

AMENDED IN SENATE JULY 13, 2017

AMENDED IN SENATE JULY 11, 2017

AMENDED IN ASSEMBLY APRIL 20, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 879

Introduced by Assembly Member Grayson

February 16, 2017

An act to amend Sections 65400, 65583, and 65700 of the Government Code, *and to amend Section 50456 of the Health and Safety Code*, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 879, as amended, Grayson. Planning and zoning: housing element.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires, after the legislative body of the city or county has adopted all or part of a general plan, the planning agency to investigate and make recommendations to the legislative body of the city or county regarding reasonable and practical means to implement the general plan or element and to provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes specified information pertaining to the implementation of the general plan. *Existing law requires the housing element portion of the annual report to be prepared through the use of forms and definitions adopted by the department pursuant to the Administrative Procedure Act.* Existing law excludes a charter city from these requirements.

This bill would require that this report additionally include the number of housing development applications received in the prior year, units included in all development applications in the prior year, units approved and disapproved in the prior year, and a listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on specified sites. ~~This~~ *The bill would additionally require the housing element portion of the annual report to be prepared through the use of standards adopted by the department. The bill would eliminate the requirement that the forms and definitions be adopted by the department pursuant to the Administrative Procedure Act and would instead authorize the department to review, adopt, amend, and repeal the standards, forms, or definitions, as provided. The bill would apply the above report requirement to a charter city.*

The Planning and Zoning Law requires the housing element to include an analysis of potential and actual *governmental and nongovernmental* constraints upon the maintenance, improvement, or development of housing for all income levels, ~~including~~ *levels. That law requires the analysis of governmental constraints as so described to include certain types of housing and for persons with disabilities, as provided, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. That law requires the analysis of nongovernmental constraints as so described to include the availability of financing, the price of land, and the cost of construction.*

This bill would require ~~this analysis~~ *the analysis of governmental constraints to also include any locally adopted ordinances that directly impact the cost and supply of residential development. The bill would require the analysis of nongovernmental constraints to also include the requests to develop housing at densities below those anticipated in a specified analysis, 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. The bill would require this the analysis of nongovernmental constraints to demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.*

That Planning and Zoning Law also requires the housing element to include a program which sets forth a schedule of actions during the

planning period, as specified, and requires the program, in order to make adequate provision for the housing needs of all economic segments of the community to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

This bill would require the program to also address and remove nongovernmental constraints to the maintenance, improvement, and development of housing.

Existing law requires the Department of Housing and Community Development to collect, publish, and make available to the public information about laws regarding housing and community development and authorizes the department to provide a statistics and research service for the collection and dissemination of information affecting housing and community development.

This bill would additionally require the department, by June 30, 2019, to complete a study to evaluate the reasonableness of local fees charged to new developments, as defined. The bill would require the study to include findings and recommendations regarding potential amendments to the Mitigation Fee Act to substantially reduce fees for residential development.

This bill would incorporate additional changes to Section 65400 of the Government Code proposed by SB 35 to be operative only if this bill and SB 35 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 65583 of the Government Code proposed by AB 1397 to be operative only if this bill and AB 1397 are enacted and this bill is enacted last.

By adding to the duties of local planning 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 65400 of the Government Code is
- 2 amended to read:

1 65400. (a) After the legislative body has adopted all or part
2 of a general plan, the planning agency shall do both of the
3 following:

4 (1) Investigate and make recommendations to the legislative
5 body regarding reasonable and practical means for implementing
6 the general plan or element of the general plan, so that it will serve
7 as an effective guide for orderly growth and development,
8 preservation and conservation of open-space land and natural
9 resources, and the efficient expenditure of public funds relating to
10 the subjects addressed in the general plan.

11 (2) Provide by April 1 of each year an annual report to the
12 legislative body, the Office of Planning and Research, and the
13 Department of Housing and Community Development that includes
14 all of the following:

15 (A) The status of the plan and progress in its implementation.

16 (B) The progress in meeting its share of regional housing needs
17 determined pursuant to Section 65584 and local efforts to remove
18 governmental constraints to the maintenance, improvement, and
19 development of housing pursuant to paragraph (3) of subdivision
20 (c) of Section 65583.

21 The housing element portion of the annual report, as required
22 by this paragraph, shall be prepared through the use of ~~forms~~
23 *standards, forms, and definitions* adopted by the Department of
24 Housing and Community Development pursuant to the ~~rulemaking~~
25 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~
26 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
27 ~~2). Prior to Development. The department may review, adopt,~~
28 *amend, and repeal the standards, forms, or definitions, to*
29 *implement this article. Any standards, forms, or definitions adopted*
30 *to implement this article shall not be subject to Chapter 3.5*
31 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
32 *2. Before and after adoption of the forms, the housing element*
33 *portion of the annual report shall include a section that describes*
34 *the actions taken by the local government towards completion of*
35 *the programs and status of the local government's compliance with*
36 *the deadlines in its housing element. That report shall be considered*
37 *at an annual public meeting before the legislative body where*
38 *members of the public shall be allowed to provide oral testimony*
39 *and written comments.*

1 The report may include the number of units that have been
2 substantially rehabilitated, converted from nonaffordable to
3 affordable by acquisition, and preserved consistent with the
4 standards set forth in paragraph (2) of subdivision (c) of Section
5 65583.1. The report shall document how the units meet the
6 standards set forth in that subdivision.

7 (C) The number of housing development applications received
8 in the prior year.

9 (D) The number of units included in all development
10 applications in the prior year.

11 (E) The number of units approved and disapproved in the prior
12 year.

13 (F) The degree to which its approved general plan complies
14 with the guidelines developed and adopted pursuant to Section
15 65040.2 and the date of the last revision to the general plan.

16 (G) A listing of sites rezoned to accommodate that portion of
17 the city's or county's share of the regional housing need for each
18 income level that could not be accommodated on sites identified
19 in the inventory required by paragraph (1) of subdivision (c) of
20 Section 65583 and Section 65584.09. The listing of sites shall also
21 include any additional sites that may have been required to be
22 identified by Section 65863.

