do one of
26 the following:

27 (i) Amend the ordinance to comply with this section.

28 (ii) Adopt the ordinance without changes. The local government
29 shall include findings in its resolution adopting the ordinance that
30 explain the reasons the local government believes that the
31 ordinance complies with this section despite the findings of the
32 department.

33 (D) If the local government does not amend its ordinance in
34 response to the department's findings or does not adopt a resolution
35 with findings explaining the reason the ordinance complies with
36 this chapter and addressing the department's findings, the
37 department shall notify the local government and may notify the
38 Attorney General that the local government is in violation of this
39 section.

65912.161. The Legislature finds and declares that the state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing, and solving the housing crisis therefore requires a multifaceted, statewide approach, including, but not limited to, encouraging an increase in the overall supply of housing, encouraging the development of housing that is affordable to households at all income levels, removing barriers to housing production, expanding homeownership opportunities, and expanding the availability of rental housing, and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

SEC. 3. Section 21080.26.5 is added to the Public Resources Code, to read:

21080.26.5. (a) For the purposes of this section, “public project” means a project constructed by either a public agency or private entity, that, upon the completion of the construction, will be operated by a public agency.

(b) This division shall not apply to a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and that includes at least one of the following:

(1) A project component identified in paragraphs (1) to (5), inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.

(2) A public project for passenger rail service facilities, other than light rail service eligible under paragraph (5) of subdivision (b) of Section 21080.25, including the construction, reconfiguration, or rehabilitation of stations, terminals, rails, platforms, or existing operations facilities, which will be exclusively used by zero-emission or electric trains. The project shall be located on land owned by a public transit agency, or land fully or partially encumbered by an existing operating easement in favor of a public transit agency, at the time the project application is filed.

(3) An agreement between the project applicant and public transit agency that owns the land or has the permanent operating easement to finance transit capital infrastructure, transit maintenance, or transit operations, including through a proposed

1 public financing district, community financing district, or tax
2 increment generated by the project.

3 (c) If a project described in subdivision (b) requires the
4 construction of new passenger rail storage and maintenance
5 facilities at a publicly or privately owned offsite location distinct
6 from the principal project site, then that project shall be considered
7 a wholly separate project from the project described in subdivision
8 (b) and shall not be exempt from this division. Any required
9 environmental review shall not affect or render invalid the
10 exemption provided in subdivision (b), regardless of whether the
11 project described in subdivision (b) cannot proceed unless the
12 offsite facilities are constructed.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 a local government or school district has the authority to levy
16 service charges, fees, or assessments sufficient to pay for the
17 program or level of service mandated by this act, within the
18 meaning of Section 17556 of the Government Code.

O

SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair
2025 - 2026 Regular

Bill No: SB 79
Author: Wiener
Version: 4/23/25

Hearing Date: 4/30/25
Fiscal: Yes
Consultant: Peterson

LOCAL GOVERNMENT LAND: PUBLIC TRANSIT USE: HOUSING DEVELOPMENT: TRANSIT-ORIENTED DEVELOPMENT

Makes transit-oriented development an allowable use on specified sites, gives transit agencies more flexibility under the Surplus Land Act, and exempts specified projects from the California Environmental Quality Act.

Background

Land use. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific consideration. Zoning ordinances and other development decisions must be consistent with the city or county’s general plan.

Housing streamlining laws. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals. In 2017, the Legislature enacted a substantial package of legislation aimed at addressing the state’s housing crisis. Among others, the Legislature enacted SB 35 (Wiener) to provide for a streamlined, ministerial process for approving housing developments that are in compliance with the applicable objective local planning standards—including the general plan, zoning ordinances, and objective design review standards. SB 35 was intended to enable developments that face local opposition, but are consistent with local objective development standards, to be constructed. To be eligible for streamlining under SB 35, a specified percentage of the total housing units in the development must be affordable to lower-income households.

SB 423 (Wiener, 2023) extended the sunset for SB 35 until January 1, 2036, and made many changes to SB 35’s provisions. Some of the most significant changes, included:

- Authorizing SB 35 to apply within the coastal zone, beginning January 1, 2025, consistent with the applicable local coastal plan or land use plan, except in areas that are environmentally sensitive or hazardous;
- Requiring that, in jurisdictions not meeting their housing targets for above moderate-households, projects eligible for SB 35 streamlining must contain at least 10% of the units affordable to very low-income households (i.e., 50% of the area median income (AMI) or below); and
- Amended labor standards that apply to projects over 85 feet in height above grade.

Density bonus law. The state’s density bonus law grants certain benefits to developers who build affordable units in order to encourage greater affordable housing production. Density bonus law requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

- 10 percent of the total units of a housing development for lower income households;
- 5 percent of the total units of a housing development for very low-income households;
- A senior citizen housing development or mobile home park;
- 10 percent of the units in a common interest development for moderate-income households;
- 10 percent of the total units for transitional foster youth, disabled veterans, or homeless persons; or
- 20 percent of the total units for lower income students in a student housing development.

If a project meets one of these conditions, the city or county must allow an increase in density on a sliding scale from 20 percent to 50 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of affordable units.

Incentives, concessions, waivers, and other benefits. Density bonus law (DBL) also grants “incentives or concessions” that can be used to modify development policies that add costs or reduce the number of units that a developer can build on a site. Incentives and concessions can vary widely based on the individual projects, but examples can include reduced fees, waivers of zoning codes, or reduced parking requirements. The number of incentives or concessions a project may be eligible for is based on the percentage of affordable units contained in the project, up to a maximum of four. DBL also allows “waivers” of any development standards that physically prevent the developer from constructing a project at the density allowed to the project, along with the incentives or concessions, under density bonus law. Finally, density bonus law reduces or eliminates the parking that can be required in connection with a project.

Surplus Land Act. Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to an agency’s needs, public officials want to sell the land to recoup their investments. The Surplus Land Act (SLA) spells out the steps local agencies must follow when they want to dispose of land. It requires local governments to give a “first right of refusal” to other governments and nonprofit housing developers, and to negotiate in good faith with them to try to come to agreement. This means that local agencies must open their properties up to affordable housing developers first, even if they have a different purpose in mind for the property.

Before local officials can dispose of property, they must declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land." Land that is being used for an agency's use is not subject to the SLA. "Agency's use" includes land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency or will be disposed of to support agency work or operations.

As a general rule, agency's use cannot include commercial or industrial uses or activities, and land disposed of for the purpose of investment or generating revenue cannot be considered necessary for the agency's use. As a result, cities and counties are limited in their ability to dispose of properties for economic development or revenue generation purposes. However, most special districts are not subject to those restrictions on agency's use as long as they can demonstrate that use of the site will do one of the following:

- Directly further the express purpose of agency work or operations.
- Be expressly authorized by a statute governing the local agency.

Transit districts can only dispose of property for commercial or revenue generation purposes if they meet specific requirements for developing affordable housing across their portfolio of properties, and have made a certain amount of progress towards building that housing.

The SLA designates certain types of land as "exempt surplus land." Statute provides that the entirety of the SLA does not apply to disposals of exempt surplus land. All other surplus land must follow the procedures laid out in the SLA before a local agency can sell it.

California's housing crisis. California has the largest concentration of severely unaffordable housing markets in the nation, with the average home value in California at \$773,363. To keep up with demand, the Department of Housing and Community Development (HCD) estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very-low income and 385,000 low-income units are needed). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing.

According to HCD, completed residential construction is up 13.1% (99,130 units in 2022 to 112,076 units in 2023). Construction has been up every year since 2018. Additionally, the share of lower-income units in new development has nearly doubled since 2018, now representing 19% of permitted units and 16% of completed units in 2023. VLI unit completions increased by 44.2% from 2022-2023, while low-income unit completions rose by 75.7%, a 61.5% overall increase in affordable housing production.

Housing production advocates want to expand housing opportunities near transit stations.

Proposed Law

Senate Bill 79 includes three major components:

- Makes transit-oriented development an allowable use on any site zoned residential, mixed, commercial, or light industrial development;
- Makes changes to the SLA; and

- Exempts certain projects on land owned by a public transit agency from the California Environmental Quality Act (CEQA).

Transit oriented development. SB 79 makes housing development projects (projects) near transit-oriented development stops (TODS) an allowable use on any site zoned residential, mixed, commercial, or light industrial development. Under the measure, a TOD is a major transit stop, excluding any stop served by rail transit with a frequency of fewer than 10 total trains per weekday. Under the measure, there are three tiers of TODS:

- Tier 1: TODS served by heavy rail transit or very high frequency commuter rail;
- Tier 2: TODS, excluding Tier 1, served by light rail transit, high-frequency commuter rail, or by bus rapid transit service; and
- Tier 3: TODS, excluding Tier 1 and Tier 2, served by frequent commuter rail service or by ferry service.

The standards for a project depend on the tier, the distance from TODS, and whether the project is adjacent to TODS, as described in the table below.

Development proponents may seek a further increased density in accordance with applicable density bonus law. However, if a project proposes a height in excess of the local height limit, the local government does not have to grant additional height under density bonus law, unless the project is 100% affordable housing.

SB 79 allows a transit agency to adopt objective standards for both residential and commercial developments proposed on land owned the transit agency owns, or on which it has a permanent operating easement, if the objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.

TODS Type	Distance from TODS	Standards for Project
Tier 1	¼ mile from stop	• Max Height: 75 ft. or 95 ft. if adjacent to stop • Min Density: 120 units per acre (u/a) plus any density bonus or 160 u/a if adjacent to stop • Floor Area Ratio (FAR): 3.5 or 4.5 if adjacent to stop • + 3 concessions or incentives under DBL
	¼ - ½ mile from stop	• Max Height: 65 ft. or 85 ft. if adjacent to stop • Min Density: 100 u/a plus any density bonus or 140 u/a if adjacent to stop • FAR: 3 or 4 if adjacent to stop • + 2 concessions or incentives under DBL
Tier 2	¼ mile from stop	• Max Height: 65 ft. or 85 ft. if adjacent to stop • Min Density: 100 u/a plus any density bonus or 140 u/a if adjacent to stop • FAR: 3 or 4 if adjacent to stop • + 2 concessions or incentives under DBL
	¼ - ½ mile from stop	• Max Height: 55 ft. or 75 ft. if adjacent to stop • Min Density: 80 u/a plus any density bonus or 120 u/a if adjacent to stop

		• FAR: 2.5 or 3.5 if adjacent to stop • + 1 concessions or incentives under DBL
Tier 3:	¼ mile from stop	• Max Height: 55 ft. or 75 ft. if adjacent to stop • Min Density: 80 u/a plus any density bonus or 120 u/a if adjacent to stop • FAR: 2.5 or 3.5 if adjacent to stop • + 1 concession or incentive under DBL
	¼ - ½ mile from stop	• Max Height: 45 ft. or 65 ft. if adjacent to stop • Min Density: 60 u/a plus any density bonus or 100 u/a if adjacent to stop • FAR: 2 or 3 if adjacent to stop • No additional concessions or incentives

Regardless of the tier, all SB 79 projects must comply with the anti-displacement provisions in the Housing Crisis Act of 2019 (SB 330, Skinner). Additionally, SB 79 projects are considered consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirements or other similar provision for purposes of the Housing Accountability Act.

Streamlining for SB 79 projects. SB 79 projects can opt to use SB 35/423 streamlining provisions, but with some differences. Unlike SB 35/423 projects, SB 79 projects:

- Can be on a parcel within the coastal zone that is not zoned for multifamily housing;
- Do not have to be in a jurisdiction subject to SB 35/423 streamlining; and
- Do not have to be consistent with consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government.

To be eligible for streamlining, SB 79 projects must generally meet the same SB 35/423 affordability requirements.

Local government accountability. If a local government denies an SB 79 project in a high-resource area, as determined by the California Tax Credit Allocation Committee, then it is presumed to be in violation of the Housing Accountability Act (HAA), and is immediately liable for penalties under that law, unless it can demonstrate that it has a health, life, or safety reason for denying the project.

Allowed local ordinances. SB 79 allows local governments to adopt ordinances that revise applicable zoning requirements on individual sites within a TOD zone, provided that the revisions maintain an average density allowed for the applicable tier, or up to a 100% increase. Local governments must submit a copy of any ordinance to HCD for review within 60 days of adoption. When HCD receives an ordinance, it must review the ordinance and determine whether it complies with SB 79. If it determines the ordinance does not comply, then HCD must notify the local government in writing and give them a reasonable time, not to exceed 30 days, to respond. The local government must consider any findings HCD makes, and either amend the ordinance to comply with these findings, or adopt the ordinance without changes. If the local government adopts the ordinance without changes, it must explain the reasons why it believes the ordinance complies with SB 79 despite HCD's findings. If the local government adopts the

ordinance without making these findings, HCD can notify the Attorney General that the local government is violating SB 79.

SLA changes. SB 79 expands the definition of “agency’s use,” to include any land leased to support public transit operations, which means these provisions do not go through the SLA process.

Also, SB 79 provides that in the case of a public transit operator, “agency use” can include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency’s governing body takes action in a public meeting declaring that the use of the site will do one of the following:

- Directly further the express purpose of agency work or operations; or
- Be expressly authorized by a statute governing the local agency, as specified.

CEQA exemption. This bill also provides that CEQA does not apply to any public or private residential, commercial, or mixed-used project that, at the time the development proponent files the project application, is located entirely or principally on land a public transit agency owns, if it includes specified transit infrastructure or an agreement to finance transit infrastructure, maintenance, or operations.

Comments

1. Purpose of the bill. According to the author, “SB 79 tackles the root causes of California’s affordability crisis by allowing more homes to be built near major public transportation stops and on land owned by transit agencies – bolstering transit use, slashing climate emissions, and supporting public transportation in the process.

“SB 79 allows more homes near transit in two major ways. First, SB 79 allows for upzoning land for multi-family homes up to 75 feet within a half mile of specified major train stations and bus rapid transit stops. This change will ensure that transit oriented developments (TODs) are feasible and enhance access to transit. Second, SB 79 authorizes local transit agencies to develop at the same or greater density on land they own. All TODs under SB 79 are eligible for the streamlined ministerial approvals process under SB 423 (Wiener, 2023) if they meet the law’s environmental, labor, and affordability standards.

“California needs to build millions of new homes in sustainable locations to meet state housing goals, slash climate emissions, and reduce the cost of living, but overly restrictive zoning codes make building such homes illegal. SB 79 allows building more homes near transit to lower costs for families while bolstering public transit use and supporting cash-strapped transit agencies.”

2. Downtown train. TOD projects host a multitude of benefits. They offer residents a place to live without needing a car to get around, and if that resident uses transit, could help address climate change. For higher-income households, TOD projects may reduce the number of vehicles they have or reduce the number of vehicle trips they take. For lower-income residents, they can offer even greater benefits. Rather than forcing these households to purchase a vehicle to travel to jobs, they can find a home that allows them to travel via transit. The state’s housing crisis is also most acute at lower income levels.

SB 79 allows more homebuilding on parcels near transit. While SB 79 requires certain levels of affordability on projects that opt to use SB 35/423 streamlining, developers can decide whether they want to avoid affordability requirements and associated costs in exchange for the traditional, discretionary housing approval process. Deed-restricted affordable housing units limit developers return on investment because they cannot charge rents or sell units for as high as they otherwise could. Additionally, SB 79 requires projects that do not use streamlining provisions to meet local inclusionary requirements, but not all local governments have such a policy. As a result, SB 79 does not guarantee that every SB 79 project will include some level of affordability.

