

ASSEMBLY BILL

No. 162

Introduced by Assembly Member Wolk

January 22, 2007

An act to amend Sections 65302, 65303.4, 65352, and 65584.04 of, and to add Section 65302.7 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 162, as introduced, Wolk. Land use: water supply.

(1) The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a land use element that designates the proposed general distribution and general location and extent of the uses of the land for various purposes and a conservation element that considers, among other things, the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations, and provides that the conservation element may also cover, among other things, flood control.

The bill would require the land use element to identify and annually review those areas covered by the general plan that are subject to flooding as identified by floodplain mapping prepared by the Federal Emergency Management Agency or the Department of Water Resources and would require, upon the next revision of the housing element, on or after January 1, 2008, the conservation element of the general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. By imposing new duties on local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law also requires that a city or county general plan contain a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.

This bill would also require, upon the next revision of the housing element, on or after January 1, 2008, the safety element to identify, among other things, information regarding flood hazards and establish a set of comprehensive goals, policies, and objectives, based on specified information for the protection of the community from, among other things, the unreasonable risks of flooding.

The bill would also require the planning agency, upon each revision of the housing element to review, and if necessary, to identify new information that was not available during the previous revision of the safety element and would provide criteria by which cities and counties that have floodplain management ordinances may comply with these provisions.

(3) The Planning and Zoning Law also requires, prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county to consult with the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services, as specified, and requires that at specified times prior to adoption or amendment of the safety element, each city and county submit one copy of a draft or amendment of the safety element to specified state agencies and local governments for review pursuant to specified procedures.

The bill would also require each city and county located within the boundaries of the Sacramento and San Joaquin Drainage District to submit the draft element or draft amendment to the safety element to the Reclamation Board and every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element, of its general plan. The bill would also require the Reclamation Board and a local agency to review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element, as specified.

(4) The Planning and Zoning Law requires, prior to action by a legislative body to adopt or substantially amend a general plan, that the

planning agency refer the proposed action to specified state, local, and federal agencies.

The bill would also require that the proposed action be referred to the Reclamation Board when the proposed action is within the boundaries of the Sacramento and San Joaquin Drainage District.

(5) The Planning and Zoning Law requires at least 2 years prior to a scheduled revision of a local government’s housing element that each council of governments, or delegate subregion, as applicable, develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable, pursuant to specified provisions. That law requires that the methodology be consistent with specified objectives that include, among other things, a determination of 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 bill would provide that the determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect the jurisdiction is not adequate to avoid the risk of flooding such that the development of housing would be impractical due to cost or other considerations.

(6) 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 65302 of the Government Code is
2 amended to read:

3 65302. The general plan shall consist of a statement of
4 development policies and shall include a diagram or diagrams and
5 text setting forth objectives, principles, standards, and plan
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general
8 distribution and general location and extent of the uses of the land

1 for housing, business, industry, open space, including agriculture,
2 natural resources, recreation, and enjoyment of scenic beauty,
3 education, public buildings and grounds, solid and liquid waste
4 disposal facilities, and other categories of public and private uses
5 of land. *The location and designation of the extent of the uses of*
6 *the land for public and private uses shall consider the identification*
7 *of land and natural resources pursuant to paragraph (3) of*
8 *subdivision (d).* The land use element shall include a statement of
9 the standards of population density and building intensity
10 recommended for the various districts and other territory covered
11 by the plan. The land use element shall identify *and annually*
12 *review those* areas covered by the plan ~~which~~ *that* are subject to
13 flooding ~~and shall be reviewed annually with respect to those areas~~
14 *identified by floodplain mapping prepared by the Federal*
15 *Emergency Management Agency (FEMA) or the Department of*
16 *Water Resources.* The land use element shall also do both of the
17 following:

18 (1) Designate in a land use category that provides for timber
19 production those parcels of real property zoned for timberland
20 production pursuant to the California Timberland Productivity Act
21 of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1
22 of Division 1 of Title 5.

23 (2) Consider the impact of new growth on military readiness
24 activities carried out on military bases, installations, and operating
25 and training areas, when proposing zoning ordinances or
26 designating land uses covered by the general plan for land, or other
27 territory adjacent to military facilities, or underlying designated
28 military aviation routes and airspace.

29 (A) In determining the impact of new growth on military
30 readiness activities, information provided by military facilities
31 shall be considered. Cities and counties shall address military
32 impacts based on information from the military and other sources.

33 (B) The following definitions govern this paragraph:

34 (i) “Military readiness activities” mean all of the following:

35 (I) Training, support, and operations that prepare the men and
36 women of the military for combat.

37 (II) Operation, maintenance, and security of any military
38 installation.

39 (III) Testing of military equipment, vehicles, weapons, and
40 sensors for proper operation or suitability for combat use.