23 (b) If a court finds, upon a motion to that effect, that a city,
24 county, or city and county failed to submit, within 60 days of the
25 deadline established in this section, the housing element portion
26 of the report required pursuant to subparagraph (B) of paragraph
27 (2) of subdivision (a) that substantially complies with the
28 requirements of this section, the court shall issue an order or
29 judgment compelling compliance with this section within 60 days.
30 If the city, county, or city and county fails to comply with the
31 court's order within 60 days, the plaintiff or petitioner may move
32 for sanctions, and the court may, upon that motion, grant
33 appropriate sanctions. The court shall retain jurisdiction to ensure
34 that its order or judgment is carried out. If the court determines
35 that its order or judgment is not carried out within 60 days, the
36 court may issue further orders as provided by law to ensure that
37 the purposes and policies of this section are fulfilled. This
38 subdivision applies to proceedings initiated on or after the first
39 day of October following the adoption of forms and definitions by
40 the Department of Housing and Community Development pursuant

1 to paragraph (2) of subdivision (a), but no sooner than six months
 2 following that adoption.

3 *SEC. 1.5. Section 65400 of the Government Code is amended*
 4 *to read:*

5 65400. (a) After the legislative body has adopted all or part
 6 of a general plan, the planning agency shall do both of the
 7 following:

8 (1) Investigate and make recommendations to the legislative
 9 body regarding reasonable and practical means for implementing
 10 the general plan or element of the general plan, so that it will serve
 11 as an effective guide for orderly growth and development,
 12 preservation and conservation of open-space land and natural
 13 resources, and the efficient expenditure of public funds relating to
 14 the subjects addressed in the general plan.

15 (2) Provide by April 1 of each year an annual report to the
 16 legislative body, the Office of Planning and Research, and the
 17 Department of Housing and Community Development that includes
 18 all of the following:

19 (A) The status of the plan and progress in its implementation.

20 (B) The progress in meeting its share of regional housing needs
 21 determined pursuant to Section 65584 and local efforts to remove
 22 governmental constraints to the maintenance, improvement, and
 23 development of housing pursuant to paragraph (3) of subdivision
 24 (c) of Section 65583.

25 The housing element portion of the annual report, as required
 26 by this paragraph, shall be prepared through the use of ~~forms~~
 27 *standards, forms, and definitions* adopted by the Department of
 28 Housing and Community Development ~~pursuant to the rulemaking~~
 29 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~
 30 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
 31 ~~2). Prior to Development. The department may review, adopt,~~
 32 *amend, and repeal the standards, forms, or definitions, to*
 33 *implement this article. Any standards, forms, or definitions adopted*
 34 *to implement this article shall not be subject to Chapter 3.5*
 35 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 36 *2. Before and after adoption of the forms, the housing element*
 37 *portion of the annual report shall include a section that describes*
 38 *the actions taken by the local government towards completion of*
 39 *the programs and status of the local government's compliance with*
 40 *the deadlines in its housing element. That report shall be considered*

1 at an annual public meeting before the legislative body where
2 members of the public shall be allowed to provide oral testimony
3 and written comments.

4 The report may include the number of units that have been
5 substantially rehabilitated, converted from nonaffordable to
6 affordable by acquisition, and preserved consistent with the
7 standards set forth in paragraph (2) of subdivision (c) of Section
8 65583.1. The report shall document how the units meet the
9 standards set forth in that subdivision.

10 *(C) The number of housing development applications received*
11 *in the prior year.*

12 *(D) The number of units included in all development*
13 *applications in the prior year.*

14 *(E) The number of units approved and disapproved in the prior*
15 *year.*

16 ~~(E)~~

17 *(F) The degree to which its approved general plan complies*
18 *with the guidelines developed and adopted pursuant to Section*
19 *65040.2 and the date of the last revision to the general plan.*

20 *(G) A listing of sites rezoned to accommodate that portion of*
21 *the city's or county's share of the regional housing need for each*
22 *income level that could not be accommodated on sites identified*
23 *in the inventory required by paragraph (1) of subdivision (c) of*
24 *Section 65583 and Section 65584.09. The listing of sites shall also*
25 *include any additional sites that may have been required to be*
26 *identified by Section 65863.*

27 *(H) The number of net new units of housing, including both*
28 *rental housing and for-sale housing, that have been issued a*
29 *completed entitlement, a building permit, or a certificate of*
30 *occupancy, thus far in the housing element cycle, and the income*
31 *category, by area median income category, that each unit of*
32 *housing satisfies. That production report shall, for each income*
33 *category described in this subparagraph, distinguish between the*
34 *number of rental housing units and the number of for-sale units*
35 *that satisfy each income category. The production report shall*
36 *include, for each entitlement, building permit, or certificate of*
37 *occupancy, a unique site identifier which must include the*
38 *assessor's parcel number, but may include street address, or other*
39 *identifiers.*

1 (I) *The number of applications submitted pursuant to subdivision*
 2 *(a) of section 65913.4, the location and the total number of*
 3 *developments approved pursuant to subdivision (b) of section*
 4 *65913.4, the total number of building permits issued pursuant to*
 5 *subdivision (b) of section 65913.4, the total number of units*
 6 *including both rental housing and for-sale housing by area median*
 7 *income category constructed using the process provided for in*
 8 *subdivision (b) of section 65913.4.*

9 (J) *The Department of Housing and Community Development*
 10 *shall post a report submitted pursuant to this paragraph on its*
 11 *Internet Web site within a reasonable time of receiving the report.*

12 (b) If a court finds, upon a motion to that effect, that a city,
 13 county, or city and county failed to submit, within 60 days of the
 14 deadline established in this section, the housing element portion
 15 of the report required pursuant to subparagraph (B) of paragraph
 16 (2) of subdivision (a) that substantially complies with the
 17 requirements of this section, the court shall issue an order or
 18 judgment compelling compliance with this section within 60 days.
 19 If the city, county, or city and county fails to comply with the
 20 court’s order within 60 days, the plaintiff or petitioner may move
 21 for sanctions, and the court may, upon that motion, grant
 22 appropriate sanctions. The court shall retain jurisdiction to ensure
 23 that its order or judgment is carried out. If the court determines
 24 that its order or judgment is not carried out within 60 days, the
 25 court may issue further orders as provided by law to ensure that
 26 the purposes and policies of this section are fulfilled. This
 27 subdivision applies to proceedings initiated on or after the first
 28 day of October following the adoption of forms and definitions by
 29 the Department of Housing and Community Development pursuant
 30 to paragraph (2) of subdivision (a), but no sooner than six months
 31 following that adoption.