Providing truly affordable housing opportunities is pivotal to ensuring that individuals experiencing homelessness, or at risk of homelessness, have a roof over their heads. While the state needs homes at all income levels, if projects do not have to include deed-restricted affordable units, the state may miss an opportunity to address its greatest housing needs on the parcels where housing for lower-income individuals may further multiple state goals, including both housing and improvements in transit ridership. Accordingly, while requiring an affordable housing component to all SB 79 projects may mean SB 79 generates fewer market-rate units, the overall public benefits may be greater. The Committee may wish to consider amending the bill to expand SB 79's affordable housing requirements.

3. Thank you, next. Local governments are subject to many planning requirements, especially when it comes to housing. The housing element process requires local agencies to consider many different factors, including how economic, environmental, fiscal, and community factors influence their ability to address regional housing needs. Among the many factors local agencies must include is a statement of the community's goals, quantified objectives, policies relative to affirmatively furthering fair housing, and to the maintenance, preservation, improvement, and development of housing. After balancing factors such as these, local governments have to identify and implement programs and policies to make sites available to accommodate their share of regional housing needs at all income levels, which, crucially, which must include any necessary rezonings. Existing law defines affirmatively furthering fair housing to require, "...taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws."¹ HCD must approve local housing elements as meeting the requirements of state law, and in recent years, the Legislature has strengthened requirements contained in, and consequences of violating, housing element law. If a local government does not rezone to allow development at the levels required in its approved housing element, or does not adopt a compliant housing element, it may be subject to various penalties, including enhanced fines and restrictions on land use authority. As a result, housing elements are more meaningful, and more local governments are faithfully implementing the law to allow for more dense development in a way that suits their communities.

Despite local governments' efforts to work through this process to meet their housing needs in a way that balances all these factors, SB 79 applies. Even for a well-meaning local government, such as a city HCD has designated as pro-housing and has a compliant housing element, a developer could build a project on a parcel near a TODS that conflicts with the planning and zoning decisions the local has made, potentially as part of adopting a compliant housing element,

¹ Government Code §8899.50.

to balance these competing factors. Projects could be built in a manner that does not sufficiently account for housing needs at all income levels, or in a manner that goes against their efforts to affirmatively further fair housing and ensuring all communities have access to new housing opportunities. SB 79 allows local government enacts an ordinance to implement SB 79 that might provide some flexibility, but the Committee may wish to consider amending the bill to allow additional flexibility for local agencies that comply with state housing planning requirements.

4. Don't go chasing windfalls. Valuation of real estate is complicated, but a fundamental principle is that property is as valuable as its highest and best use allows. Land that can only accommodate construction of a few new units of housing is less valuable than land that can accommodate more, all else being equal, and same goes for larger developments versus smaller ones. When zoning rules change to allow more building, property values go up—an effect that was demonstrated in a recent study of upzoning in Chicago.² SB 79 allows more units to be built and reduces costs associated with developments by granting additional waivers and concessions of development policies. SB 79 also allows developers to choose the density, height, and FAR, up to the limits for the particular tier, potentially allowing them to maximize profits by building larger luxury units instead of smaller, lower priced ones. Many previous pieces of housing legislation have included provisions that help balance these private benefits with public benefits. For example, AB 2011 (Wicks, 2022) and the Middle Class Housing Act of 2022 (SB 6, Caballero) both made certain types of housing developments an allowable use on land zoned for commercial uses. AB 2011 required specific levels of affordable housing. Both measures included labor standards for all their projects, although the specific standards differ. Similarly, previous efforts at TOD upzoning, including SB 827 (Wiener, 2017) and SB 50 (Wiener, 2020), included provisions that provided explicit public benefits for projects, including certain affordability requirements. SB 79 includes some provisions in the same areas, but generally more limited requirements than previous housing production legislation. For example, SB 79 only requires specific affordability levels and labor standards if the developer opts to use SB 35/423 streamlining. If a developer opts not to use SB 35/423 streamlining, then the measure only requires the developer to meet a local inclusionary standard, if one exists. The Committee may wish to consider amending the bill to better balance private developer benefits with public benefits.

5. Changes. Studies are split on whether new housing development in a community significantly increases or decreases the net displacement of low-income households from an area. Some studies argue that new housing frees up less expensive units that would otherwise be occupied by high-income households,³ while others argue that the effect is dependent on the specifics of the housing market in an area that determine whether the number of lower-income households moving into an area exceed the number moving out.⁴ Previous legislation similar to SB 79 attempted to strike a balance by delaying implementation for sensitive communities, meaning low-income communities and communities of color at risk of gentrification, and permitted them to come up with a community plan and other policies to encourage multifamily development at varying income levels and protect vulnerable residents from displacement. SB 79, however,

² Yonah Freemark. (2020) "Upzoning Chicago: Impacts of a Zoning Reform on Property Values and Housing Construction." *Urban Affairs Review* 56(3), 758-789.

³ Phillips, S., Manville, M., & Lens, M. (2021). "Research roundup: The effect of market-rate development on neighborhood rents." UCLA Lewis Center for Regional Policy Studies.

⁴ Karen Chapple & Taesoo Song (29 Mar 2024): Can New Housing Supply Mitigate Displacement and Exclusion?, *Journal of the American Planning Association*, DOI: 10.1080/01944363.2024.2319293

does not identify or change its operation in any communities that might be more vulnerable to displacement. Instead, the bill cross-references the demolition protections in existing law that would apply to an SB 79 project in any case under the Housing Crisis Act. The Committee may wish to consider whether SB 79 should include more protections against displacement consistent with previous efforts.

6. I still haven't found what I'm looking for. SB 79's tiers of TODS would be a new concept in state law, so figuring out exactly where each tier is, and what projects would look like can be challenging to imagine. According to the author and sponsors, Tier 1 is intended to apply to the following stations: BART, LA Metro B and D lines, and 25 commuter rail stations. Tier 2 is intended to apply to SacRT Light Rail, SF Muni Metro, SF Muni streetcars, SF Van Ness BRT, VTA Light Rail, LA Metro A, C, E, G, J, and K Lines, San Diego MTS Trolley, Santa Ana Streetcar, 15 commuter rail stations, and 13 additional light rail or BRT stations. Tier 3 is intended to apply to 60 commuter rail stations and 10 ferry stations.

7. Imagine. California is a geographically and demographically diverse state, and that is reflected in its 483 cities and 58 counties. Local elected officials for each of those municipalities are charged by the California Constitution with protecting their citizens' welfare. One chief way local governments do this is by exercising control over what gets built in their community. Local officials weigh the need for additional housing against the concerns and desires of their constituents. Where appropriate, those officials enact ordinances to shape their communities based on local conditions and desires. SB 79 applies regardless of these efforts and the unique features of California's communities by requiring all communities near TODS to allow projects that meet SB 79's development requirements.

What existing housing exists near this vast range of transit stops varies greatly. For example, all BART stations are supposed to be tier 1 TODS. Some BART stations in places like San Francisco and Oakland already have large, tall structures surrounding them. However, in other places like Castro Valley, the neighborhoods surrounding the BART station are mostly single-family homes. Regardless of these differences, SB 79 treats these stops the same. In a suburban neighborhood like Castro Valley, this would represent a drastic change.

SB 79 includes some provisions that nod to local flexibility to tailor the bill's impacts to different communities. It allows local governments to enact ordinances to implement its provisions, and those ordinances can revise applicable zoning requirements on individual sites within a TOD zone, provided that revisions maintain the average density allowed for that tier, or up to a 100% increase. However, the bill is missing several details regarding "TOD zones," including a definition of TOD zone, that could raise questions for local governments that want to use this provision. To help ensure that SB 79 provides clear flexibility for local governments, the Committee may wish to consider amending the bill to clarify how local governments can make zoning decisions that deviate from SB 79 requirements, and require minimum densities for projects to ensure units are widely available and suitable for habitation at a range of income levels.

7. Don't you forget about me. Not only does SB 79 attempt to address the housing crisis, it also tries to address the fiscal challenges confronting the state's transit agencies. It does this in a couple ways.

- First, it allows transit agencies to adopt objective standards for both residential and commercial developments proposed on land owned the transit agency owns, or on which

it has a permanent operating easement. This allows transit agencies to make land use decisions that could conflict with those established by the city or county. However, the bill does not make clear whether this applies just to SB 79 projects or any residential or commercial development. The Committee may wish to consider amending SB 79 to clarify what projects a transit agency's zoning applies to.

- Second, it expands the definition of “agency’s use” in the SLA to include any land leased to support public transit operations. This means transit agencies could decide to lease their land for more market-rate housing, or other commercial or industrial uses, without first offering the parcel to affordable housing developers. Transit agencies already have this authority under the SLA if they adopt a program that commits to certain requirements for residential development, including a 25% inclusionary requirement, across their portfolio of properties. While SB 79’s SLA exemption could expand transit agencies’ revenue generating possibilities, it runs contrary to the purpose of the SLA, which is to prioritize affordable housing development over other competing priorities. As a result, this provision may reduce the availability of affordable housing in the state. The Committee may wish to consider amending SB 79 to remove the bill’s provisions amending the SLA.

8. Bring the noise. Unlike other recent housing streamlining bills, SB 79 expands the zones where housing can be built from residential and commercial to light industrial. Light industrial zoning varies across jurisdictions, but can include light manufacturing, warehouses, and other uses. Some light industrial zones may be adequate places to build housing, like next to a brewery. However, other light industrial zones might not be if there are potentially hazardous materials or involve pollution emissions like a warehouse. This sets a precedent for other legislation to follow, and could place housing opportunities in places that could present public health and safety risks. The Committee may wish to consider amending the bill to remove the authority to build SB 79 projects in light industrial zones.

9. Charter city. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution does not define municipal affairs, the courts determine whether a topic is a municipal affair or whether it is an issue of statewide concern. SB 79 says that its statutory provisions regarding TODS apply to charter cities because addressing the state’s housing crisis of availability and affordability is a matter of statewide concern.

10. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 79 adds to the duties of local officials, Legislative Counsel says the bill imposes a new state mandate. SB 79 disclaims the state’s responsibility for providing reimbursement by citing local governments’ authority to charge for the costs of implementing the bill’s provisions.

11. Incoming! The Senate Rules Committee has ordered a double referral of SB 79: first to the Committee on Housing, which approved the bill at its April 22nd hearing on a vote of 6-2, and second to the Committee on Local Government.

Support and Opposition (4/25/2025)

Support: California Yimby (Co-Sponsor)
Greenbelt Alliance (Co-Sponsor)
Spur (Co-Sponsor)

Streets for All (Co-Sponsor)

Alexander Pedersen - Vice Mayor, Capitola
Brian Barnacle - Councilmember, Petaluma
Casey Glaubman - Councilmember, Mount Shasta
Emily Ramos - Vice Mayor, Mountain View
James Coleman - Councilmember, South San Francisco
Jed Leano, Councilmember, Claremont
Jesse Zwick - Councilmember, Santa Monica
Laura Nakamura - Vice Mayor, Concord
Lucas Ramirez - Councilmember, Mountain View
Mark Dinan - Vice Mayor, East Palo Alto
Matthew Solomon - Councilmember, Emeryville
Phoebe Shin Venkat - Councilmember, Foster City
Rashi Kesarwani - Councilmember, Berkeley
Rebecca Saltzman - Councilmember, El Cerrito
Sergio Lopez - Mayor, Campbell
Zach Hilton - Councilmember, Gilroy
21st Century Alliance
AARP
Abundant Housing LA
Active San Gabriel Valley
All Voting Members of the North Westwood Neighborhood Council
Bay Area Council
Bike Culver City
Bike East Bay
Bike Long Beach
Bikesd
Business for Good San Diego
Calbike
California Apartment Association
California Community Builders
California Nightlife Association (CALNIGHT)
Car-lite Long Beach
Chamber of Progress
Circulate San Diego
City West Hollywood
Climate Action Campaign
Climate Hawks Vote
Costa Mesa Alliance for Better Streets
Council of Infill Builders
East Bay for Everyone
East Bay Leadership Council
East Bay Yimby
Eastside Housing for All
Environmental Protection Information Center
Everybody's Long Beach
Families for Safe Streets San Diego
Fieldstead and Company, INC.
Fremont for Everyone
Generation Housing

Glendale Yimby
Grow the Richmond
Hammond Climate Solutions Foundation
House Sacramento
Housing Action Coalition
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
Inclusive Lafayette
Indivisible Sacramento
Jamboree Housing Corporation
Leadingage California
Lisc San Diego
Mountain View Yimby
Napa-solano for Everyone
National Independent Venue Association of California
New Way Homes
Northern Neighbors
Our Time to ACT
Pathway to Tomorrow
Peninsula for Everyone
People for Housing - Orange County
People for Housing Oc
People for Housing Orange County
Prosperity California
Redlands Yimby
Remake Irvine Streets for Everyone (RISE)
Ridesd
San Diego County Bicycle Coalition
San Fernando Valley for All
San Francisco Yimby
San Mateo County Economic Development Association (SAMCEDA)
Santa Cruz Yimby
Santa Rosa Yimby
Sierra Business Council
Silicon Valley Leadership Group
Sloco Yimby
South Bay Yimby
South Pasadena Residents for Responsible Growth
South San Francisco Councilmember James Coleman
Streets are for Everyone (SAFE)
Streets are for Everyone (SAFE) (ORG)
Strong Towns Poway & Rb
Strong Towns San Diego
Strong Towns Santa Barbara
Student Homes Coalition
UC San Diego Housing Commission
University of California Student Association
Ventura County Yimby
Walk Bike Berkeley
Walk San Francisco

Westside for Everyone
Wildlands Network
Yimby Action
Yimby Democrats of San Diego County
Yimby LA
Yimby Los Angeles
Yimby Slo

Opposition: Allied Neighborhoods Association (of Santa Barbara)
Barbary Coast Neighborhood Association
Brentwood Homeowners Association
Burton Valley Neighborhoods Group
California Cities for Local Control
California Contract Cities Association
California Preservation Foundation
California Rural Legal Assistance Foundation
Catalysts for Local Control
Cheviot Hills (Los Angeles) Neighborhood Association
Chinatown Community Development Center
Citizen Marin
Citizens Planning Association of Santa Barbara
Citizens Preserving Venice
City of Agoura Hills
City of Anderson
City of Artesia
City of Azusa
City of Belvedere
City of Brentwood
City of Calimesa
City of Camarillo
City of Carlsbad
City of Chino
City of Chino Hills
City of Cloverdale
City of Colton
City of Concord
City of Cotati
City of Downey
City of Encinitas
City of Exeter
City of Fairfield
City of Folsom
City of Fullerton
City of Garden Grove
City of Glendale
City of Glendora
City of Grand Terrace
City of Hawthorne
City of Hermosa Beach
City of Hesperia

City of Highland
City of Huntington Beach
City of LA Mirada
City of LA Quinta
City of Lafayette
City of Lakeport
City of Lakewood CA
City of Larkspur
City of Lathrop
City of Lawndale
City of Lomita
City of Los Alamitos
City of Manhattan Beach
City of Manteca
City of Marina
City of Mission Viejo
City of Modesto
City of Moorpark
City of Moreno Valley
City of Murrieta
City of Napa
City of Newport Beach
City of Norwalk
City of Oakley
City of Oceanside
City of Ontario
City of Orange
City of Orinda
City of Palm Desert
City of Palmdale
City of Paramount
City of Perris
City of Pico Rivera
City of Rancho Cordova
City of Rancho Cucamonga
City of Rancho Mirage
City of Rancho Palos Verdes
City of Redding
City of Redlands
City of Ripon
City of Riverbank
City of Rolling Hills Estates
City of Rosemead
City of San Fernando
City of San Juan Capistrano
City of San Luis Obispo
City of San Marcos
City of San Rafael
City of Sausalito
City of Scotts Valley

City of Simi Valley
City of Solana Beach
City of Stanton
City of Thousand Oaks
City of Torrance
City of Tustin
City of Upland
City of Vista
City of Walnut Creek
City of Whittier
City of Yucaipa
Coalition for San Francisco Neighborhoods (CSFN)
Coastal San Pedro Neighborhood Council
Communities for a Better Environment
Comstock Hills Homeowners Association
Crescenta Highlands Neighborhood Association 2025
Crescenta Valley Community Association 2025
Del Rey Residents Association
Disability Rights California
Eastside Voice Long Beach CA
Equitable Land Use Alliance (ELUA)
Esperanza Community Housing Corporation
Foothill Communities Association
Friends of Historic Miracle Mile
Grayburn Avenue Block Club
Greater Toluca Lake Neighborhood Council
Hills2000_friends of the Hills
Hollywoodland Homeowners Association, United Neighborhoods
Homey
Kennedy Commission
Lafayette Homeowners Council
Larchmont United Neighborhood Association
Leadership Counsel for Justice & Accountability
Leadership Counsel for Justice and Accountability
League of California Cities
Little Tokyo Service Center
Livable California
Livable Mountain View
Long Beach Forward
Marin County Council of Mayors & Council Members; City of
Mental Health Advocacy Services
Mission Street Neighbors
Neighborhoods United SF
Neighbors for a Better California
Neighbors for a Better San Diego
New Livable California DbA Livable California
Nonprofit Housing Association of Northern California
Orindans for Safe Emergency Evacuation
Our Neighborhood Voices
Our Neighborhood Voices -- Education Corporation

Pacific Palisades Community Council
Physicians for Social Responsibility - Los Angeles
Poder SF
Public Advocates
Public Counsel
Public Interest Law Project
Public Law Center
Race & Equity in All Planning Coalition (REP-SF)
Rise Economy
Save Lafayette
Sherman Oaks Homeowners Association
Shift-Bay Area
Spaulding Square Historical Preservation Overlay Zone (HPOZ)
Strategic Actions for a Just Economy
Sunnyvale United Neighbors
Sunset Square Neighborhood Organization
Town of Apple Valley
United Neighbors
Urban Habitat
West Torrance Homeowners Association
Western Center on Law & Poverty
Westwood Hills Property Owners Association
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Young Community Developers

-- END --

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 457

Introduced by Senator Becker
(Principal coauthor: Senator Stern)

February 19, 2025

An act to amend Sections 65585.03 and 65589.5 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Becker. Housing element compliance: Housing Accountability Act: housing disapprovals.

