

AMENDED IN SENATE AUGUST 19, 2002
AMENDED IN SENATE AUGUST 14, 2002
AMENDED IN SENATE AUGUST 5, 2002
AMENDED IN SENATE JUNE 13, 2002
AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2292

**Introduced by Assembly Member Dutra
(Coauthor: Assembly Member Longville)
(Coauthors: Senators Costa and Kuehl)**

February 21, 2002

An act to add Section 65863 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2292, as amended, Dutra. General plans: residential density.

The Planning and Zoning Law requires a city, county, or a city and county to adopt a general plan that consists of a statement of development policies and a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a land use element that sets forth a statement of the standards of population density and building intensity recommended for districts and other territory covered by the plan. The act also requires that the maximum allowable residential density be consistent with the applicable zoning ordinance and the adopted general plan.

This bill would prohibit a city, county, or a city and county, by administrative, quasi-judicial, or legislative action, from reducing, requiring, or permitting the reduction of the residential density for any parcel to a lower residential density that is below the density that was utilized by the Department of Housing and Community Development in determining compliance with the housing element law, unless the city, county, or city and county makes written findings supported by substantial evidence that the reduction is consistent with the adopted general plan, including the housing element, and the jurisdiction’s share of the regional housing need, as specified.

The bill would also require, until January 1, 2007, a court to award attorney’s fees and costs of suit to specified plaintiffs or petitioners if the court finds that an action of a city, county, or city and county is in violation of these provisions, except as specified.

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 65863 is added to the Government
2 Code, to read:

3 65863. (a) Each city, county, or city and county shall ensure
4 that its inventory or programs of adequate sites pursuant to
5 paragraph (3) of subdivision (a) of Section 65583 and paragraph
6 (1) of subdivision (c) of Section 65583 can accommodate its share
7 of the regional housing need pursuant to Section 65584,
8 throughout the planning period.

9 (b) No city, county, or city and county shall, by administrative,
10 quasi-judicial, or legislative action, reduce, require, or permit the
11 reduction of the residential density for any parcel to a lower
12 residential density that is below the density that was utilized by the
13 Department of Housing and Community Development in
14 determining compliance with housing element law, Article 10.6
15 (commencing with Section 65580) of Chapter 3, unless the city,
16 county, or city and county makes written findings supported by
17 substantial evidence of both of the following:

18 (1) The reduction is consistent with the adopted general plan,
19 including the housing element.



1 (2) The remaining sites identified in the housing element are
2 adequate to accommodate the jurisdiction's share of the regional
3 housing need pursuant to Section 65584.

4 (c) If a reduction in residential density for any parcel would
5 result in the remaining sites in the housing element not being
6 adequate to accommodate the jurisdiction's share of the regional
7 housing need pursuant to Section 65584, the jurisdiction may
8 reduce the density on that parcel provided it identifies sufficient
9 additional, adequate, and available sites with an equal or greater
10 residential density in the jurisdiction so that there is no net loss of
11 residential unit capacity.

12 (d) The requirements of this section shall be in addition to any
13 other law that may restrict or limit the reduction of residential
14 density.

15 (e) If a court finds that an action of a city, county, or city and
16 county is in violation of this section, the court shall award to the
17 plaintiff or petitioner who proposed the housing development,
18 reasonable attorney's fees and costs of suit, except under
19 extraordinary circumstances in which the court finds that
20 awarding fees would not further the purposes of this section or the
21 court finds that the action was frivolous. This subdivision shall
22 remain operative only until January 1, 2007, and as of that date is
23 no longer operative, unless a later enacted statute that is enacted
24 before January 1, 2007, deletes or extends that date.