32 SEC. 2. Section 65583 of the Government Code is amended
 33 to read:

34 65583. The housing element shall consist of an identification
 35 and analysis of existing and projected housing needs and a
 36 statement of goals, policies, quantified objectives, financial
 37 resources, and scheduled programs for the preservation,
 38 improvement, and development of housing. The housing element
 39 shall identify adequate sites for housing, including rental housing,
 40 factory-built housing, mobilehomes, and emergency shelters, and

1 shall make adequate provision for the existing and projected needs
2 of all economic segments of the community. The element shall
3 contain all of the following:

4 (a) An assessment of housing needs and an inventory of
5 resources and constraints relevant to the meeting of these needs.
6 The assessment and inventory shall include all of the following:

7 (1) An analysis of population and employment trends and
8 documentation of projections and a quantification of the locality's
9 existing and projected housing needs for all income levels,
10 including extremely low income households, as defined in
11 subdivision (b) of Section 50105 and Section 50106 of the Health
12 and Safety Code. These existing and projected needs shall include
13 the locality's share of the regional housing need in accordance
14 with Section 65584. Local agencies shall calculate the subset of
15 very low income households allotted under Section 65584 that
16 qualify as extremely low income households. The local agency
17 may either use available census data to calculate the percentage
18 of very low income households that qualify as extremely low
19 income households or presume that 50 percent of the very low
20 income households qualify as extremely low income households.
21 The number of extremely low income households and very low
22 income households shall equal the jurisdiction's allocation of very
23 low income households pursuant to Section 65584.

24 (2) An analysis and documentation of household characteristics,
25 including level of payment compared to ability to pay, housing
26 characteristics, including overcrowding, and housing stock
27 condition.

28 (3) An inventory of land suitable for residential development,
29 including vacant sites and sites having potential for redevelopment,
30 and an analysis of the relationship of zoning and public facilities
31 and services to these sites.

32 (4) (A) The identification of a zone or zones where emergency
33 shelters are allowed as a permitted use without a conditional use
34 or other discretionary permit. The identified zone or zones shall
35 include sufficient capacity to accommodate the need for emergency
36 shelter identified in paragraph (7), except that each local
37 government shall identify a zone or zones that can accommodate
38 at least one year-round emergency shelter. If the local government
39 cannot identify a zone or zones with sufficient capacity, the local
40 government shall include a program to amend its zoning ordinance

1 to meet the requirements of this paragraph within one year of the
2 adoption of the housing element. The local government may
3 identify additional zones where emergency shelters are permitted
4 with a conditional use permit. The local government shall also
5 demonstrate that existing or proposed permit processing,
6 development, and management standards are objective and
7 encourage and facilitate the development of, or conversion to,
8 emergency shelters. Emergency shelters may only be subject to
9 those development and management standards that apply to
10 residential or commercial development within the same zone except
11 that a local government may apply written, objective standards
12 that include all of the following:

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

15 (ii) Off-street parking based upon demonstrated need, provided
16 that the standards do not require more parking for emergency
17 shelters than for other residential or commercial uses within the
18 same zone.

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

21 (iv) The provision of onsite management.

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

24 (vi) The length of stay.

25 (vii) Lighting.

26 (viii) Security during hours that the emergency shelter is in
27 operation.

28 (B) The permit processing, development, and management
29 standards applied under this paragraph shall not be deemed to be
30 discretionary acts within the meaning of the California
31 Environmental Quality Act (Division 13 (commencing with Section
32 21000) of the Public Resources Code).

33 (C) A local government that can demonstrate to the satisfaction
34 of the department the existence of one or more emergency shelters
35 either within its jurisdiction or pursuant to a multijurisdictional
36 agreement that can accommodate that jurisdiction's need for
37 emergency shelter identified in paragraph (7) may comply with
38 the zoning requirements of subparagraph (A) by identifying a zone
39 or zones where new emergency shelters are allowed with a
40 conditional use permit.

1 (D) A local government with an existing ordinance or ordinances
2 that comply with this paragraph shall not be required to take
3 additional action to identify zones for emergency shelters. The
4 housing element must only describe how existing ordinances,
5 policies, and standards are consistent with the requirements of this
6 paragraph.

7 (5) An analysis of potential and actual governmental constraints
8 upon the maintenance, improvement, or development of housing
9 for all income levels, including the types of housing identified in
10 paragraph (1) of subdivision (c), and for persons with disabilities
11 as identified in the analysis pursuant to paragraph (7), including
12 land use controls, building codes and their enforcement, site
13 improvements, fees and other exactions required of developers,
14 ~~and local processing and permit procedures.~~ *procedures, and any*
15 *locally adopted ordinances that directly impact the cost and supply*
16 *of residential development.* The analysis shall also demonstrate
17 local efforts to remove governmental constraints that hinder the
18 locality from meeting its share of the regional housing need in
19 accordance with Section 65584 and from meeting the need for
20 housing for persons with disabilities, supportive housing,
21 transitional housing, and emergency shelters identified pursuant
22 to paragraph (7). Transitional housing and supportive housing shall
23 be considered a residential use of property, and shall be subject
24 only to those restrictions that apply to other residential dwellings
25 of the same type in the same zone.

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

1 (7) An analysis of any special housing needs, such as those of
2 the elderly; persons with disabilities, including a developmental
3 disability, as defined in Section 4512 of the Welfare and
4 Institutions Code; large families; farmworkers; families with female
5 heads of households; and families and persons in need of
6 emergency shelter. The need for emergency shelter shall be
7 assessed based on annual and seasonal need. The need for
8 emergency shelter may be reduced by the number of supportive
9 housing units that are identified in an adopted 10-year plan to end
10 chronic homelessness and that are either vacant or for which
11 funding has been identified to allow construction during the
12 planning period. An analysis of special housing needs by a city or
13 county may include an analysis of the need for frequent user
14 coordinated care housing services.