The Planning and Zoning Law requires each county and each city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that includes, among other specified mandatory elements, a housing element. Existing law, commonly referred to as the housing element law, prescribes requirements for a city's or county's preparation of, and compliance with, its housing element, and requires the Department of Housing and Community Development to review and determine whether the housing element substantially complies with the housing element law, as specified.

Existing law within the Planning and Zoning Law, the Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes written findings, based on a preponderance of the evidence, that one of 6 specified conditions exist. Among these

conditions, the act allows a local agency to disapprove a housing development project that is inconsistent with the jurisdiction's zoning ordinances and general plan land use designation as it existed on the date the application was deemed complete, if the jurisdiction has adopted a revised housing element that is in substantial compliance with the housing element law, as specified. The act defines "deemed complete" for purposes of its provisions, until January 1, 2030, to mean that the applicant has submitted a preliminary application, as specified, or if the applicant has not submitted a preliminary application, the submission of a completed application, as specified.

This bill, for the purpose of allowing a local agency to disapprove a housing development project that is inconsistent with the jurisdiction's zoning ordinances and general plan land use designation, as described above, would revise the definition of "deemed complete" to mean that the applicant submitted a complete application, as specified. The bill would provide that this definition would apply to an application that as of January 1, 2026 has not (1) received approval from a local agency or (2) incurred substantial liability in good faith reliance upon the local agency approval.

Existing law provides that a housing element or amendment is considered substantially compliant with the housing element law when the local agency adopts a housing element or amendment, the department or a court of competent jurisdiction determines the adopted housing element or amendment to be in substantial compliance with the housing element law, and the department's compliance findings have not been superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction or the court's decision has not been overturned or superseded by a subsequent court decision or by statute, as applicable.

This bill would, instead, provide that a housing element or amendment is considered substantially compliant with the housing element law on the date when the governing body of a local agency adopts the housing element or amendment, provided that after the date the housing element or amendment is adopted and without further action by the governing body, the department or a court of competent jurisdiction determines the adopted housing element or amendment to be in substantial compliance with the housing element law, and the department's compliance findings are not superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction

or the court's decision is not overturned or superseded by a subsequent court decision or by statute.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65585.03 of the Government Code is
2 amended to read:

3 65585.03. A housing element or amendment shall be considered
4 to be in substantial compliance with this article on the date when
5 the governing body of a local agency adopts the housing element
6 or amendment for the current planning period in accordance with
7 Section 65585, provided that either of the following occurs after
8 the date the housing element or amendment is adopted and without
9 further action by the governing body:

10 (a) The department finds that the adopted housing element or
11 amendment is in substantial compliance with this article and the
12 department's compliance findings have not been superseded by
13 subsequent contrary findings by the department or by a decision
14 of a court of competent jurisdiction.

15 (b) A court of competent jurisdiction determines that the adopted
16 housing element or amendment substantially complies with this
17 article and the court's decision has not been overturned or
18 superseded by a subsequent court decision or by statute.

19 SEC. 2. Section 65589.5 of the Government Code is amended
20 to read:

21 65589.5. (a) (1) The Legislature finds and declares all of the
22 following:

23 (A) The lack of housing, including emergency shelters, is a
24 critical problem that threatens the economic, environmental, and
25 social quality of life in California.

26 (B) California housing has become the most expensive in the
27 nation. The excessive cost of the state's housing supply is partially
28 caused by activities and policies of many local governments that
29 limit the approval of housing, increase the cost of land for housing,
30 and require that high fees and exactions be paid by producers of
31 housing.

32 (C) Among the consequences of those actions are discrimination
33 against low-income and minority households, lack of housing to

1 support employment growth, imbalance in jobs and housing,
2 reduced mobility, urban sprawl, excessive commuting, and air
3 quality deterioration.

4 (D) Many local governments do not give adequate attention to
5 the economic, environmental, and social costs of decisions that
6 result in disapproval of housing development projects, reduction
7 in density of housing projects, and excessive standards for housing
8 development projects.

9 (2) In enacting the amendments made to this section by the act
10 adding this paragraph, the Legislature further finds and declares
11 the following:

12 (A) California has a housing supply and affordability crisis of
13 historic proportions. The consequences of failing to effectively
14 and aggressively confront this crisis are hurting millions of
15 Californians, robbing future generations of the chance to call
16 California home, stifling economic opportunities for workers and
17 businesses, worsening poverty and homelessness, and undermining
18 the state's environmental and climate objectives.

19 (B) While the causes of this crisis are multiple and complex,
20 the absence of meaningful and effective policy reforms to
21 significantly enhance the approval and supply of housing affordable
22 to Californians of all income levels is a key factor.

23 (C) The crisis has grown so acute in California that supply,
24 demand, and affordability fundamentals are characterized in the
25 negative: underserved demands, constrained supply, and protracted
26 unaffordability.

27 (D) According to reports and data, California has accumulated
28 an unmet housing backlog of nearly 2,000,000 units and must
29 provide for at least 180,000 new units annually to keep pace with
30 growth through 2025.

31 (E) California's overall home ownership rate is at its lowest
32 level since the 1940s. The state ranks 49th out of the 50 states in
33 home ownership rates as well as in the supply of housing per capita.
34 Only one-half of California's households are able to afford the
35 cost of housing in their local regions.

36 (F) Lack of supply and rising costs are compounding inequality
37 and limiting advancement opportunities for many Californians.

38 (G) The majority of California renters, more than 3,000,000
39 households, pay more than 30 percent of their income toward rent

1 and nearly one-third, more than 1,500,000 households, pay more
2 than 50 percent of their income toward rent.

3 (H) When Californians have access to safe and affordable
4 housing, they have more money for food and health care; they are
5 less likely to become homeless and in need of
6 government-subsidized services; their children do better in school;
7 and businesses have an easier time recruiting and retaining
8 employees.

9 (I) An additional consequence of the state's cumulative housing
10 shortage is a significant increase in greenhouse gas emissions
11 caused by the displacement and redirection of populations to states
12 with greater housing opportunities, particularly working- and
13 middle-class households. California's cumulative housing shortfall
14 therefore has not only national but international environmental
15 consequences.

16 (J) California's housing picture has reached a crisis of historic
17 proportions despite the fact that, for decades, the Legislature has
18 enacted numerous statutes intended to significantly increase the
19 approval, development, and affordability of housing for all income
20 levels, including this section.

21 (K) The Legislature's intent in enacting this section in 1982 and
22 in expanding its provisions since then was to significantly increase
23 the approval and construction of new housing for all economic
24 segments of California's communities by meaningfully and
25 effectively curbing the capability of local governments to deny,
26 reduce the density for, or render infeasible housing development
27 projects and emergency shelters. That intent has not been fulfilled.

28 (L) It is the policy of the state that this section be interpreted
29 and implemented in a manner to afford the fullest possible weight
30 to the interest of, and the approval and provision of, housing.

31 (3) It is the intent of the Legislature that the conditions that
32 would have a specific, adverse impact upon the public health and
33 safety, as described in paragraph (2) of subdivision (d) and
34 paragraph (1) of subdivision (j), arise infrequently.

35 (4) It is the intent of the Legislature that the amendments
36 removing provisions from subparagraphs (D) and (E) of paragraph
37 (6) of subdivision (h) and adding those provisions to Sections
38 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
39 as they are substantially the same as existing law, shall be

1 considered restatements and continuations of existing law, and not
2 new enactments.

3 (b) It is the policy of the state that a local government not reject
4 or make infeasible housing development projects, including
5 emergency shelters, that contribute to meeting the need determined
6 pursuant to this article without a thorough analysis of the economic,
7 social, and environmental effects of the action and without
8 complying with subdivision (d).

9 (c) The Legislature also recognizes that premature and
10 unnecessary development of agricultural lands for urban uses
11 continues to have adverse effects on the availability of those lands
12 for food and fiber production and on the economy of the state.
13 Furthermore, it is the policy of the state that development should
14 be guided away from prime agricultural lands; therefore, in
15 implementing this section, local jurisdictions should encourage,
16 to the maximum extent practicable, in filling existing urban areas.

17 (d) For a housing development project for very low, low-, or
18 moderate-income households, or an emergency shelter, a local
19 agency shall not disapprove the housing development project or
20 emergency shelter, or condition approval in a manner that renders
21 the housing development project or emergency shelter infeasible,
22 including through the use of design review standards, unless it
23 makes written findings, based upon a preponderance of the
24 evidence in the record, as to one of the following:

25 (1) The jurisdiction has adopted a housing element pursuant to
26 this article that has been revised in accordance with Section 65588,
27 is in substantial compliance with this article, and the jurisdiction
28 has met or exceeded its share of the regional housing need
29 allocation pursuant to Section 65584 for the planning period for
30 the income category proposed for the housing development project,
31 provided that any disapproval or conditional approval shall not be
32 based on any of the reasons prohibited by Section 65008. If the
33 housing development project includes a mix of income categories,
34 and the jurisdiction has not met or exceeded its share of the regional
35 housing need for one or more of those categories, then this
36 paragraph shall not be used to disapprove or conditionally approve
37 the housing development project. The share of the regional housing
38 need met by the jurisdiction shall be calculated consistently with
39 the forms and definitions that may be adopted by the Department
40 of Housing and Community Development pursuant to Section

1 65400. In the case of an emergency shelter, the jurisdiction shall
2 have met or exceeded the need for emergency shelter, as identified
3 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
4 disapproval or conditional approval pursuant to this paragraph
5 shall be in accordance with applicable law, rule, or standards.

6 (2) The housing development project or emergency shelter as
7 proposed would have a specific, adverse impact upon the public
8 health or safety, and there is no feasible method to satisfactorily
9 mitigate or avoid the specific, adverse impact without rendering
10 the development unaffordable to low- and moderate-income
11 households or rendering the development of the emergency shelter
12 financially infeasible. As used in this paragraph, a “specific,
13 adverse impact” means a significant, quantifiable, direct, and
14 unavoidable impact, based on objective, identified written public
15 health or safety standards, policies, or conditions as they existed
16 on the date the application was deemed complete. The following
17 shall not constitute a specific, adverse impact upon the public
18 health or safety:

19 (A) Inconsistency with the zoning ordinance or general plan
20 land use designation.

21 (B) The eligibility to claim a welfare exemption under
22 subdivision (g) of Section 214 of the Revenue and Taxation Code.

23 (3) The denial of the housing development project or imposition
24 of conditions is required in order to comply with specific state or
25 federal law, and there is no feasible method to comply without
26 rendering the development unaffordable to low- and
27 moderate-income households or rendering the development of the
28 emergency shelter financially infeasible.

29 (4) The housing development project or emergency shelter is
30 proposed on land zoned for agriculture or resource preservation
31 that is surrounded on at least two sides by land being used for
32 agricultural or resource preservation purposes, or which does not
33 have adequate water or wastewater facilities to serve the project.

34 (5) On the date an application for the housing development
35 project or emergency shelter was deemed complete, the jurisdiction
36 had adopted a revised housing element that was in substantial
37 compliance with this article, and the housing development project
38 or emergency shelter was inconsistent with both the jurisdiction’s
39 zoning ordinance and general plan land use designation as specified
40 in any element of the general plan.

1 (A) This paragraph shall not be utilized to disapprove or
2 conditionally approve a housing development project proposed on
3 a site, including a candidate site for rezoning, that is identified as
4 suitable or available for very low, low-, or moderate-income
5 households in the jurisdiction's housing element if the housing
6 development project is consistent with the density specified in the
7 housing element, even though the housing development project
8 was inconsistent with both the jurisdiction's zoning ordinance and
9 general plan land use designation on the date the application was
10 deemed complete.

11 (B) If the local agency has failed to identify a zone or zones
12 where emergency shelters are allowed as a permitted use without
13 a conditional use or other discretionary permit, has failed to
14 demonstrate that the identified zone or zones include sufficient
15 capacity to accommodate the need for emergency shelter identified
16 in paragraph (7) of subdivision (a) of Section 65583, or has failed
17 to demonstrate that the identified zone or zones can accommodate
18 at least one emergency shelter, as required by paragraph (4) of
19 subdivision (a) of Section 65583, then this paragraph shall not be
20 utilized to disapprove or conditionally approve an emergency
21 shelter proposed for a site designated in any element of the general
22 plan for industrial, commercial, or multifamily residential uses. In
23 any action in court, the burden of proof shall be on the local agency
24 to show that its housing element does satisfy the requirements of
25 paragraph (4) of subdivision (a) of Section 65583.

26 (C) (i) Notwithstanding subdivision (h), for purposes of this
27 paragraph, "deemed complete" means the applicant has submitted
28 a complete application pursuant to Section 65943.

29 (ii) ~~This~~ *Notwithstanding paragraph (7) of subdivision (f), this*
30 subparagraph applies to an application that, as of January 1, 2026,
31 has not met both of the following criteria:

32 (I) Received a local agency approval.

33 (II) Incurred substantial liability in good faith reliance upon the
34 local agency approval.

35 (6) On the date an application for the housing development
36 project or emergency shelter was deemed complete, the jurisdiction
37 did not have an adopted revised housing element that was in
38 substantial compliance with this article and the housing
39 development project is not a builder's remedy project.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

1 (4) For purposes of this section, a housing development project
2 or emergency shelter shall be deemed consistent, compliant, and
3 in conformity with an applicable plan, program, policy, ordinance,
4 standard, requirement, or other similar provision if there is
5 substantial evidence that would allow a reasonable person to
6 conclude that the housing development project or emergency
7 shelter is consistent, compliant, or in conformity.