15 (8) An analysis of opportunities for energy conservation with
16 respect to residential development. Cities and counties are
17 encouraged to include weatherization and energy efficiency
18 improvements as part of publicly subsidized housing rehabilitation
19 projects. This may include energy efficiency measures that
20 encompass the building envelope, its heating and cooling systems,
21 and its electrical system.

22 (9) An analysis of existing assisted housing developments that
23 are eligible to change from low-income housing uses during the
24 next 10 years due to termination of subsidy contracts, mortgage
25 prepayment, or expiration of restrictions on use. “Assisted housing
26 developments,” for the purpose of this section, shall mean
27 multifamily rental housing that receives governmental assistance
28 under federal programs listed in subdivision (a) of Section
29 65863.10, state and local multifamily revenue bond programs,
30 local redevelopment programs, the federal Community
31 Development Block Grant Program, or local in-lieu fees. “Assisted
32 housing developments” shall also include multifamily rental units
33 that were developed pursuant to a local inclusionary housing
34 program or used to qualify for a density bonus pursuant to Section
35 65916.

36 (A) The analysis shall include a listing of each development by
37 project name and address, the type of governmental assistance
38 received, the earliest possible date of change from low-income
39 use, and the total number of elderly and nonelderly units that could
40 be lost from the locality’s low-income housing stock in each year

1 during the 10-year period. For purposes of state and federally
2 funded projects, the analysis required by this subparagraph need
3 only contain information available on a statewide basis.

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

11 (C) The analysis shall identify public and private nonprofit
12 corporations known to the local government which have legal and
13 managerial capacity to acquire and manage these housing
14 developments.

15 (D) The analysis shall identify and consider the use of all federal,
16 state, and local financing and subsidy programs which can be used
17 to preserve, for lower income households, the assisted housing
18 developments, identified in this paragraph, including, but not
19 limited to, federal Community Development Block Grant Program
20 funds, tax increment funds received by a redevelopment agency
21 of the community, and administrative fees received by a housing
22 authority operating within the community. In considering the use
23 of these financing and subsidy programs, the analysis shall identify
24 the amounts of funds under each available program which have
25 not been legally obligated for other purposes and which could be
26 available for use in preserving assisted housing developments.

27 (b) (1) A statement of the community's goals, quantified
28 objectives, and policies relative to the maintenance, preservation,
29 improvement, and development of housing.

30 (2) It is recognized that the total housing needs identified
31 pursuant to subdivision (a) may exceed available resources and
32 the community's ability to satisfy this need within the content of
33 the general plan requirements outlined in Article 5 (commencing
34 with Section 65300). Under these circumstances, the quantified
35 objectives need not be identical to the total housing needs. The
36 quantified objectives shall establish the maximum number of
37 housing units by income category, including extremely low income,
38 that can be constructed, rehabilitated, and conserved over a
39 five-year time period.

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

18 (1) Identify actions that will be taken to make sites available
19 during the planning period with appropriate zoning and
20 development standards and with services and facilities to
21 accommodate that portion of the city's or county's share of the
22 regional housing need for each income level that could not be
23 accommodated on sites identified in the inventory completed
24 pursuant to paragraph (3) of subdivision (a) without rezoning, and
25 to comply with the requirements of Section 65584.09. Sites shall
26 be identified as needed to facilitate and encourage the development
27 of a variety of types of housing for all income levels, including
28 multifamily rental housing, factory-built housing, mobilehomes,
29 housing for agricultural employees, supportive housing,
30 single-room occupancy units, emergency shelters, and transitional
31 housing.

32 (A) Where the inventory of sites, pursuant to paragraph (3) of
33 subdivision (a), does not identify adequate sites to accommodate
34 the need for groups of all household income levels pursuant to
35 Section 65584, rezoning of those sites, including adoption of
36 minimum density and development standards, for jurisdictions
37 with an eight-year housing element planning period pursuant to
38 Section 65588, shall be completed no later than three years after
39 either the date the housing element is adopted pursuant to
40 subdivision (f) of Section 65585 or the date that is 90 days after

1 receipt of comments from the department pursuant to subdivision
2 (b) of Section 65585, whichever is earlier, unless the deadline is
3 extended pursuant to subdivision (f). Notwithstanding the
4 foregoing, for a local government that fails to adopt a housing
5 element within 120 days of the statutory deadline in Section 65588
6 for adoption of the housing element, rezoning of those sites,
7 including adoption of minimum density and development standards,
8 shall be completed no later than three years and 120 days from the
9 statutory deadline in Section 65588 for adoption of the housing
10 element.

11 (B) Where the inventory of sites, pursuant to paragraph (3) of
12 subdivision (a), does not identify adequate sites to accommodate
13 the need for groups of all household income levels pursuant to
14 Section 65584, the program shall identify sites that can be
15 developed for housing within the planning period pursuant to
16 subdivision (h) of Section 65583.2. The identification of sites shall
17 include all components specified in subdivision (b) of Section
18 65583.2.

19 (C) Where the inventory of sites pursuant to paragraph (3) of
20 subdivision (a) does not identify adequate sites to accommodate
21 the need for farmworker housing, the program shall provide for
22 sufficient sites to meet the need with zoning that permits
23 farmworker housing use by right, including density and
24 development standards that could accommodate and facilitate the
25 feasibility of the development of farmworker housing for low- and
26 very low income households.

27 (2) Assist in the development of adequate housing to meet the
28 needs of extremely low, very low, low-, and moderate-income
29 households.

30 (3) Address and, where appropriate and legally possible, remove
31 governmental and nongovernmental constraints to the maintenance,
32 improvement, and development of housing, including housing for
33 all income levels and housing for persons with disabilities. The
34 program shall remove constraints to, and provide reasonable
35 accommodations for housing designed for, intended for occupancy
36 by, or with supportive services for, persons with disabilities.

37 (4) Conserve and improve the condition of the existing
38 affordable housing stock, which may include addressing ways to
39 mitigate the loss of dwelling units demolished by public or private
40 action.

1 (5) Promote housing opportunities for all persons regardless of
2 race, religion, sex, marital status, ancestry, national origin, color,
3 familial status, or disability.

4 (6) Preserve for lower income households the assisted housing
5 developments identified pursuant to paragraph (9) of subdivision
6 (a). The program for preservation of the assisted housing
7 developments shall utilize, to the extent necessary, all available
8 federal, state, and local financing and subsidy programs identified
9 in paragraph (9) of subdivision (a), except where a community has
10 other urgent needs for which alternative funding sources are not
11 available. The program may include strategies that involve local
12 regulation and technical assistance.

13 (7) Include an identification of the agencies and officials
14 responsible for the implementation of the various actions and the
15 means by which consistency will be achieved with other general
16 plan elements and community goals.

17 (8) Include a diligent effort by the local government to achieve
18 public participation of all economic segments of the community
19 in the development of the housing element, and the program shall
20 describe this effort.

21 (d) (1) A local government may satisfy all or part of its
22 requirement to identify a zone or zones suitable for the
23 development of emergency shelters pursuant to paragraph (4) of
24 subdivision (a) by adopting and implementing a multijurisdictional
25 agreement, with a maximum of two other adjacent communities,
26 that requires the participating jurisdictions to develop at least one
27 year-round emergency shelter within two years of the beginning
28 of the planning period.

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

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

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

37 (B) The jurisdiction's contribution to the facility for both the
38 development and ongoing operation and management of the
39 facility.

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

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

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

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

14 (2) Any housing element or housing element amendment
15 prepared pursuant to subdivision (e) of Section 65588 or Section
16 65584.02, when the city, county, or city and county fails to submit
17 the first draft to the department before the due date specified in
18 Section 65588 or 65584.02.

19 (f) The deadline for completing required rezoning pursuant to
20 subparagraph (A) of paragraph (1) of subdivision (c) shall be
21 extended by one year if the local government has completed the
22 rezoning at densities sufficient to accommodate at least 75 percent
23 of the units for low- and very low income households and if the
24 legislative body at the conclusion of a public hearing determines,
25 based upon substantial evidence, that any of the following
26 circumstances exist:

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

30 (2) The local government is unable to complete the rezoning
31 because of infrastructure deficiencies due to fiscal or regulatory
32 constraints.

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

37 The resolution and the findings shall be transmitted to the
38 department together with a detailed budget and schedule for
39 preparation and adoption of the required rezonings, including plans
40 for citizen participation and expected interim action. The schedule

1 shall provide for adoption of the required rezoning within one year
2 of the adoption of the resolution.

3 (g) (1) If a local government fails to complete the rezoning by
4 the deadline provided in subparagraph (A) of paragraph (1) of
5 subdivision (c), as it may be extended pursuant to subdivision (f),
6 except as provided in paragraph (2), a local government may not
7 disapprove a housing development project, nor require a
8 conditional use permit, planned unit development permit, or other
9 locally imposed discretionary permit, or impose a condition that
10 would render the project infeasible, if the housing development
11 project (A) is proposed to be located on a site required to be
12 rezoned pursuant to the program action required by that
13 subparagraph and (B) complies with applicable, objective general
14 plan and zoning standards and criteria, including design review
15 standards, described in the program action required by that
16 subparagraph. Any subdivision of sites shall be subject to the
17 Subdivision Map Act (Division 2 (commencing with Section
18 66410)). Design review shall not constitute a “project” for purposes
19 of Division 13 (commencing with Section 21000) of the Public
20 Resources Code.

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

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

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

38 (3) The applicant or any interested person may bring an action
39 to enforce this subdivision. If a court finds that the local agency
40 disapproved a project or conditioned its approval in violation of

1 this subdivision, the court shall issue an order or judgment
2 compelling compliance within 60 days. The court shall retain
3 jurisdiction to ensure that its order or judgment is carried out. If
4 the court determines that its order or judgment has not been carried
5 out within 60 days, the court may issue further orders to ensure
6 that the purposes and policies of this subdivision are fulfilled. In
7 any such action, the city, county, or city and county shall bear the
8 burden of proof.

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

18 (h) An action to enforce the program actions of the housing
19 element shall be brought pursuant to Section 1085 of the Code of
20 Civil Procedure.

21 *SEC. 2.5. Section 65583 of the Government Code is amended*
22 *to read:*

23 65583. The housing element shall consist of an identification
24 and analysis of existing and projected housing needs and a
25 statement of goals, policies, quantified objectives, financial
26 resources, and scheduled programs for the preservation,
27 improvement, and development of housing. The housing element
28 shall identify adequate sites for housing, including rental housing,
29 factory-built housing, mobilehomes, and emergency shelters, and
30 shall make adequate provision for the existing and projected needs
31 of all economic segments of the community. The element shall
32 contain all of the following:

33 (a) An assessment of housing needs and an inventory of
34 resources and constraints relevant to the meeting of these needs.
35 The assessment and inventory shall include all of the following:

36 (1) An analysis of population and employment trends and
37 documentation of projections and a quantification of the locality’s
38 existing and projected housing needs for all income levels,
39 including extremely low income households, as defined in
40 subdivision (b) of Section 50105 and Section 50106 of the Health

1 and Safety Code. These existing and projected needs shall include
2 the locality's share of the regional housing need in accordance
3 with Section 65584. Local agencies shall calculate the subset of
4 very low income households allotted under Section 65584 that
5 qualify as extremely low income households. The local agency
6 may either use available census data to calculate the percentage
7 of very low income households that qualify as extremely low
8 income households or presume that 50 percent of the very low
9 income households qualify as extremely low income households.
10 The number of extremely low income households and very low
11 income households shall equal the jurisdiction's allocation of very
12 low income households pursuant to Section 65584.

13 (2) An analysis and documentation of household characteristics,
14 including level of payment compared to ability to pay, housing
15 characteristics, including overcrowding, and housing stock
16 condition.