8 (5) For purposes of this section, a change to the zoning ordinance
9 or general plan land use designation subsequent to the date the
10 application was deemed complete shall not constitute a valid basis
11 to disapprove or condition approval of the housing development
12 project or emergency shelter.

13 (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
14 following apply to a housing development project that is a builder's
15 remedy project:

16 (A) A local agency may only require the project to comply with
17 the objective, quantifiable, written development standards,
18 conditions, and policies that would have applied to the project had
19 it been proposed on a site with a general plan designation and
20 zoning classification that allow the density and unit type proposed
21 by the applicant. If the local agency has no general plan designation
22 or zoning classification that would have allowed the density and
23 unit type proposed by the applicant, the development proponent
24 may identify any objective, quantifiable, written development
25 standards, conditions, and policies associated with a different
26 general plan designation or zoning classification within that
27 jurisdiction, that facilitate the project's density and unit type, and
28 those shall apply.

29 (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
30 of subdivision (d), a local agency shall not apply any individual
31 or combination of objective, quantifiable, written development
32 standards, conditions, and policies to the project that do any of the
33 following:

34 (I) Render the project infeasible.

35 (II) Preclude a project that meets the requirements allowed to
36 be imposed by subparagraph (A), as modified by any density bonus,
37 incentive, or concession, or waiver or reduction of development
38 standards and parking ratios, pursuant to Section 65915, from
39 being constructed as proposed by the applicant.

1 (ii) The local agency shall bear the burden of proof of complying
2 with clause (i).

3 (C) (i) A project applicant that qualifies for a density bonus
4 pursuant to Section 65915 shall receive two incentives or
5 concessions in addition to those granted pursuant to paragraph (2)
6 of subdivision (d) of Section 65915.

7 (ii) For a project seeking density bonuses, incentives,
8 concessions, or any other benefits pursuant to Section 65915, and
9 notwithstanding paragraph (6) of subdivision (o) of Section 65915,
10 for purposes of this paragraph, maximum allowable residential
11 density or base density means the density permitted for a builder's
12 remedy project pursuant to subparagraph (C) of paragraph (11) of
13 subdivision (h).

14 (iii) A local agency shall grant any density bonus pursuant to
15 Section 65915 based on the number of units proposed and
16 allowable pursuant to subparagraph (C) of paragraph (11) of
17 subdivision (h).

18 (iv) A project that dedicates units to extremely low-income
19 households pursuant to subclause (I) of clause (i) of subparagraph
20 (C) of paragraph (3) of subdivision (h) shall be eligible for the
21 same density bonus, incentives or concessions, and waivers or
22 reductions of development standards as provided to a housing
23 development project that dedicates three percentage points more
24 units to very low income households pursuant to paragraph (2) of
25 subdivision (f) of Section 65915.

26 (v) All units dedicated to extremely low-income, very low
27 income, low-income, and moderate-income households pursuant
28 to paragraph (11) of subdivision (h) shall be counted as affordable
29 units in determining whether the applicant qualifies for a density
30 bonus pursuant to Section 65915.

31 (D) (i) The project shall not be required to apply for, or receive
32 approval of, a general plan amendment, specific plan amendment,
33 rezoning, or other legislative approval.

34 (ii) The project shall not be required to apply for, or receive,
35 any approval or permit not generally required of a project of the
36 same type and density proposed by the applicant.

37 (iii) Any project that complies with this paragraph shall be
38 deemed consistent, compliant, and in conformity with an applicable
39 plan, program, policy, ordinance, standard, requirement,
40 redevelopment plan and implementing instruments, or other similar

1 provision for all purposes, and shall not be considered or treated
2 as a nonconforming lot, use, or structure for any purpose.

3 (E) A local agency shall not adopt or impose any requirement,
4 process, practice, or procedure or undertake any course of conduct,
5 including, but not limited to, increased fees or inclusionary housing
6 requirements, that applies to a project solely or partially on the
7 basis that the project is a builder's remedy project.

8 (F) (i) A builder's remedy project shall be deemed to be in
9 compliance with the residential density standards for the purposes
10 of complying with subdivision (b) of Section 65912.123.

11 (ii) A builder's remedy project shall be deemed to be in
12 compliance with the objective zoning standards, objective
13 subdivision standards, and objective design review standards for
14 the purposes of complying with paragraph (5) of subdivision (a)
15 of Section 65913.4.

16 (G) (i) (I) If the local agency had a local affordable housing
17 requirement, as defined in Section 65912.101, that on January 1,
18 2024, required a greater percentage of affordable units than
19 required under subparagraph (A) of paragraph (11) of subdivision
20 (h), or required an affordability level deeper than what is required
21 under subparagraph (A) of paragraph (11) of subdivision (h), then,
22 except as provided in subclauses (II) and (III), the local agency
23 may require a housing development for mixed-income households
24 to comply with an otherwise lawfully applicable local affordability
25 percentage or affordability level. The local agency shall not require
26 housing for mixed-income households to comply with any other
27 aspect of the local affordable housing requirement.

28 (II) Notwithstanding subclause (I), the local affordable housing
29 requirements shall not be applied to require housing for
30 mixed-income households to dedicate more than 20 percent of the
31 units to affordable units of any kind.

32 (III) Housing for mixed-income households that is required to
33 dedicate 20 percent of the units to affordable units shall not be
34 required to dedicate any of the affordable units at an income level
35 deeper than lower income households, as defined in Section
36 50079.5 of the Health and Safety Code.

37 (IV) A local agency may only require housing for mixed-income
38 households to comply with the local percentage requirement or
39 affordability level described in subclause (I) if it first makes written
40 findings, supported by a preponderance of evidence, that

1 compliance with the local percentage requirement or the
2 affordability level, or both, would not render the housing
3 development project infeasible. If a reasonable person could find
4 compliance with either requirement, either alone or in combination,
5 would render the project infeasible, the project shall not be required
6 to comply with that requirement.

7 (ii) Affordable units in the development project shall have a
8 comparable bedroom and bathroom count as the market rate units.

9 (iii) Each affordable unit dedicated pursuant to this subparagraph
10 shall count toward satisfying a local affordable housing
11 requirement. Each affordable unit dedicated pursuant to a local
12 affordable housing requirement that meets the criteria established
13 in this subparagraph shall count towards satisfying the requirements
14 of this subparagraph. This is declaratory of existing law.

15 (7) (A) For a housing development project application that is
16 deemed complete before January 1, 2025, the development
17 proponent for the project may choose to be subject to the provisions
18 of this section that were in place on the date the preliminary
19 application was submitted, or, if the project meets the definition
20 of a builder's remedy project, it may choose to be subject to any
21 or all of the provisions of this section applicable as of January 1,
22 2025.

23 (B) Notwithstanding subdivision (c) of Section 65941.1, for a
24 housing development project deemed complete before January 1,
25 2025, the development proponent may choose to revise their
26 application so that the project is a builder's remedy project, without
27 being required to resubmit a preliminary application, even if the
28 revision results in the number of residential units or square footage
29 of construction changing by 20 percent or more.

30 (8) A housing development project proposed on a site that is
31 identified as suitable or available for very low, low-, or
32 moderate-income households in the jurisdiction's housing element,
33 that is consistent with the density specified in the most recently
34 updated and adopted housing element, and that is inconsistent with
35 both the jurisdiction's zoning ordinance and general plan land use
36 designation on the date the application was deemed complete, shall
37 be subject to the provisions of subparagraphs (A), (B), and (D) of
38 paragraph (6) and paragraph (9).

39 (9) For purposes of this subdivision, "objective, quantifiable,
40 written development standards, conditions, and policies" means

criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o). Nothing herein shall affect the obligation of the housing development project to comply with the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. In the event that applicable objective, quantifiable, written development standards, conditions, and policies are mutually inconsistent, a development shall be deemed consistent with the criteria that permits the density and unit type closest to that of the proposed project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses that meet any of the following conditions:

(i) At least two-thirds of the new or converted square footage is designated for residential use.

(ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:

(I) The project includes at least 500 net new residential units.

(II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

1 (iii) At least 50 percent of the net new or converted square
2 footage is designated for residential use and the project meets all
3 of the following:

4 (I) The project includes at least 500 net new residential units.

5 (II) The project involves the demolition or conversion of at least
6 100,000 square feet of nonresidential use.

7 (III) The project demolishes at least 50 percent of the existing
8 nonresidential uses on the site.

9 (IV) No portion of the project is designated for use as a hotel,
10 motel, bed and breakfast inn, or other transient lodging, except a
11 portion of the project may be designated for use as a residential
12 hotel, as defined in Section 50519 of the Health and Safety Code.

13 (C) Transitional housing or supportive housing.

14 (D) Farmworker housing, as defined in subdivision (h) of
15 Section 50199.7 of the Health and Safety Code.

16 (3) (A) "Housing for very low, low-, or moderate-income
17 households" means housing for lower income households,
18 mixed-income households, or moderate-income households.

19 (B) "Housing for lower income households" means a housing
20 development project in which 100 percent of the units, excluding
21 managers' units, are dedicated to lower income households, as
22 defined in Section 50079.5 of the Health and Safety Code, at an
23 affordable cost, as defined by Section 50052.5 of the Health and
24 Safety Code, or an affordable rent set in an amount consistent with
25 the rent limits established by the California Tax Credit Allocation
26 Committee. The units shall be subject to a recorded deed restriction
27 for a period of 55 years for rental units and 45 years for
28 owner-occupied units.

29 (C) (i) "Housing for mixed-income households" means any of
30 the following:

31 (I) A housing development project in which at least 7 percent
32 of the total units, as defined in subparagraph (A) of paragraph (8)
33 of subdivision (o) of Section 65915, are dedicated to extremely
34 low income households, as defined in Section 50106 of the Health
35 and Safety Code.

36 (II) A housing development project in which at least 10 percent
37 of the total units, as defined in subparagraph (A) of paragraph (8)
38 of subdivision (o) of Section 65915, are dedicated to very low
39 income households, as defined in Section 50105 of the Health and
40 Safety Code.

1 (III) A housing development project in which at least 13 percent
2 of the total units, as defined in subparagraph (A) of paragraph (8)
3 of subdivision (o) of Section 65915, are dedicated to lower income
4 households, as defined in Section 50079.5 of the Health and Safety
5 Code.

6 (IV) A housing development project in which there are 10 or
7 fewer total units, as defined in subparagraph (A) of paragraph (8)
8 of subdivision (o) of Section 65915, that is on a site that is smaller
9 than one acre, and that is proposed for development at a minimum
10 density of 10 units per acre.

11 (ii) All units dedicated to extremely low income, very low
12 income, and low-income households pursuant to clause (i) shall
13 meet both of the following:

14 (I) The units shall have an affordable housing cost, as defined
15 in Section 50052.5 of the Health and Safety Code, or an affordable
16 rent, as defined in Section 50053 of the Health and Safety Code.

17 (II) The development proponent shall agree to, and the local
18 agency shall ensure, the continued affordability of all affordable
19 rental units included pursuant to this section for 55 years and all
20 affordable ownership units included pursuant to this section for a
21 period of 45 years.

22 (D) "Housing for moderate-income households" means a
23 housing development project in which 100 percent of the units are
24 sold or rented to moderate-income households, as defined in
25 Section 50093 of the Health and Safety Code, at an affordable
26 housing cost, as defined in Section 50052.5 of the Health and
27 Safety Code, or an affordable rent, as defined in Section 50053 of
28 the Health and Safety Code. The units shall be subject to a recorded
29 deed restriction for a period of 55 years for rental units and 45
30 years for owner-occupied units.

31 (4) "Area median income" means area median income as
32 periodically established by the Department of Housing and
33 Community Development pursuant to Section 50093 of the Health
34 and Safety Code.

35 (5) Notwithstanding any other law, until January 1, 2030,
36 "deemed complete" means that the applicant has submitted a
37 preliminary application pursuant to Section 65941.1 or, if the
38 applicant has not submitted a preliminary application, has
39 submitted a complete application pursuant to Section 65943. The

1 local agency shall bear the burden of proof in establishing that the
2 application is not complete.

3 (6) "Disapprove the housing development project" includes any
4 instance in which a local agency does any of the following:

5 (A) Votes or takes final administrative action on a proposed
6 housing development project application and the application is
7 disapproved, including any required land use approvals or
8 entitlements necessary for the issuance of a building permit.

9 (B) Fails to comply with the time periods specified in
10 subdivision (a) of Section 65950. An extension of time pursuant
11 to Article 5 (commencing with Section 65950) shall be deemed to
12 be an extension of time pursuant to this paragraph.

13 (C) Fails to meet the time limits specified in Section 65913.3.

14 (D) Fails to cease a course of conduct undertaken for an
15 improper purpose, such as to harass or to cause unnecessary delay
16 or needless increases in the cost of the proposed housing
17 development project, that effectively disapproves the proposed
18 housing development without taking final administrative action if
19 all of the following conditions are met:

20 (i) The project applicant provides written notice detailing the
21 challenged conduct and why it constitutes disapproval to the local
22 agency established under Section 65100.

23 (ii) Within five working days of receiving the applicant's written
24 notice described in clause (i), the local agency shall post the notice
25 on the local agency's internet website, provide a copy of the notice
26 to any person who has made a written request for notices pursuant
27 to subdivision (f) of Section 21167 of the Public Resources Code,
28 and file the notice with the county clerk of each county in which
29 the project will be located. The county clerk shall post the notice
30 and make it available for public inspection in the manner set forth
31 in subdivision (c) of Section 21152 of the Public Resources Code.

32 (iii) The local agency shall consider all objections, comments,
33 evidence, and concerns about the project or the applicant's written
34 notice and shall not make a determination until at least 60 days
35 after the applicant has given written notice to the local agency
36 pursuant to clause (i).

37 (iv) Within 90 days of receipt of the applicant's written notice
38 described in clause (i), the local agency shall issue a written
39 statement that it will immediately cease the challenged conduct or

1 issue written findings that comply with both of the following
2 requirements:

3 (I) The findings articulate an objective basis for why the
4 challenged course of conduct is necessary.

5 (II) The findings provide clear instructions on what the applicant
6 must submit or supplement so that the local agency can make a
7 final determination regarding the next necessary approval or set
8 the date and time of the next hearing.

9 (v) (I) If a local agency continues the challenged course of
10 conduct described in the applicant's written notice and fails to
11 issue the written findings described in clause (iv), the local agency
12 shall bear the burden of establishing that its course of conduct does
13 not constitute a disapproval of the housing development project
14 under this subparagraph in an action taken by the applicant.

15 (II) If an applicant challenges a local agency's course of conduct
16 as a disapproval under this subparagraph, the local agency's written
17 findings described in clause (iv) shall be incorporated into the
18 administrative record and be deemed to be the final administrative
19 action for purposes of adjudicating whether the local agency's
20 course of conduct constitutes a disapproval of the housing
21 development project under this subparagraph.

22 (vi) A local agency's action in furtherance of complying with
23 the California Environmental Quality Act (Division 13
24 (commencing with Section 21000) of the Public Resources Code),
25 including, but not limited to, imposing mitigating measures, shall
26 not constitute project disapproval under this subparagraph.

27 (E) Fails to comply with Section 65905.5. For purposes of this
28 subparagraph, a builder's remedy project shall be deemed to
29 comply with the applicable, objective general plan and zoning
30 standards in effect at the time an application is deemed complete.

31 (F) (i) Determines that an application for a housing development
32 project is incomplete pursuant to subdivision (a) or (b) of Section
33 65943 and includes in the determination an item that is not required
34 on the local agency's submittal requirement checklist. The local
35 agency shall bear the burden of proof that the required item is
36 listed on the submittal requirement checklist.

37 (ii) In a subsequent review of an application pursuant to Section
38 65943, requests the applicant provide new information that was
39 not identified in the initial determination and upholds this
40 determination in the final written determination on an appeal filed

1 pursuant to subdivision (c) of Section 65943. The local agency
2 shall bear the burden of proof that the required item was identified
3 in the initial determination.

4 (iii) Determines that an application for a housing development
5 project is incomplete pursuant to subdivision (a) or (b) of Section
6 65943, a reasonable person would conclude that the applicant has
7 submitted all of the items required on the local agency's submittal
8 requirement checklist, and the local agency upholds this
9 determination in the final written determination on an appeal filed
10 pursuant to subdivision (c) of Section 65943.

11 (iv) If a local agency determines that an application is
12 incomplete under Section 65943 after two resubmittals of the
13 application by the applicant, the local agency shall bear the burden
14 of establishing that the determination is not an effective disapproval
15 of a housing development project under this section.

16 (G) Violates subparagraph (D) or (E) of paragraph (6) of
17 subdivision (f).

18 (H) Makes a written determination that a preliminary application
19 described in subdivision (a) of Section 65941.1 has expired or that
20 the applicant has otherwise lost its vested rights under the
21 preliminary application for any reason other than those described
22 in subdivisions (c) and (d) of Section 65941.1.

23 (I) (i) Fails to make a determination of whether the project is
24 exempt from the California Environmental Quality Act (Division
25 13 (commencing with Section 21000) of the Public Resources
26 Code), or commits an abuse of discretion, as defined in subdivision
27 (b) of Section 65589.5.1 if all of the conditions in Section
28 65589.5.1 are satisfied.

29 (ii) This subparagraph shall become inoperative on January 1,
30 2031.

31 (J) (i) Fails to adopt a negative declaration or addendum for
32 the project, to certify an environmental impact report for the
33 project, or to approve another comparable environmental document,
34 such as a sustainable communities environmental assessment
35 pursuant to Section 21155.2 of the Public Resources Code, as
36 required pursuant to the California Environmental Quality Act
37 (Division 13 (commencing with Section 21000) of the Public
38 Resources Code), if all of the conditions in Section 65589.5.2 are
39 satisfied.

1 (ii) This subparagraph shall become inoperative on January 1,
2 2031.

3 (7) (A) For purposes of this section and Sections 65589.5.1 and
4 65589.5.2, “lawful determination” means any final decision about
5 whether to approve or disapprove a statutory or categorical
6 exemption or a negative declaration, addendum, environmental
7 impact report, or comparable environmental review document
8 under the California Environmental Quality Act (Division 13
9 (commencing with Section 21000) of the Public Resources Code)
10 that is not an abuse of discretion, as defined in subdivision (b) of
11 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

12 (B) This paragraph shall become inoperative on January 1, 2031.

13 (8) “Lower density” includes any conditions that have the same
14 effect or impact on the ability of the project to provide housing.

15 (9) Until January 1, 2030, “objective” means involving no
16 personal or subjective judgment by a public official and being
17 uniformly verifiable by reference to an external and uniform
18 benchmark or criterion available and knowable by both the
19 development applicant or proponent and the public official.

20 (10) Notwithstanding any other law, until January 1, 2030,
21 “determined to be complete” means that the applicant has submitted
22 a complete application pursuant to Section 65943.

23 (11) “Builder’s remedy project” means a project that meets all
24 of the following criteria:

25 (A) The project is a housing development project that provides
26 housing for very low, low-, or moderate-income households.

27 (B) On or after the date an application for the housing
28 development project or emergency shelter was deemed complete,
29 the jurisdiction did not have a housing element that was in
30 substantial compliance with this article.

31 (C) The project has a density such that the number of units, as
32 calculated before the application of a density bonus pursuant to
33 Section 65915, complies with all of the following conditions:

34 (i) The density does not exceed the greatest of the following
35 densities:

36 (I) Fifty percent greater than the minimum density deemed
37 appropriate to accommodate housing for that jurisdiction as
38 specified in subparagraph (B) of paragraph (3) of subdivision (c)
39 of Section 65583.2.

1 (II) Three times the density allowed by the general plan, zoning
2 ordinance, or state law, whichever is greater.

3 (III) The density that is consistent with the density specified in
4 the housing element.

5 (ii) Notwithstanding clause (i), the greatest allowable density
6 shall be 35 units per acre more than the amount allowable pursuant
7 to clause (i), if any portion of the site is located within any of the
8 following:

9 (I) One-half mile of a major transit stop, as defined in Section
10 21064.3 of the Public Resources Code.

11 (II) A very low vehicle travel area, as defined in subdivision
12 (h).

13 (III) A high or highest resource census tract, as identified by
14 the latest edition of the "CTCAC/HCD Opportunity Map"
15 published by the California Tax Credit Allocation Committee and
16 the Department of Housing and Community Development.

17 (D) (i) On sites that have a minimum density requirement and
18 are located within one-half mile of a commuter rail station or a
19 heavy rail station, the density of the project shall not be less than
20 the minimum density required on the site.

21 (I) For purposes of this subparagraph, "commuter rail" means
22 a railway that is not a light rail, streetcar, trolley, or tramway and
23 that is for urban passenger train service consisting of local short
24 distance travel operating between a central city and adjacent suburb
25 with service operated on a regular basis by or under contract with
26 a transit operator for the purpose of transporting passengers within
27 urbanized areas, or between urbanized areas and outlying areas,
28 using either locomotive-hauled or self-propelled railroad passenger
29 cars, with multitrip tickets and specific station-to-station fares.

30 (II) For purposes of this subparagraph, "heavy rail" means an
31 electric railway with the capacity for a heavy volume of traffic
32 using high speed and rapid acceleration passenger rail cars
33 operating singly or in multicar trains on fixed rails, separate
34 rights-of-way from which all other vehicular and foot traffic are
35 excluded, and high platform loading.

36 (ii) On all other sites with a minimum density requirement, the
37 density of the project shall not be less than the local agency's
38 minimum density or one-half of the minimum density deemed
39 appropriate to accommodate housing for that jurisdiction as

1 specified in subparagraph (B) of paragraph (3) of subdivision (c)
2 of Section 65583.2, whichever is lower.

3 (E) The project site does not abut a site where more than
4 one-third of the square footage on the site has been used, within
5 the past three years, by a heavy industrial use, or a Title V
6 industrial use, as those terms are defined in Section 65913.16.

7 (12) "Condition approval" includes imposing on the housing
8 development project, or attempting to subject it to, development
9 standards, conditions, or policies.

10 (13) "Unit type" means the form of ownership and the kind of
11 residential unit, including, but not limited to, single-family
12 detached, single-family attached, for-sale, rental, multifamily,
13 townhouse, condominium, apartment, manufactured homes and
14 mobilehomes, factory-built housing, and residential hotel.

15 (14) "Proposed by the applicant" means the plans and designs
16 as submitted by the applicant, including, but not limited to, density,
17 unit size, unit type, site plan, building massing, floor area ratio,
18 amenity areas, open space, parking, and ancillary commercial uses.

19 (i) If any city, county, or city and county denies approval or
20 imposes conditions, including design changes, lower density, or
21 a reduction of the percentage of a lot that may be occupied by a
22 building or structure under the applicable planning and zoning in
23 force at the time the housing development project's application is
24 complete, that have a substantial adverse effect on the viability or
25 affordability of a housing development for very low, low-, or
26 moderate-income households, and the denial of the development
27 or the imposition of conditions on the development is the subject
28 of a court action which challenges the denial or the imposition of
29 conditions, then the burden of proof shall be on the local legislative
30 body to show that its decision is consistent with the findings as
31 described in subdivision (d), and that the findings are supported
32 by a preponderance of the evidence in the record, and with the
33 requirements of subdivision (o).

34 (j) (1) When a proposed housing development project complies
35 with applicable, objective general plan, zoning, and subdivision
36 standards and criteria, including design review standards, in effect
37 at the time that the application was deemed complete, but the local
38 agency proposes to disapprove the project or to impose a condition
39 that the project be developed at a lower density, the local agency
40 shall base its decision regarding the proposed housing development

1 project upon written findings supported by a preponderance of the
2 evidence on the record that both of the following conditions exist:

3 (A) The housing development project would have a specific,
4 adverse impact upon the public health or safety unless the project
5 is disapproved or approved upon the condition that the project be
6 developed at a lower density. As used in this paragraph, a “specific,
7 adverse impact” means a significant, quantifiable, direct, and
8 unavoidable impact, based on objective, identified written public
9 health or safety standards, policies, or conditions as they existed
10 on the date the application was deemed complete.

11 (B) There is no feasible method to satisfactorily mitigate or
12 avoid the adverse impact identified pursuant to paragraph (1), other
13 than the disapproval of the housing development project or the
14 approval of the project upon the condition that it be developed at
15 a lower density.

16 (2) (A) If the local agency considers a proposed housing
17 development project to be inconsistent, not in compliance, or not
18 in conformity with an applicable plan, program, policy, ordinance,
19 standard, requirement, or other similar provision as specified in
20 this subdivision, it shall provide the applicant with written
21 documentation identifying the provision or provisions, and an
22 explanation of the reason or reasons it considers the housing
23 development to be inconsistent, not in compliance, or not in
24 conformity as follows:

25 (i) Within 30 days of the date that the application for the housing
26 development project is determined to be complete, if the housing
27 development project contains 150 or fewer housing units.

28 (ii) Within 60 days of the date that the application for the
29 housing development project is determined to be complete, if the
30 housing development project contains more than 150 units.

31 (B) If the local agency fails to provide the required
32 documentation pursuant to subparagraph (A), the housing
33 development project shall be deemed consistent, compliant, and
34 in conformity with the applicable plan, program, policy, ordinance,
35 standard, requirement, or other similar provision.

36 (3) For purposes of this section, the receipt of a density bonus,
37 incentive, concession, waiver, or reduction of development
38 standards pursuant to Section 65915 shall not constitute a valid
39 basis on which to find a proposed housing development project is
40 inconsistent, not in compliance, or not in conformity, with an

1 applicable plan, program, policy, ordinance, standard, requirement,
2 or other similar provision specified in this subdivision.

3 (4) For purposes of this section, a proposed housing development
4 project is not inconsistent with the applicable zoning standards
5 and criteria, and shall not require a rezoning, if the housing
6 development project is consistent with the objective general plan
7 standards and criteria but the zoning for the project site is
8 inconsistent with the general plan. If the local agency has complied
9 with paragraph (2), the local agency may require the proposed
10 housing development project to comply with the objective
11 standards and criteria of the zoning which is consistent with the
12 general plan, however, the standards and criteria shall be applied
13 to facilitate and accommodate development at the density allowed
14 on the site by the general plan and proposed by the proposed
15 housing development project.

16 (k) (1) (A) (i) The applicant, a person who would be eligible
17 to apply for residency in the housing development project or
18 emergency shelter, or a housing organization may bring an action
19 to enforce this section. If, in any action brought to enforce this
20 section, a court finds that any of the following are met, the court
21 shall issue an order pursuant to clause (ii):

22 (I) The local agency, in violation of subdivision (d), disapproved
23 a housing development project or conditioned its approval in a
24 manner rendering it infeasible for the development of an emergency
25 shelter, or housing for very low, low-, or moderate-income
26 households, including farmworker housing, without making the
27 findings required by this section.

28 (II) The local agency, in violation of subdivision (j), disapproved
29 a housing development project complying with applicable,
30 objective general plan and zoning standards and criteria, or imposed
31 a condition that the project be developed at a lower density, without
32 making the findings required by this section.

33 (III) (ia) Subject to sub-subclause (ib), the local agency, in
34 violation of subdivision (o), required or attempted to require a
35 housing development project to comply with an ordinance, policy,
36 or standard not adopted and in effect when a preliminary
37 application was submitted.

38 (ib) This subclause shall become inoperative on January 1, 2030.

39 (IV) The local agency violated a provision of this section
40 applicable to a builder's remedy project.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within a time period not to exceed 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, provided, however, that the court shall not award attorney's fees in either of the following instances:

(I) The court finds, under extraordinary circumstances, that awarding fees would not further the purposes of this section.

(II) (ia) In a case concerning a disapproval within the meaning of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the court finds that the local agency acted in good faith and had reasonable cause to disapprove the housing development project due to the existence of a controlling question of law about the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or implementing guidelines as to which there was a substantial ground for difference of opinion at the time of the disapproval.

(ib) This subclause shall become inoperative on January 1, 2031.

(B) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Trust Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of the fine to impose, the court shall consider the local

1 agency's progress in attaining its target allocation of the regional
2 housing need pursuant to Section 65584 and any prior violations
3 of this section. Fines shall not be paid out of funds already
4 dedicated to affordable housing, including, but not limited to, Low
5 and Moderate Income Housing Asset Funds, funds dedicated to
6 housing for very low, low-, and moderate-income households, and
7 federal HOME Investment Partnerships Program and Community
8 Development Block Grant Program funds. The local agency shall
9 commit and expend the money in the local housing trust fund
10 within five years for the sole purpose of financing newly
11 constructed housing units affordable to extremely low, very low,
12 or low-income households. After five years, if the funds have not
13 been expended, the money shall revert to the state and be deposited
14 in the Building Homes and Jobs Trust Fund for the sole purpose
15 of financing newly constructed housing units affordable to
16 extremely low, very low, or low-income households.

17 (C) If the court determines that its order or judgment has not
18 been carried out within 60 days, the court may issue further orders
19 as provided by law to ensure that the purposes and policies of this
20 section are fulfilled, including, but not limited to, an order to vacate
21 the decision of the local agency and to approve the housing
22 development project, in which case the application for the housing
23 development project, as proposed by the applicant at the time the
24 local agency took the initial action determined to be in violation
25 of this section, along with any standard conditions determined by
26 the court to be generally imposed by the local agency on similar
27 projects, shall be deemed to be approved unless the applicant
28 consents to a different decision or action by the local agency.

29 (D) Nothing in this section shall limit the court's inherent
30 authority to make any other orders to compel the immediate
31 enforcement of any writ brought under this section, including the
32 imposition of fees and other sanctions set forth under Section 1097
33 of the Code of Civil Procedure.

34 (2) For purposes of this subdivision, "housing organization"
35 means a trade or industry group whose local members are primarily
36 engaged in the construction or management of housing units or a
37 nonprofit organization whose mission includes providing or
38 advocating for increased access to housing for low-income
39 households and have filed written or oral comments with the local
40 agency prior to action on the housing development project. A

1 housing organization may only file an action pursuant to this
2 section to challenge the disapproval of a housing development by
3 a local agency. A housing organization shall be entitled to
4 reasonable attorney's fees and costs if it is the prevailing party in
5 an action to enforce this section.

6 (l) If the court finds that the local agency (1) acted in bad faith
7 when it violated this section and (2) failed to carry out the court's
8 order or judgment within the time period prescribed by the court,
9 the court, in addition to any other remedies provided by this
10 section, shall multiply the fine determined pursuant to subparagraph
11 (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
12 has previously found that the local agency violated this section
13 within the same planning period, the court shall multiply the fines
14 by an additional factor for each previous violation. For purposes
15 of this section, "bad faith" includes, but is not limited to, an action
16 or inaction that is frivolous, pretextual, intended to cause
17 unnecessary delay, or entirely without merit.