17 (3) An inventory of land suitable *and available* for residential
18 development, including vacant sites and sites having ~~potential for~~
19 ~~redevelopment~~, *realistic and demonstrated potential for*
20 *redevelopment during the planning period to meet the locality's*
21 *housing need for a designated income level*, and an analysis of the
22 relationship of zoning and public facilities and services to these
23 sites.

24 (4) (A) The identification of a zone or zones where emergency
25 shelters are allowed as a permitted use without a conditional use
26 or other discretionary permit. The identified zone or zones shall
27 include sufficient capacity to accommodate the need for emergency
28 shelter identified in paragraph (7), except that each local
29 government shall identify a zone or zones that can accommodate
30 at least one year-round emergency shelter. If the local government
31 cannot identify a zone or zones with sufficient capacity, the local
32 government shall include a program to amend its zoning ordinance
33 to meet the requirements of this paragraph within one year of the
34 adoption of the housing element. The local government may
35 identify additional zones where emergency shelters are permitted
36 with a conditional use permit. The local government shall also
37 demonstrate that existing or proposed permit processing,
38 development, and management standards are objective and
39 encourage and facilitate the development of, or conversion to,
40 emergency shelters. Emergency shelters may only be subject to

1 those development and management standards that apply to
2 residential or commercial development within the same zone except
3 that a local government may apply written, objective standards
4 that include all of the following:

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

7 (ii) Off-street parking based upon demonstrated need, provided
8 that the standards do not require more parking for emergency
9 shelters than for other residential or commercial uses within the
10 same zone.

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

13 (iv) The provision of onsite management.

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

16 (vi) The length of stay.

17 (vii) Lighting.

18 (viii) Security during hours that the emergency shelter is in
19 operation.

20 (B) The permit processing, development, and management
21 standards applied under this paragraph shall not be deemed to be
22 discretionary acts within the meaning of the California
23 Environmental Quality Act (Division 13 (commencing with Section
24 21000) of the Public Resources Code).

25 (C) A local government that can demonstrate to the satisfaction
26 of the department the existence of one or more emergency shelters
27 either within its jurisdiction or pursuant to a multijurisdictional
28 agreement that can accommodate that jurisdiction's need for
29 emergency shelter identified in paragraph (7) may comply with
30 the zoning requirements of subparagraph (A) by identifying a zone
31 or zones where new emergency shelters are allowed with a
32 conditional use permit.

33 (D) A local government with an existing ordinance or ordinances
34 that comply with this paragraph shall not be required to take
35 additional action to identify zones for emergency shelters. The
36 housing element must only describe how existing ordinances,
37 policies, and standards are consistent with the requirements of this
38 paragraph.

39 (5) An analysis of potential and actual governmental constraints
40 upon the maintenance, improvement, or development of housing

1 for all income levels, including the types of housing identified in
2 paragraph (1) of subdivision (c), and for persons with disabilities
3 as identified in the analysis pursuant to paragraph (7), including
4 land use controls, building codes and their enforcement, site
5 improvements, fees and other exactions required of developers,
6 ~~and local processing and permit procedures.~~ *procedures, and any*
7 *locally adopted ordinances that directly impact the cost and supply*
8 *of residential development.* The analysis shall also demonstrate
9 local efforts to remove governmental constraints that hinder the
10 locality from meeting its share of the regional housing need in
11 accordance with Section 65584 and from meeting the need for
12 housing for persons with disabilities, supportive housing,
13 transitional housing, and emergency shelters identified pursuant
14 to paragraph (7). Transitional housing and supportive housing shall
15 be considered a residential use of property, and shall be subject
16 only to those restrictions that apply to other residential dwellings
17 of the same type in the same zone.

18 (6) An analysis of potential and actual nongovernmental
19 constraints upon the maintenance, improvement, or development
20 of housing for all income levels, including the availability of
21 financing, the price of land, ~~and the cost of construction.~~
22 *construction, the requests to develop housing at densities below*
23 *those anticipated in the analysis required by subdivision (c) of*
24 *Section 65583.2, and the length of time between receiving approval*
25 *for a housing development and submittal of an application for*
26 *building permits for that housing development that hinder the*
27 *construction of a locality's share of the regional housing need in*
28 *accordance with Section 65584.* The analysis shall also
29 *demonstrate local efforts to remove nongovernmental constraints*
30 *that create a gap between the locality's planning for the*
31 *development of housing for all income levels and the construction*
32 *of that housing.*

33 (7) An analysis of any special housing needs, such as those of
34 the elderly; persons with disabilities, including a developmental
35 disability, as defined in Section 4512 of the Welfare and
36 Institutions Code; large families; farmworkers; families with female
37 heads of households; and families and persons in need of
38 emergency shelter. The need for emergency shelter shall be
39 assessed based on annual and seasonal need. The need for
40 emergency shelter may be reduced by the number of supportive

1 housing units that are identified in an adopted 10-year plan to end
2 chronic homelessness and that are either vacant or for which
3 funding has been identified to allow construction during the
4 planning period. An analysis of special housing needs by a city or
5 county may include an analysis of the need for frequent user
6 coordinated care housing services.

7 (8) An analysis of opportunities for energy conservation with
8 respect to residential development. Cities and counties are
9 encouraged to include weatherization and energy efficiency
10 improvements as part of publicly subsidized housing rehabilitation
11 projects. This may include energy efficiency measures that
12 encompass the building envelope, its heating and cooling systems,
13 and its electrical system.

14 (9) An analysis of existing assisted housing developments that
15 are eligible to change from low-income housing uses during the
16 next 10 years due to termination of subsidy contracts, mortgage
17 prepayment, or expiration of restrictions on use. “Assisted housing
18 developments,” for the purpose of this section, shall mean
19 multifamily rental housing that receives governmental assistance
20 under federal programs listed in subdivision (a) of Section
21 65863.10, state and local multifamily revenue bond programs,
22 local redevelopment programs, the federal Community
23 Development Block Grant Program, or local in-lieu fees. “Assisted
24 housing developments” shall also include multifamily rental units
25 that were developed pursuant to a local inclusionary housing
26 program or used to qualify for a density bonus pursuant to Section
27 65916.