18 (m) (1) Any action brought to enforce the provisions of this
19 section shall be brought pursuant to Section 1094.5 of the Code
20 of Civil Procedure, and the local agency shall prepare and certify
21 the record of proceedings in accordance with subdivision (c) of
22 Section 1094.6 of the Code of Civil Procedure no later than 30
23 days after the petition is served, provided that the cost of
24 preparation of the record shall be borne by the local agency, unless
25 the petitioner elects to prepare the record as provided in subdivision
26 (n) of this section. A petition to enforce the provisions of this
27 section shall be filed and served no later than 90 days from the
28 later of (1) the effective date of a decision of the local agency
29 imposing conditions on, disapproving, or any other final action on
30 a housing development project or (2) the expiration of the time
31 periods specified in subparagraph (B) of paragraph (5) of
32 subdivision (h). Upon entry of the trial court's order, a party may,
33 in order to obtain appellate review of the order, file a petition
34 within 20 days after service upon it of a written notice of the entry
35 of the order, or within such further time not exceeding an additional
36 20 days as the trial court may for good cause allow, or may appeal
37 the judgment or order of the trial court under Section 904.1 of the
38 Code of Civil Procedure. If the local agency appeals the judgment
39 of the trial court, the local agency shall post a bond, in an amount

1 to be determined by the court, to the benefit of the plaintiff if the
2 plaintiff is the project applicant.

3 (2) (A) A disapproval within the meaning of subparagraph (I)
4 of paragraph (6) of subdivision (h) shall be final for purposes of
5 this subdivision, if the local agency did not make a lawful
6 determination within the time period set forth in paragraph (5) of
7 subdivision (a) of Section 65589.5.1 after the applicant's timely
8 written notice.

9 (B) This paragraph shall become inoperative on January 1, 2031.

10 (3) (A) A disapproval within the meaning of subparagraph (J)
11 of paragraph (6) of subdivision (h) shall be final for purposes of
12 this subdivision, if the local agency did not make a lawful
13 determination within 90 days of the applicant's timely written
14 notice.

15 (B) This paragraph shall become inoperative on January 1, 2031.

16 (n) In any action, the record of the proceedings before the local
17 agency shall be filed as expeditiously as possible and,
18 notwithstanding Section 1094.6 of the Code of Civil Procedure or
19 subdivision (m) of this section, all or part of the record may be
20 prepared (1) by the petitioner with the petition or petitioner's points
21 and authorities, (2) by the respondent with respondent's points and
22 authorities, (3) after payment of costs by the petitioner, or (4) as
23 otherwise directed by the court. If the expense of preparing the
24 record has been borne by the petitioner and the petitioner is the
25 prevailing party, the expense shall be taxable as costs.

26 (o) (1) Subject to paragraphs (2), (6), and (7), and subdivision
27 (d) of Section 65941.1, a housing development project shall be
28 subject only to the ordinances, policies, and standards adopted and
29 in effect when a preliminary application including all of the
30 information required by subdivision (a) of Section 65941.1 was
31 submitted.

32 (2) Paragraph (1) shall not prohibit a housing development
33 project from being subject to ordinances, policies, and standards
34 adopted after the preliminary application was submitted pursuant
35 to Section 65941.1 in the following circumstances:

36 (A) In the case of a fee, charge, or other monetary exaction, to
37 an increase resulting from an automatic annual adjustment based
38 on an independently published cost index that is referenced in the
39 ordinance or resolution establishing the fee or other monetary
40 exaction.

1 (B) A preponderance of the evidence in the record establishes
2 that subjecting the housing development project to an ordinance,
3 policy, or standard beyond those in effect when a preliminary
4 application was submitted is necessary to mitigate or avoid a
5 specific, adverse impact upon the public health or safety, as defined
6 in subparagraph (A) of paragraph (1) of subdivision (j), and there
7 is no feasible alternative method to satisfactorily mitigate or avoid
8 the adverse impact.

9 (C) Subjecting the housing development project to an ordinance,
10 policy, standard, or any other measure, beyond those in effect when
11 a preliminary application was submitted is necessary to avoid or
12 substantially lessen an impact of the project under the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000) of the Public Resources Code).

15 (D) The housing development project has not commenced
16 construction within two and one-half years, or three and one-half
17 years for an affordable housing project, following the date that the
18 project received final approval. For purposes of this subparagraph:

19 (i) "Affordable housing project" means a housing development
20 that satisfies both of the following requirements:

21 (I) Units within the development are subject to a recorded
22 affordability restriction for at least 55 years for rental housing and
23 45 years for owner-occupied housing, or the first purchaser of each
24 unit participates in an equity sharing agreement as described in
25 subparagraph (C) of paragraph (2) of subdivision (c) of Section
26 65915.

27 (II) All of the units within the development, excluding managers'
28 units, are dedicated to lower income households, as defined by
29 Section 50079.5 of the Health and Safety Code.

30 (ii) "Final approval" means that the housing development project
31 has received all necessary approvals to be eligible to apply for,
32 and obtain, a building permit or permits and either of the following
33 is met:

34 (I) The expiration of all applicable appeal periods, petition
35 periods, reconsideration periods, or statute of limitations for
36 challenging that final approval without an appeal, petition, request
37 for reconsideration, or legal challenge having been filed.

38 (II) If a challenge is filed, that challenge is fully resolved or
39 settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent

1 stabilization, restrictions on short-term renting, and business
2 licensing requirements for owners of rental housing.

3 (8) (A) This subdivision shall apply to a housing development
4 project that submits a preliminary application pursuant to Section
5 65941.1 before January 1, 2030.

6 (B) This subdivision shall become inoperative on January 1,
7 2034.

8 (p) (1) Upon any motion for an award of attorney's fees
9 pursuant to Section 1021.5 of the Code of Civil Procedure, in a
10 case challenging a local agency's approval of a housing
11 development project, a court, in weighing whether a significant
12 benefit has been conferred on the general public or a large class
13 of persons and whether the necessity of private enforcement makes
14 the award appropriate, shall give due weight to the degree to which
15 the local agency's approval furthers policies of this section,
16 including, but not limited to, subdivisions (a), (b), and (c), the
17 suitability of the site for a housing development, and the
18 reasonableness of the decision of the local agency. It is the intent
19 of the Legislature that attorney's fees and costs shall rarely, if ever,
20 be awarded if a local agency, acting in good faith, approved a
21 housing development project that satisfies conditions established
22 in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
23 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

24 (2) This subdivision shall become inoperative on January 1,
25 2031.

26 (q) This section shall be known, and may be cited, as the
27 Housing Accountability Act.

28 (r) The provisions of this section are severable. If any provision
29 of this section or its application is held invalid, that invalidity shall
30 not affect other provisions or applications that can be given effect
31 without the invalid provision or application.

O

SENATE COMMITTEE ON HOUSING

Senator Aisha Wahab, Chair

2025 - 2026 Regular

Bill No: SB 457

Hearing Date: 4/29/2025

Author: Becker

Version: 4/21/2025 Amended

Urgency: No

Fiscal: No

Consultant: Hank Brady

SUBJECT: Housing element compliance: Housing Accountability Act: housing disapprovals.

DIGEST: This bill revises Housing Element Law to specify that a local agency's housing element is in compliance the date it is adopted if the element is subsequently certified by the Department of Housing and Community Development (HCD) or a court of competent jurisdiction, and changes the vesting period for builder's remedy projects.

ANALYSIS:

Existing law:

Adoption of Housing Elements

- 1) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
 - a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs;
 - b) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and
 - c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element.
- 2) Requires a planning agency to submit a draft housing element revision to HCD at least 90 days prior to adoption of a revision of its housing element pursuant to statutory deadlines, or at least 60 days prior for a draft amendment. Requires the local government to make the first draft revision of the housing element available for public comment for at least 30 days and, if any comments are

received, requires the local government to take at least 10 business days after the 30 day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to HCD.

- 3) Requires HCD to review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision, or within 60 days of receipt of a subsequent draft amendment, or an adopted revision or adopted amendment to a housing element. Prohibits HCD from reviewing the first draft submitted for each housing element revision until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments.
- 4) Requires HCD, in its written findings, to determine whether the draft element or draft amendment substantially complies with Housing Element Law.

Housing Accountability Act (HAA) and Builder's remedy

- 1) Provides, pursuant to the HAA, that a local government may only disapprove a housing development project under specified circumstances. Specifically, among other provisions, the HAA:
 - a) Prohibits a local agency, from disapproving a housing development project containing units affordable to very low-, low- or moderate-income households or conditioning the approval in a manner that renders the housing development project infeasible, unless it makes one of the following findings, based upon substantial evidence in the record:
 - i) The jurisdiction has adopted a housing element in substantial compliance with the law, and the jurisdiction has met its share of the regional housing need for that income category;
 - ii) The project will have a specific, adverse impact on public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate-income households;
 - iii) The denial or imposition of conditions is required to comply with state or federal law;
 - iv) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities;
 - v) The jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter is inconsistent with both the jurisdiction's

- zoning ordinance and general plan land use designation as specified in any element of the general plan, as specified; or,
- vi) The jurisdiction does not have an adopted revised housing element that was in substantial compliance with the law and the housing development project is not a “builder’s remedy project.”
- b) Defines a “builder’s remedy project” as a housing development project that meets all of the following criteria:
- i) The project will provide housing for very low-, low- or moderate-income households, as specified;
 - ii) The project application was submitted in a jurisdiction that did not have a housing element in substantial compliance with the law;
 - iii) The project meets specified density thresholds; and,
 - iv) The project does not abut a site where more than one-third of the square footage on the site has been used within the past three years for heavy industrial uses, as specified.

This bill:

- 1) Amends Housing Element Law to specify that a local agency’s housing element shall be considered in substantial compliance with Housing Element Law the date it is adopted by the local agency if the housing element is subsequently found by HCD or a court of competent jurisdiction to be in substantial compliance with Housing Element Law.
- 2) Revises provisions of the HAA that authorize a local agency that has a compliant housing element to disapprove a housing development project that is inconsistent with the local zoning and general plan. Specifically, for these agencies the bill delays the date a housing development project application must be “deemed complete” from the date a preliminary application is submitted, to the date the local agency determines that an applicant has submitted a completed application. Additionally, this bill specifies that for the purposes of applications submitted prior to January 1, 2026, the delay in when an application is “deemed complete” applies to an application that has not met both of the following:
 - a) Received local agency approval; and,
 - b) Incurred substantial liability in good faith reliance upon the local agency approval.

Background

Housing Elements. Cities and counties are required to develop a housing element as part of the general plan every eight years (every five years for some rural areas). Cities must submit their housing element to HCD for approval by a specified date and currently most local governments should have adopted, or be in the process of finalizing, their sixth housing element. Each local agency receives a total number of housing units to plan for broken down by income category. The housing element must identify programs to increase the supply of housing, address inequities in the housing market, reduce barriers to producing housing and must identify an inventory of sites that are zoned for housing at the density necessary to result in housing sufficient to meet the locality's regional housing needs for the housing element cycle.

Local governments have a statutory deadline to submit a housing element based on their region. Ninety days before the deadline to adopt a housing element, cities must submit a draft to HCD. HCD is required to review the draft element within 90 days of receipt and provide written findings as to whether the draft amendment substantially complies with Housing Element Law. If HCD finds that the draft element does not substantially comply with the law, the local agency may either make changes to the draft element to substantially comply with the law or adopt the element. A local government that adopts its housing element without making the changes HCD identifies must include written findings that explain why it believes the element substantially complies. Despite the fact that the process allows a local agency to adopt a housing element without making the changes required by HCD to be in substantial compliance, a local agency is not considered compliant until receiving certification from HCD or the courts.

HAA. In 1982, in response to the housing crisis, which was viewed as threatening the economic, environmental, and social quality of life in California. The Legislature enacted the HAA, commonly referred to as the Anti-NIMBY Law. The purpose of the HAA is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to the Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA. The HAA restricts a city's ability to disapprove, or require density reductions in, certain types of residential projects. One provision of the HAA, known as the builder's remedy, specifically prevents local agencies that do not have a compliant housing element from denying projects that include specified levels of affordable housing, even if the project is inconsistent with local standards.

Comments

- 1) *Author's Statement.* "SB 457 prevents misuse of the builder's remedy while continuing to provide strong incentives for cities to develop and adopt compliant housing elements on a timely basis. We must ensure we are preventing bad-faith actors from submitting incomplete applications as placeholders to claim builder's remedy protections. This bill continues to support the builder's remedy as a tool for real housing solutions while preventing misapplication."
- 2) *Consequences of not complying with Housing Element Law.* Over the last several years, the Legislature has strengthened the consequences for local agencies who are out of compliance or who amend their zoning after their housing element is found compliant. Local agencies cannot qualify for state funding for affordable housing, or infrastructure for affordable housing, without a compliant housing element. AB 72 (Santiago, Chapter 72, Statutes of 2017) gave HCD explicit authority to find a local agency's housing element out of substantial compliance if it determines that the local agency acts or fails to act in compliance with its housing element, and allows HCD to refer violations of law to the Attorney General (AG). Both the AG and HCD have units with dedicated staff to enforce Housing Element Law and other land use laws passed by the legislature. The AG can also sue a city for non-compliance and the court can issue fines up to \$10,000 a day after the local agency fails to comply for an additional 12 months. After an additional six months of non-compliance, the court may increase the fines by six times. In addition, if a local government fails to adopt a substantially compliant housing element, it can be subject to the "builder's remedy" in the HAA.
- 3) *The builder's remedy.* One constraint within the HAA on local governments' authority to disapprove housing is the "builder's remedy." The builder's remedy generally prohibits a local agency that lacks a compliant housing element from denying a housing development project that includes specified levels of affordable housing, even if the development does not conform to the underlying zoning adopted by the agency.

The builder's remedy is intended to push local governments to adopt timely compliant housing elements to avoid the threat of a developer putting forward a project that is untethered to local standards. Short of that, the builder's remedy is intended as a mechanism to facilitate the development of much needed housing in California by allowing developers to secure approval for housing developments with limited input from local agencies that have not adopted a compliant housing element.

- 4) *Time machines.* This bill retroactively changes two trigger dates that will affect whether local agencies are required to approve certain builder's remedy housing developments projects. Specifically, this bill will move up the date that several jurisdictions' local housing elements were considered compliant by several months, and it will delay when housing development project applications are considered complete, effectively stripping certain developments of their vesting for the builder's remedy. Specifically, the bill does the following:
- a) *Moving up compliance.* This bill will state that a local housing element that is certified by HCD or a court of competent jurisdiction is considered to be in compliance the date it was adopted by the local agency, rather than the date it was certified as compliant.
 - b) *Delaying "completion."* This bill will provide that for the purposes of the builder's remedy, a housing development project application is only considered to be complete (thus locking in qualification for the builder's remedy) the date a complete application is submitted, rather than the date a preliminary application is submitted.

These two changes appear designed to allow jurisdictions to deny access to builder's remedy status for to project applicants that submitted preliminary applications when the jurisdiction's housing element was out of compliance.

- 5) *Rewarding noncompliance.* Local agencies that fail to adopt a housing element that is certified as compliant by the deadline for their region are out of compliance with Housing Element Law until they adopt a housing element that HCD certifies as compliant. This subjects these agencies to several penalties, including the application of the builder's remedy. In order to avoid this outcome, Housing Element Law requires local agencies to submit a publicly vetted draft element to HCD at least 90 days prior to adoption, and requires HCD to report its written findings within 90 days.

In the sixth housing element cycle, many local agencies failed to submit draft housing elements to HCD, or to adopt housing elements prior to the deadline to adopt a revised housing element. Many of these jurisdictions subsequently prepared and adopted housing elements, following consultation with HCD, long after the original deadline to comply. To illustrate the potential impacts this bill could have, several cities and projects examples that are noted below.

- a) *City of Pasadena (Southern California Association of Governments (SCAG)).* The housing element revision deadline for SCAG jurisdictions in the sixth cycle was **October 15, 2021**. The City of Pasadena submitted an initial draft to HCD prior to the deadline and adopted a housing element that

HCD did not certify as compliant with Housing Element Law. Following consultation with HCD, Pasadena submitted a revised housing element to HCD **January 11, 2023**. HCD certified Pasadena's housing element as compliant with state law **March 10, 2023**.