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

36 (B) The analysis shall estimate the total cost of producing new
37 rental housing that is comparable in size and rent levels, to replace
38 the units that could change from low-income use, and an estimated
39 cost of preserving the assisted housing developments. This cost
40 analysis for replacement housing may be done aggregately for

1 each five-year period and does not have to contain a
2 project-by-project cost estimate.

3 (C) The analysis shall identify public and private nonprofit
4 corporations known to the local government which have legal and
5 managerial capacity to acquire and manage these housing
6 developments.

7 (D) The analysis shall identify and consider the use of all federal,
8 state, and local financing and subsidy programs which can be used
9 to preserve, for lower income households, the assisted housing
10 developments, identified in this paragraph, including, but not
11 limited to, federal Community Development Block Grant Program
12 funds, tax increment funds received by a redevelopment agency
13 of the community, and administrative fees received by a housing
14 authority operating within the community. In considering the use
15 of these financing and subsidy programs, the analysis shall identify
16 the amounts of funds under each available program which have
17 not been legally obligated for other purposes and which could be
18 available for use in preserving assisted housing developments.

19 (b) (1) A statement of the community’s goals, quantified
20 objectives, and policies relative to the maintenance, preservation,
21 improvement, and development of housing.

22 (2) It is recognized that the total housing needs identified
23 pursuant to subdivision (a) may exceed available resources and
24 the community’s ability to satisfy this need within the content of
25 the general plan requirements outlined in Article 5 (commencing
26 with Section 65300). Under these circumstances, the quantified
27 objectives need not be identical to the total housing needs. The
28 quantified objectives shall establish the maximum number of
29 housing units by income category, including extremely low income,
30 that can be constructed, rehabilitated, and conserved over a
31 five-year time period.

32 (c) A program which sets forth a schedule of actions during the
33 planning period, each with a timeline for implementation, which
34 may recognize that certain programs are ongoing, such that there
35 will be beneficial impacts of the programs within the planning
36 period, that the local government is undertaking or intends to
37 undertake to implement the policies and achieve the goals and
38 objectives of the housing element through the administration of
39 land use and development controls, the provision of regulatory
40 concessions and incentives, the utilization of appropriate federal

1 and state financing and subsidy programs when available, and the
2 utilization of moneys in a low- and moderate-income housing fund
3 of an agency if the locality has established a redevelopment project
4 area pursuant to the Community Redevelopment Law (Division
5 24 (commencing with Section 33000) of the Health and Safety
6 Code). In order to make adequate provision for the housing needs
7 of all economic segments of the community, the program shall do
8 all of the following:

9 (1) Identify actions that will be taken to make sites available
10 during the planning period with appropriate zoning and
11 development standards and with services and facilities to
12 accommodate that portion of the city's or county's share of the
13 regional housing need for each income level that could not be
14 accommodated on sites identified in the inventory completed
15 pursuant to paragraph (3) of subdivision (a) without rezoning, and
16 to comply with the requirements of Section 65584.09. Sites shall
17 be identified as needed to facilitate and encourage the development
18 of a variety of types of housing for all income levels, including
19 multifamily rental housing, factory-built housing, mobilehomes,
20 housing for agricultural employees, supportive housing,
21 single-room occupancy units, emergency shelters, and transitional
22 housing.

23 (A) Where the inventory of sites, pursuant to paragraph (3) of
24 subdivision (a), does not identify adequate sites to accommodate
25 the need for groups of all household income levels pursuant to
26 Section 65584, rezoning of those sites, including adoption of
27 minimum density and development standards, for jurisdictions
28 with an eight-year housing element planning period pursuant to
29 Section 65588, shall be completed no later than three years after
30 either the date the housing element is adopted pursuant to
31 subdivision (f) of Section 65585 or the date that is 90 days after
32 receipt of comments from the department pursuant to subdivision
33 (b) of Section 65585, whichever is earlier, unless the deadline is
34 extended pursuant to subdivision (f). Notwithstanding the
35 foregoing, for a local government that fails to adopt a housing
36 element within 120 days of the statutory deadline in Section 65588
37 for adoption of the housing element, rezoning of those sites,
38 including adoption of minimum density and development standards,
39 shall be completed no later than three years and 120 days from the

1 statutory deadline in Section 65588 for adoption of the housing
2 element.

3 (B) Where the inventory of sites, pursuant to paragraph (3) of
4 subdivision (a), does not identify adequate sites to accommodate
5 the need for groups of all household income levels pursuant to
6 Section 65584, the program shall identify sites that can be
7 developed for housing within the planning period pursuant to
8 subdivision (h) of Section 65583.2. The identification of sites shall
9 include all components specified in ~~subdivision (b)~~ of Section
10 65583.2.

11 (C) Where the inventory of sites pursuant to paragraph (3) of
12 subdivision (a) does not identify adequate sites to accommodate
13 the need for farmworker housing, the program shall provide for
14 sufficient sites to meet the need with zoning that permits
15 farmworker housing use by right, including density and
16 development standards that could accommodate and facilitate the
17 feasibility of the development of farmworker housing for low- and
18 very low income households.

19 (2) Assist in the development of adequate housing to meet the
20 needs of extremely low, very low, low-, and moderate-income
21 households.

22 (3) Address and, where appropriate and legally possible, remove
23 governmental *and nongovernmental* constraints to the maintenance,
24 improvement, and development of housing, including housing for
25 all income levels and housing for persons with disabilities. The
26 program shall remove constraints to, and provide reasonable
27 accommodations for housing designed for, intended for occupancy
28 by, or with supportive services for, persons with disabilities.

29 (4) Conserve and improve the condition of the existing
30 affordable housing stock, which may include addressing ways to
31 mitigate the loss of dwelling units demolished by public or private
32 action.

33 (5) Promote housing opportunities for all persons regardless of
34 race, religion, sex, marital status, ancestry, national origin, color,
35 familial status, or disability.