- i) **615 S. Catalina Avenue Project** is a 49-unit multifamily project where 20% (10 units) of the project would be affordable to lower-income households. The applicant submitted a preliminary application **February 15, 2023**, after the city adopted a housing element but prior to HCD certification. Under existing law this project is eligible for the builder's remedy. *This bill would retroactively change the date the city was compliant with Housing Element Law, stripping the project of its status as a builder's remedy project and allowing the city to deny this project.*¹
- b) **City of Palo Alto (Association of Bay Area Governments (ABAG))**. The housing element revision deadline for the ABAG jurisdictions in the sixth cycle was **January 31, 2023**. Palo Alto submitted an initial draft to HCD prior to the deadline and adopted a housing element that HCD did not certify as compliant with Housing Element Law. Following consultation with HCD, Palo Alto submitted a revised housing element to HCD **May 10, 2024**. After a final request for minor revisions, HCD certified Palo Alto's housing element **August 20, 2024**.
- i) **2300 Geng Road** is a housing development project that includes 159 residential units, of which 20% (32 units) would be affordable to lower income households. The applicant submitted a preliminary application **July 3, 2023**, after the city adopted a housing element, but prior to HCD certification. Under existing law this project is eligible for the builder's remedy. *This bill would retroactively change the date the city was compliant with Housing Element Law, stripping the project of its status as a builder's remedy project, allowing the city to deny this project.*²
- c) **City of Menlo Park (ABAG)**. The housing element revision deadline for the ABAG jurisdictions in the sixth cycle was **January 31, 2023**. Menlo Park submitted an initial draft to HCD prior to the deadline, and adopted a housing element that HCD did not certify as compliant with Housing Element Law. Following consultation with HCD, Menlo Park submitted a revised Housing Element **November 6, 2023**, which it subsequently re-

¹ California Department of Housing and Community Development, *Technical Assistance Letter to City of Pasadena* (Sacramento, CA: HCD, September 18, 2024).

² City of Palo Alto, "2300 Geng Road," accessed April 18, 2025, <https://www.paloalto.gov/Departments/Planning-Development-Services/Current-Planning/Projects/2300-Geng-Road>.

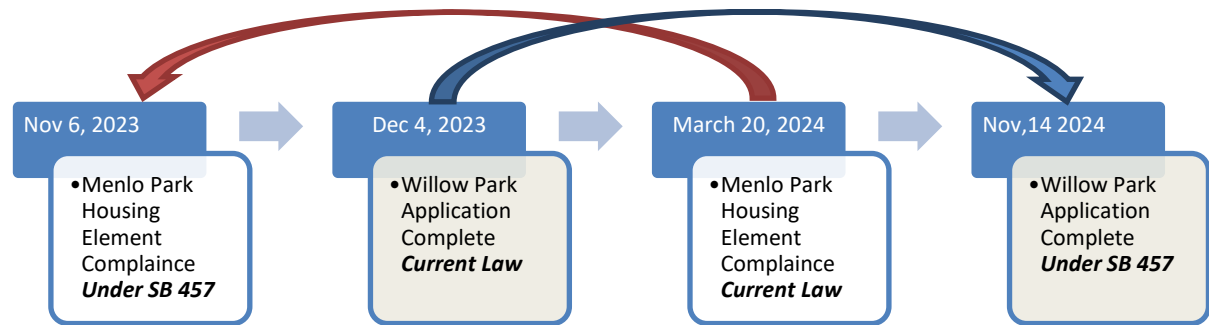
adopted on **January 23, 2024**. HCD certified Menlo Park's housing element as compliant with state law **March 20, 2024**.

- i) **80 Willow Road (Willow Park)** is a housing development project that includes 665 units, of which 20% (133 units) would be affordable to lower income households. The applicant submitted a preliminary application **December 7, 2023**, after the city submitted its housing element, but prior to HCD certification. According to the city, the applicant submitted a complete application **October 16, 2024**. Under existing law this project is eligible for the builder's remedy. *This bill would retroactively change the date the city was compliant with Housing Element Law. Additionally, as it pertains to this project, this bill would specify that the project application was not complete until after the housing element was certified as compliant. Both provisions would strip the project of its status as a builder's remedy project, allowing the city to deny this project.*³

Given the state's ongoing housing and affordability crisis, the committee may wish to consider whether local agencies that did not adopt a timely and compliant housing element should be authorized to retroactively deny projects that include substantial amounts of affordable housing.

- 6) **Willow Park.** The language in the bill appears designed to address one particularly disfavored affordable housing project on the border of Menlo Park and Palo Alto. Willow Park, as noted above, is a builder's remedy project that appears squarely targeted by the shifting timelines in the bill. As noted above, this bill changes the definition of "housing element compliance" to put Menlo Park in compliance with Housing Element Law prior to the date the project application was complete. Additionally, this bill also changes the definition of "complete application" to specify that the project application was not complete until after Menlo Park's housing element was certified as compliant (either under existing law, or as proposed in the bill). The chart below demonstrates how this bill would move the date the Willow Park project is "complete" to after the Menlo Park housing element was adopted and certified, effectively disqualifying the project from the builder's remedy.

³ City of Menlo Park, "80 Willow Road," accessed April 18, 2025, <https://menlopark.gov/Government/Departments/Community-Development/Projects/Under-review/80-Willow-Rd>.



- 7) *Now its history!* Builder’s remedy projects, such as Willow Park and the other projects noted above are still subject to the California Environmental Quality Act (CEQA). CEQA requires lead agencies approving a project to determine if the project may have a significant effect on the environment, and specifies that substantial adverse changes to historical resources constitute a significant effect on the environment. If a project has a significant impact on a historical resource, the lead agency must prepare an Environmental Impact Report (EIR) and impose feasible mitigation measures on project to avoid impacts.

The Willow Park project is located on the former campus of Sunset Magazine. Sunset Magazine occupied the campus beginning in 1951. The campus was sold in 2014 and staff for the magazine moved to an office in Oakland in 2015, the property is currently vacant. In September 2024, approximately 10 months after the preliminary application for Willow Park was submitted, and nearly 10 years after Sunset Magazine departed from the campus, the Menlo Park Historical Association nominated the property for the National Register of Historic Places (National Register) with the California State Historical Resources Commission (SHRC). The SHRC is scheduled to hear the nomination on May 9, 2025.⁴

Under CEQA, a project that is listed, or “eligible” to be listed on the National Register, must be considered a historic resource, thus triggering a full EIR under CEQA, and requiring the lead agency (Menlo Park) to require feasible mitigation. Mitigation could include requiring the project proponent to preserve the existing building, or to adopt design modifications to avoid impacts. Menlo Park recently initiated the CEQA review for the Willow Park project, it is unclear what mitigation measures the city will be able to require to mitigate impacts to a site that is newly identified as historic.

⁴ California Office of Historic Preservation, *National Register of Historic Places Registration Form: Sunset Headquarters (Draft)*, prepared by Chattel, Inc., September 2024, https://ohp.parks.ca.gov/pages/1067/files/CA_San%20Mateo%20County_Sunset%20Headquarters_DRAFT.pdf.

The Sunset Campus may be historic in nature; however, in the intervening years between the closure in 2015 and the nomination in 2024, it is unclear what has created urgency for a new historic designation. At this time, however, it appears the sole source of urgency is a housing development proposal that will create 133 units of low-income housing on the border of two cities that from 2015-2023 only issued permits for a total of 165 (Menlo Park) and 99 (Palo Alto) units of low-income housing.⁵

Given evidence of efforts to shift timelines to stymie projects that include affordable housing, the committee may wish to consider if the Housing Crisis Act (HCA) should be amended to clarify that project vesting associated with a preliminary application locks in the historic status of a project.

- 8) *It's déjà vu all over again!* In March of 2023, HCD issued a memo detailing the obligation of local agencies to submit draft housing elements and adopted housing elements to HCD.⁶ The memo additionally clarified that a local agency's housing element is considered to be in substantial compliance as of the date of HCD's letter finding the adopted element is in substantial compliance. This interpretation of Housing Element Law was reinforced with the enactment of AB 1886 (Alvarez, Chapter 267, Statutes of 2024) which specified that a housing element is considered to be in compliance with Housing Element Law when HCD, or a court of competent jurisdiction, determines that the adopted housing element substantially complies with Housing Element Law. This bill will undo provisions of AB 1886 (Alvarez) that took effect in this year. This bill will specify that a housing element that eventually certified is considered to be in compliance the date it was adopted, rather than it is certified.

The committee may wish to consider the impacts of retroactively reverting statute and precedent for determining housing element compliance.

- 9) *Adding unnecessary confusion.* Specifying that a local agency's housing element that is subsequently certified by HCD is in compliance the date the local agency adopts the housing element introduces significant uncertainty into Housing Element Law. In the case of Menlo Park the city submitted an adopted housing element **February 3, 2023**, a revised housing element **June 30, 2023**, and **November 6, 2023** (subsequently readopted January 23, 2024). Under this bill, each submission by the city would have created a temporary period of uncertainty until HCD opined on the housing element. If the city's housing

⁵ California Department of Housing and Community Development, *Housing Element Implementation and APR Dashboard*, accessed April 18, 2025, <https://www.hcd.ca.gov/planning-and-community-development/housing-element-implementation-and-apr-dashboard>.

⁶ California Department of Housing and Community Development, *Housing Element Compliance: Frequently Asked Questions* (Sacramento, CA: HCD, March 16, 2023).

element was certified, then housing development applications would have needed to abide by the standards in the certified housing element. If the housing element was not certified by HCD (which the first two adoptions were not), then housing developments could have been submitted under the builder's remedy. This uncertainty regarding what standards are applicable to a housing development project application will undoubtedly chill the ability of housing developers to put forward applications during the pendency of HCD review, even if HCD does not certify the element.

- 10) *Committee Amendments.* To address the issues noted above; **the committee may wish to consider amending the bill to limit its applicability to local agencies that submit their adopted housing element to HCD at least 90 days before the revision deadline.**

Related/Prior Legislation

AB 1886 (Alvarez, Chapter 267, Statutes of 2024) — clarified that a housing element is substantially compliant with Housing Element Law, when both a local agency adopts the housing element and HCD or a court finds it in compliance.

AB 1893 (Wick, Chapter 268, Statutes of 2024) — amended the HAA to revise the standards a housing development project must meet in order to qualify for the “builder’s remedy,” which authorizes projects to bypass local development standards in jurisdictions that fail to adopt a substantially compliant housing element. This bill also expanded the scope of actions that constitute disapproval of a housing development project by a local government.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 23, 2025)

SUPPORT:

City of Chino Hills
 City of Belmont,
 City of Buena Park
 City of Fullerton
 City of La Habra
 City of Palo Alto
 City of Placentia
 City of Tustin

Green Foothills
Town of Hillsborough

OPPOSITION:

Abundant Housing LA
California Building Industry Association (CBIA)
California YIMBY
Circulate San Diego
East Bay YIMBY
Greenbelt Alliance
Grow the Richmond
Housing Action Coalition
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
Santa Cruz YIMBY
Santa Rosa YIMBY
SF YIMBY
South Bay YIMBY
South Pasadena Residents for Responsible Growth
SPUR
The Two Hundred
Ventura County YIMBY
YIMBY Action
YIMBY LA
YIMBY SLO

-- END --



Senator Josh Becker, 13th Senate District

SB 457

SUMMARY

SB 457 prevents the misuse of the Builder's Remedy while continuing to provide strong incentives for cities to develop and adopt compliant housing elements on a timely basis.

PROBLEM

Currently, a housing element is not considered compliant until the date on which it is deemed compliant by the California Department of Housing and Community Development (HCD) or a court, even if the agency adopted the housing element, without any change in substance well before that date. This puts the agency at the mercy of HCD's workload and timeline for reviewing housing elements.

In addition, existing law allows a developer to secure rights to the Builder's Remedy simply by filing a preliminary application with minimal detail. Developers may substantially change the project described in a preliminary application, so long as the density and floor area do not change by more than 20 percent. While this flexibility is not normally problematic, in combination with the Builder's Remedy, which allows a developer to bypass all zoning and general plan regulations, it means the project described in a preliminary application has very little meaning.

Taken together, these conditions allow some developers to file hasty, preliminary applications as placeholders to claim Builder's Remedy protections, even after an agency has adopted all of the analyses, policies, and programs that are later determined to satisfy state law. This strays beyond the purpose of the Builder's Remedy to provide developers with relief when an agency's land use policies do not comply with state requirements. Instead, it permits developers to proceed with projects that may not comply with local policies and programs that have met the state's high standards for both fair housing and overall housing production.

CURRENT LAW

Provides that for purposes of a local agency's approval, conditional approval, or disapproval of a housing development project, a housing element or amendment shall be considered in substantial compliance with housing element law only if the element or amendment was in substantial compliance as determined by HCD or a court of competent jurisdiction.

The Builder's Remedy prohibits a local government from denying a housing development project that includes a percentage of units set aside for affordable housing for a period of 55 years for rental units, and 45 years for ownership.

THIS BILL

SB 457 would ensure that agencies are treated equitably and that their exposure to the Builder's Remedy is not dependent on HCD's review timelines. It will ensure that agencies are not penalized after they have committed to a compliant housing element and that they are able to enforce the policies contained in their compliant housing element.

This bill would also clarify that the Builder's Remedy is available only to developers that demonstrate a serious commitment to a Builder's Remedy project by requiring a complete application to be filed before the agency adopts a housing element later determined to be compliant by HCD or a court.

SUPPORT

None on file.

OPPOSE

None on file.

FOR MORE INFORMATION

Sabrina Bertadillo, Legislative Aide
Sabrina.Bertadillo@sen.ca.gov
(916) 651- 4013

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 753

Introduced by Senator Cortese

February 21, 2025

~~An act to amend Section 22435 of the Business and Professions Code, relating to business.~~ *An act to amend Section 22435.7 of the Business and Professions Code, relating to business.*

LEGISLATIVE COUNSEL'S DIGEST

SB 753, as amended, Cortese. ~~Shopping and laundry carts. Special business regulations: shopping carts.~~

Existing law authorizes a city, county, or city and county to impound a shopping cart that has a specified permanently affixed sign if certain conditions are satisfied, including that the city, county, or city and county provides 3-day advance actual notice of the shopping cart's discovery and location to the owner of the shopping cart or their agent, except as specified.

This bill would authorize a city, county, or city and county, to retrieve and return a shopping cart to the parking area or premises of the owner or retailer identified on the affixed sign, as specified, and to recover its actual costs for the retrieval and return. The bill would also require actual notice for purposes of these provisions to include proof that the notice was delivered to the owner or their agent, as specified, and require the city, county, or city and county to maintain a record of that proof of delivery.

Existing law authorizes the city, county, or city and county to fine the owner of a shopping cart in an amount not to exceed \$50 for each occurrence in excess of 3 during a specified 6-month period for failure to retrieve shopping carts in accordance with specified law.

The bill would authorize a city, county, or city and county to fine the owner of a shopping cart in an amount established by the city, county, or city and county instead of \$50 for each occurrence pursuant to the provisions described above.

~~Existing law, if a shopping cart or laundry cart has a sign permanently affixed to it that identifies the owner of the cart or the retailer, makes it unlawful to do specified acts, including removing the shopping cart or laundry cart from the premises or parking area of a retail establishment.~~

~~This bill would make nonsubstantive changes to the definition of shopping cart and laundry cart for purposes of those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22435.7 of the Business and Professions
2 Code is amended to read:

3 22435.7. (a) The Legislature hereby finds that the retrieval by
4 local government agencies of shopping carts specified in this
5 section is in need of uniform statewide regulation and constitutes
6 a matter of statewide concern that shall be governed solely by this
7 section.

8 (b) (1) A city, county, or city and county may do either of the
9 following with a shopping cart that has a sign affixed to it in
10 accordance with Section 22435.1 ~~may be impounded by a city,~~
11 ~~county, that is located outside the premises or city and county,~~
12 ~~provided both parking area of the following conditions have been~~
13 ~~satisfied: a retail establishment:~~

14 (1) ~~The~~

15 (A) ~~Retrieve and return the shopping cart is located outside to~~
16 ~~the premises or parking area of a retail establishment. The parking~~
17 ~~area of a retail establishment located in a multistore complex or~~
18 ~~shopping center shall include or premises of the entire parking~~
19 ~~area used by owner or retailer identified on the complex or center.~~
20 ~~sign.~~

21 (2)

22 (B) Except as provided in subdivision (i), if the shopping cart
23 is not retrieved within three business days from the date the owner
24 of the shopping cart, or ~~his or her~~ *their* agent, receives actual notice

1 from the city, county, or city and county of the shopping cart's
 2 discovery and ~~location~~. *location, impound the shopping cart.*

3 (2) *For purposes of this subdivision, the parking area of a retail*
 4 *establishment located in a multistore complex or shopping center*
 5 *shall include the entire parking area used by the complex or center.*

6 (c) In instances where the location of a shopping cart will
 7 impede emergency services, a city, county, or city and county is
 8 authorized to immediately retrieve *or impound* the shopping cart
 9 from public or private property.

10 (d) Any city, county, or city and county that impounds a
 11 shopping cart under the authority provided in subdivisions (b) and
 12 (c) is authorized to recover its actual costs for providing this
 13 service.

14 (e) Any shopping cart that is impounded by a city, county, or
 15 city and county pursuant to subdivisions (b) and (c) shall be held
 16 at a location that is both:

17 (1) Reasonably convenient to the owner of the shopping cart.

18 (2) Open for business at least six hours of each business day.

19 (f) (1) *A city, county, or city and county that retrieves and*
 20 *returns a shopping cart pursuant to this section may recover its*
 21 *actual costs for the retrieval and return from the owner of the*
 22 *shopping cart.*

23 ~~(f)~~

24 (2) (A) A city, county, or city and county may fine the owner
 25 of a shopping cart in an amount ~~not to exceed fifty dollars (\$50)~~
 26 *established by the city, county, or city and county* for each
 27 occurrence in excess of three during a specified six-month period
 28 for failure to retrieve shopping carts in accordance with this section.
 29 ~~An occurrence includes all shopping carts impounded in accordance~~
 30 ~~with this section in a one-day period.~~

31 (B) *For purposes of this paragraph, "occurrence" means a*
 32 *failure to retrieve a shopping cart within three business days from*
 33 *the date the owner of the shopping cart, or their agent, receives*
 34 *actual notice from the city, county, or city and county of the*
 35 *shopping cart's discovery and location.*

36 (g) Any shopping cart not reclaimed from the city, county, or
 37 city and county within 30 days of receipt of a notice of violation
 38 by the owner of the shopping cart may be sold or otherwise
 39 disposed of by the entity in possession of the shopping cart.

(h) This section shall not invalidate any contract entered into prior to June 30, 1996, between a city, county, or city and county and a person or business entity for the purpose of retrieving or impounding shopping carts.

(i) Notwithstanding *subparagraph (B) of paragraph (2) (1) of subdivision (b)*, a city, county, or city and county may impound a shopping cart that otherwise meets the criteria set forth in ~~paragraph (1) of subdivision (b)~~ *that subparagraph* without complying with the three-day advance notice requirement provided that:

(1) The owner of the shopping cart, or ~~his or her~~ *their* agent, is provided actual notice within 24 hours following the impound and that notice informs the owner, or ~~his or her~~ *their* agent, as to the location where the shopping cart may be claimed.

(2) Any shopping cart so impounded shall be held at a location in compliance with subdivision (e).

(3) Any shopping cart reclaimed by the owner or ~~his or her~~ *their* agent, within three business days following the date of actual notice as provided pursuant to paragraph (1), shall be released and surrendered to the owner or agent at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable pursuant to subdivision (d) or (f). Any cart reclaimed within the three-business-day period shall not be deemed an occurrence for purposes of subdivision (f).

(4) Any shopping cart not reclaimed by the owner or ~~his or her~~ *their* agent, within three business days following the date of actual notice as provided pursuant to paragraph (1), shall be subject to any applicable fee or fine imposed pursuant to subdivision (d) or (f) commencing on the fourth business day following the date of the notice.

(5) Any shopping cart not reclaimed by the owner or ~~his or her~~ *their* agent, within 30 days of receipt following the date of actual notice as provided pursuant to paragraph (1), may be sold or disposed of in accordance with subdivision (g).

(j) For purposes of this section, actual notice shall require proof that the notice was delivered to the owner, or their agent, which may include, but is not limited to, mail, phone, or electronic transmission with delivery confirmation. The city, county, or city and county shall maintain a record of that proof of delivery.

~~SECTION 1. Section 22435 of the Business and Professions Code is amended to read:~~

22435. As used in this article:

(a) “Shopping cart” means a basket that is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(b) “Laundry cart” means a basket that is mounted on wheels and used in a coin-operated laundry or drycleaning retail establishment by a customer or an attendant for the purpose of transporting fabrics and the supplies necessary to process them.

(c) “Parking area” means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

O

SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair
2025 - 2026 Regular

Bill No: SB 753
Author: Cortese
Version: 3/24/25

Hearing Date: 5/7/25
Fiscal: No
Consultant: Peterson

SPECIAL BUSINESS REGULATIONS: SHOPPING CARTS

Expands the authority for cities and counties to recover costs for retrieving shopping carts and returning them to their owners.

Background

Shopping carts taken from business establishments and grocery stores cost California retailers millions of dollars per year. Depending on the type of shopping cart, costs range from \$50 to \$300, and stealing one is a crime. They end up abandoned far away from the location of the retailer who owns the cart, and end up in waterways and other spaces that can cause public safety issues. Current law considers a shopping cart abandoned if it is found outside of the premises or parking area of the shopping center.

Prior to 1996, many local governments charged retailers and grocers for cart retrieval, even though retailers and grocers often contract with private cart retrieval companies to perform this service. Retailers and grocers complained that local governments were charging excessive rates and uneven retrieval fees in different jurisdictions. This prompted the Legislature to declare the retrieval of abandoned shopping carts by local agencies an issue of statewide importance and subject to new state laws (AB 317, Granlund, 1996).

The 1996 law prevents local officials from retrieving wayward shopping carts until they notify the cart's owner. If the owner does not retrieve the cart within three days, then local officials may retrieve and impound it. When a cart owner collects an impounded cart, the local agency may charge them for the actual retrieval and impounding costs. If no one has collected an impounded cart after 30 days, the local agency may sell or dispose of it. After a local agency impounds more than three carts from a single owner in a six-month period, it may also charge a \$50 fine for each cart it impounds. Local governments can immediately retrieve a shopping cart from public or private property if the shopping cart will impede emergency services.

AB 1427 (Pringle, 1998) updated this law to allow cities and counties to immediately impound misplaced shopping or laundry carts. Local officials must notify the owner within 24 hours of the location where the cart owner can collect the previously wayward cart. AB 1427 requires cities and counties to give the owner of the cart three business days to collect the cart at no cost. After three days, local officials can charge the owner of the cart a fine or fee, if applicable, for the actual cost of the retrieval and impounding. AB 1427 also protects local regulation of shopping cart removal from the shopping premises or parking area of a shopping center as long as those local ordinances do not conflict with state law.

The City of San Jose wants to make it easier for them to retrieve shopping carts and recover their costs for doing so.

Proposed Law

Senate Bill 753 changes the statewide regulations for shopping cart retrieval.

Under SB 753, for shopping carts that are located outside the premises or parking area of a retail establishment, cities and counties can either:

- Retrieve and return the shopping cart to the parking area of premises of the owner or retailer identified on the sign; or
- Impound the shopping cart if the retailer does not retrieve the cart within three business days from the date the owner or retailer receives notice from the city or county.

In addition to their existing authority to immediately retrieve a shopping cart from public or private property if the shopping cart will impede emergency services, SB 753 allows cities and counties to immediately impound the shopping cart.

SB 753 removes the \$50 limit that a city or county can charge an owner of a shopping cart for each occurrence in excess of three during a six-month period for failing to retrieve shopping carts. Instead, SB 753 allows a city or county that retrieves and returns a shopping cart to recover its actual costs for the retrieval and return from the owner of the shopping cart for each occurrence. The measure defines an “occurrence” to mean a failure of retrieving a cart within three business days from when the owner received notice from the city or county.

Notice from a city or county must retain proof that it delivered the notice to the owner of the cart, which can include mail, phone, or electronic transmission with delivery confirmation. The city or county must maintain a record of that proof of delivery.

The measure defines its terms.

Comments

1. Purpose of the bill. According to the author, “SB 753 addresses a growing public safety and environmental concern across California: the widespread abandonment of shopping carts in our communities. Current state law is outdated and inefficient, requiring cities to store abandoned carts at impound lots and wait for retailers to retrieve them—a burdensome and costly process, especially for larger cities.

“The bill modernizes California law by allowing cities to immediately collect abandoned shopping carts, return them directly to retailers without a three-day waiting period, and recover the actual costs associated with managing cart recovery programs. SB 753 ensures a more efficient process that reduces street and sidewalk obstructions, protects waterways from pollution and flooding hazards, and strengthens collaboration and support for both local governments and retailers.

“SB 753 is sponsored by San Jose Mayor Matt Mahan and the City of San Jose.”

2. Same old song and dance. Shopping cart theft has been a problem in California for decades. To bring some consistency to the fees local agencies charged retailers for cart recovery, efforts in the 1990s created some statewide regulation, which benefitted retailers facing inconsistent regulations. It also gave retailers a three-day grace period to retrieve their carts from the local agency. However, these statewide regulations only allowed local agencies to impound carts and take them to an impound lot if the local agency wanted to charge the retailer for their efforts. If a local agency returns the cart to the retailer instead, they cannot recover their costs. SB 753 tilts the balance back in the favor of local governments by removing the \$50 limit on cost recovery, and creating a new process for recovering costs when the local agency returns the cart directly to its owner. In some ways, this takes the matter back to before the 1990s when costs could vary across jurisdictions, leading to higher costs for retailers. In other ways this helps local agencies manage abandoned shopping carts in a less costly way than taking them to an impound lot, which could make the problem easier to manage. However, many local agencies already have processes in place to collect shopping carts. Some have contracts with private entities to collect carts. SB 753 may allow them to charge more for something they are already doing by removing the \$50 cap and allowing local agencies to recover their actual costs. To balance the flexibility for local agencies with cost pressures on retailers, the Committee may wish to consider amending the bill to implement the bill's provisions only if the local agency has not adopted a local program for shopping cart retrieval, and impose reasonable limits on fines and cost recovery.

Support and Opposition (5/2/2025)

Support: City of San Jose (Sponsor)
Mayor Matt Mahan, City of San Jose
Mayor Todd Gloria, City of San Diego
California Contract Cities Association
California State Association of Counties
City of Concord
City of Norwalk
League of California Cities
Santa Clara Valley Water District

Opposition: California Grocers Association

-- END --



SENATOR DAVE CORTESE

SB 753: Recovery of Abandoned Shopping Carts

SUMMARY

Abandoned shopping carts has become a growing concern in California cities. These carts create hazards by blocking streets and sidewalks, contribute to environmental pollution, and pose risks to waterways and flood control systems. Current state law and logistical challenges exacerbate the problem. SB 753 modernizes state law to allow cities to proactively return abandoned shopping carts, appropriately recover costs, and work collaboratively with retailers.

BACKGROUND

Shopping carts are often taken off store premises and left in public spaces, leading to significant issues for municipalities and retailers. When a city comes across a shopping cart, current State law requires cities to take it to an impound lot. The purpose of the impound lot is to store the cart and wait for the retailer to pick it up. This process is challenging for a large city, which would need to store potentially hundreds of carts for a month at a time. The lack of space and the cost of staff to manage these carts make this process inefficient.

Current state law does not allow cities to return carts directly to retailers, which would be more efficient. Current law, dating back to the 1990s, only allows local governments to fine retailers for failing to pick up carts within three days and caps these fines at \$50. Current law also establishes that only one fine can be issued for all carts impounded in one day.

Abandoned shopping carts cause several problems, including:

- **Blocking Streets and Sidewalks:** Carts obstruct pedestrian and vehicular traffic, creating safety hazards and ADA concerns.

- **Environmental Pollution:** Carts left in parks, waterways, and other public areas contribute to litter and environmental degradation.
- **Endangering Waterways and Flood Control:** Carts in waterways can disrupt the flow, exacerbating flooding and ecological harm, particularly during extreme weather events.

Current state law has proven ineffective at preventing shopping cart abandonment and incentivizing proper recovery. Existing law requires cities to store carts in an impound lot and wait for retailers to pick them up, which is inefficient for large cities. The law also requires cities to give retailers three days' notice before picking up a cart or recovering costs, further straining public resources.

THIS BILL

SB 753 allows local governments to return carts directly to retailers, pick up carts immediately and return them to retailers without a three-day notice requirement, and recover the actual costs of managing the program. The measure appropriately balances efficient cart recovery and incentives for retailers to work collaboratively with local governments.

SUPPORT

- San Jose Mayor Matt Mahan (Sponsor)
- City of San Jose (Sponsor)
- League of California Cities
- California State Association of Counties
- California Contract Cities Association
- San Diego Mayor Todd Gloria

FOR MORE INFORMATION

Tara Sreekrishnan
Office of Senator Dave Cortese
(916) 651-4015
Tara.Sreekrishnan@sen.ca.gov



Please submit your final letter of support for SB 753 via the California Legislature Position Letter Portal:

<https://calegislation.lc.ca.gov/Advocates/>

If you have not registered for an account to submit letters of support, please do so [HERE](#).

Please also email a copy to Tara.Sreekrishnan@sen.ca.gov

[ORGANIZATION LETTERHEAD]

DATE

Honorable Dave Cortese
California State Senator
State Capitol Rm 7520
Sacramento, CA 95814

RE: Support for SB 753 – Abandoned Shopping Cart Recovery - SUPPORT

Dear Senator Cortese:

On behalf of **NAME**, I would like to convey our support for **SB 753** to which seeks to address the proliferation of abandoned shopping carts plaguing cities across the state.

[Information about your organization and its interest in the bill/the issue area]

These carts have created hazards by blocking streets and sidewalks and disrupting our open spaces and waterways. This bill will modernize the laws requiring the collection of abandoned shopping carts and provide cities and retailers with better tools to address this widespread issue.

When shopping carts are removed from retailer premises and left haphazardly in public spaces, they cause a significant issue for cities to locate, remove, and store them. Under current law, cities must store abandoned shopping carts in an impound lot, where they sit until a retailer retrieves them. This outdated process has inherent challenges, especially for large cities, which would need to store hundreds of abandoned shopping carts at any given time to comply with this provision. The storage space and staff cost required to operate an impound lot would be burdensome and an ineffective solution to this issue.

This legislation helps address these challenges by providing cities with more tools and an updated cost recovery mechanism. SB 753 would allow cities and other local municipalities to return carts directly to

retailers by picking them up and immediately returning them without the current requirement for three-day notice or storage in an impound facility. Additionally, this bill would allow for the recovery of the actual costs of managing the program. This strikes the appropriate balance of creating an efficient system to retrieve and return abandoned shopping carts while incentivizing retailers to work collaboratively with cities and other local municipalities to recover their stolen property.

Thank you for authoring this important legislation; we look forward to partnering with you on the passage of SB 753.

Thank you for your leadership in this important measure.

Sincerely,

NAME, SIGNATURE

ORGANIZATION THAT YOU REPRESENT