36 (6) Preserve for lower income households the assisted housing
37 developments identified pursuant to paragraph (9) of subdivision
38 (a). The program for preservation of the assisted housing
39 developments shall utilize, to the extent necessary, all available
40 federal, state, and local financing and subsidy programs identified

1 in paragraph (9) of subdivision (a), except where a community has
2 other urgent needs for which alternative funding sources are not
3 available. The program may include strategies that involve local
4 regulation and technical assistance.

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

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

13 (d) (1) A local government may satisfy all or part of its
14 requirement to identify a zone or zones suitable for the
15 development of emergency shelters pursuant to paragraph (4) of
16 subdivision (a) by adopting and implementing a multijurisdictional
17 agreement, with a maximum of two other adjacent communities,
18 that requires the participating jurisdictions to develop at least one
19 year-round emergency shelter within two years of the beginning
20 of the planning period.

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

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

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

29 (B) The jurisdiction's contribution to the facility for both the
30 development and ongoing operation and management of the
31 facility.

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

34 (4) The aggregate capacity claimed by the participating
35 jurisdictions in their housing elements shall not exceed the actual
36 capacity of the shelter.

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

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

6 (2) Any housing element or housing element amendment
7 prepared pursuant to subdivision (e) of Section 65588 or Section
8 65584.02, when the city, county, or city and county fails to submit
9 the first draft to the department before the due date specified in
10 Section 65588 or 65584.02.

11 (f) The deadline for completing required rezoning pursuant to
12 subparagraph (A) of paragraph (1) of subdivision (c) shall be
13 extended by one year if the local government has completed the
14 rezoning at densities sufficient to accommodate at least 75 percent
15 of the units for low- and very low income households and if the
16 legislative body at the conclusion of a public hearing determines,
17 based upon substantial evidence, that any of the following
18 circumstances exist:

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

22 (2) The local government is unable to complete the rezoning
23 because of infrastructure deficiencies due to fiscal or regulatory
24 constraints.

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

29 The resolution and the findings shall be transmitted to the
30 department together with a detailed budget and schedule for
31 preparation and adoption of the required rezonings, including plans
32 for citizen participation and expected interim action. The schedule
33 shall provide for adoption of the required rezoning within one year
34 of the adoption of the resolution.

35 (g) (1) If a local government fails to complete the rezoning by
36 the deadline provided in subparagraph (A) of paragraph (1) of
37 subdivision (c), as it may be extended pursuant to subdivision (f),
38 except as provided in paragraph (2), a local government may not
39 disapprove a housing development project, nor require a
40 conditional use permit, planned unit development permit, or other

1 locally imposed discretionary permit, or impose a condition that
2 would render the project infeasible, if the housing development
3 project (A) is proposed to be located on a site required to be
4 rezoned pursuant to the program action required by that
5 subparagraph and (B) complies with applicable, objective general
6 plan and zoning standards and criteria, including design review
7 standards, described in the program action required by that
8 subparagraph. Any subdivision of sites shall be subject to the
9 Subdivision Map Act (Division 2 (commencing with Section
10 66410)). Design review shall not constitute a “project” for purposes
11 of Division 13 (commencing with Section 21000) of the Public
12 Resources Code.

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

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

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

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

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

10 (h) An action to enforce the program actions of the housing
 11 element shall be brought pursuant to Section 1085 of the Code of
 12 Civil Procedure.

13 SEC. 3. Section 65700 of the Government Code is amended
 14 to read:

15 65700. (a) This chapter shall not apply to a charter city, except
 16 to the extent that the same may be adopted by charter or ordinance
 17 of the city and except that charter cities shall adopt general plans
 18 in any case. General plans of a charter city shall be adopted by
 19 resolution of the legislative body of the city, or the planning
 20 commission if the charter so provides. These general plans shall
 21 contain the mandatory elements required by Article 5 (commencing
 22 with Section 65300) of Chapter 3 of this title.

23 (b) Notwithstanding subdivision (a), paragraph (2) of subdivision
 24 (a) of Section 65400 and Sections 65590 and 65590.1 shall be
 25 applicable to charter cities.

26 SEC. 4. Section 50456 of the Health and Safety Code is
 27 amended to read:

28 50456. (a) The department shall collect, publish, and make
 29 available to the public information about federal, state, and local
 30 laws regarding housing and community development. The
 31 department may provide a statistics and research service for the
 32 collection and dissemination of information affecting housing and
 33 community development.

34 (b) *By June 30, 2019, the department shall complete a study to*
 35 *evaluate the reasonableness of local fees charged to new*
 36 *developments as defined by subdivision (b) of Section 66000 of*
 37 *the Government Code. The study shall include findings and*
 38 *recommendations regarding potential amendments to the*
 39 *Mitigation Fee Act to substantially reduce fees for residential*
 40 *development.*

1 *SEC. 5. (a) Section 1.5 of this bill incorporates amendments*
2 *to Section 65400 of the Government Code proposed by both this*
3 *bill and Senate Bill 35. That section shall only become operative*
4 *if (1) both bills are enacted and become effective on or before*
5 *January 1, 2018, (2) each bill amends Section 65400 of the*
6 *Government Code, and (3) this bill is enacted after Senate Bill 35,*
7 *in which case Section 1 of this bill shall not become operative.*

8 *(b) Section 2.5 of this bill incorporates amendments to Section*
9 *65583 of the Government Code proposed by both this bill and*
10 *Assembly Bill 1397. That section shall only become operative if*
11 *(1) both bills are enacted and become effective on or before*
12 *January 1, 2018, (2) each bill amends Section 65583 of the*
13 *Government Code, and (3) this bill is enacted after Assembly Bill*
14 *1397, in which case Section 2 of this bill shall not become*
15 *operative.*

16 ~~SEC. 4.~~

17 *SEC. 6. No reimbursement is required by this act pursuant to*
18 *Section 6 of Article XIII B of the California Constitution because*
19 *a local agency or school district has the authority to levy service*
20 *charges, fees, or assessments sufficient to pay for the program or*
21 *level of service mandated by this act, within the meaning of Section*
22 *17556 of the Government Code.*