1 (ii) “Military installation” means a base, camp, post, station,
2 yard, center, homeport facility for any ship, or other activity under
3 the jurisdiction of the United States Department of Defense as
4 defined in paragraph (1) of subsection (e) of Section 2687 of Title
5 10 of the United States Code.

6 (b) A circulation element consisting of the general location and
7 extent of existing and proposed major thoroughfares, transportation
8 routes, terminals, any military airports and ports, and other local
9 public utilities and facilities, all correlated with the land use
10 element of the plan.

11 (c) A housing element as provided in Article 10.6 (commencing
12 with Section 65580).

13 (d) (1) A conservation element for the conservation,
14 development, and utilization of natural resources including water
15 and its hydraulic force, forests, soils, rivers and other waters,
16 harbors, fisheries, wildlife, minerals, and other natural resources.
17 The conservation element shall consider the effect of development
18 within the jurisdiction, as described in the land use element, on
19 natural resources located on public lands, including military
20 installations. That portion of the conservation element including
21 waters shall be developed in coordination with any countywide
22 water agency and with all district and city agencies, *including flood*
23 *management, water conservation, or groundwater agencies* that
24 have developed, served, controlled, *managed*, or conserved water
25 *of any type* for any purpose ~~for~~ in the county or city for which the
26 plan is prepared. Coordination shall include the discussion and
27 evaluation of any water supply and demand information described
28 in Section 65352.5, if that information has been submitted by the
29 water agency to the city or county. ~~The conservation element may~~
30 ~~also cover the following:~~

31 (2) *The conservation element may also cover all of the following:*

32 ~~(1)~~

33 (A) The reclamation of land and waters.

34 ~~(2)~~

35 (B) Prevention and control of the pollution of streams and other
36 waters.

37 ~~(3)~~

38 (C) Regulation of the use of land in stream channels and other
39 areas required for the accomplishment of the conservation plan.

40 ~~(4)~~

- 1 (D) Prevention, control, and correction of the erosion of soils,
- 2 beaches, and shores.
- 3 ~~(5)~~
- 4 (E) Protection of watersheds.
- 5 ~~(6)~~
- 6 (F) The location, quantity and quality of the rock, sand and
- 7 gravel resources.
- 8 ~~(7) Flood control:~~
- 9 (3) *Upon the next revision of the housing element on or after*
- 10 *January 1, 2008, the conservation element shall identify rivers,*
- 11 *creeks, streams, flood corridors, riparian habitats, and land that*
- 12 *may accommodate floodwater for purposes of groundwater*
- 13 *recharge and stormwater management.*
- 14 (e) An open-space element as provided in Article 10.5
- 15 (commencing with Section 65560).
- 16 (f) (1) A noise element which shall identify and appraise noise
- 17 problems in the community. The noise element shall recognize the
- 18 guidelines established by the Office of Noise Control in the State
- 19 Department of Health Care Services and shall analyze and quantify,
- 20 to the extent practicable, as determined by the legislative body,
- 21 current and projected noise levels for all of the following sources:
- 22 ~~(1)~~
- 23 (A) Highways and freeways.
- 24 ~~(2)~~
- 25 (B) Primary arterials and major local streets.
- 26 ~~(3)~~
- 27 (C) Passenger and freight on-line railroad operations and ground
- 28 rapid transit systems.
- 29 ~~(4)~~
- 30 (D) Commercial, general aviation, heliport, helistop, and military
- 31 airport operations, aircraft overflights, jet engine test stands, and
- 32 all other ground facilities and maintenance functions related to
- 33 airport operation.
- 34 ~~(5)~~
- 35 (E) Local industrial plants, including, but not limited to, railroad
- 36 classification yards.
- 37 ~~(6)~~
- 38 (F) Other ground stationary noise sources, including, but not
- 39 limited to, military installations, identified by local agencies as
- 40 contributing to the community noise environment.

1 **Noise**

2 (2) *Noise* contours shall be shown for all of these sources and
3 stated in terms of community noise equivalent level (CNEL) or
4 day-night average level (L_{dn}). The noise contours shall be prepared
5 on the basis of noise monitoring or following generally accepted
6 noise modeling techniques for the various sources identified in
7 paragraphs (1) to (6), inclusive.

8 ~~The~~

9 (3) *The* noise contours shall be used as a guide for establishing
10 a pattern of land uses in the land use element that minimizes the
11 exposure of community residents to excessive noise.

12 ~~The~~

13 (4) *The* noise element shall include implementation measures
14 and possible solutions that address existing and foreseeable noise
15 problems, if any. The adopted noise element shall serve as a
16 guideline for compliance with the state's noise insulation standards.

17 (g) (1) A safety element for the protection of the community
18 from any unreasonable risks associated with the effects of
19 seismically induced surface rupture, ground shaking, ground
20 failure, tsunami, seiche, and dam failure; slope instability leading
21 to mudslides and landslides; subsidence, liquefaction and other
22 seismic hazards identified pursuant to Chapter 7.8 (commencing
23 with Section 2690) of Division 2 of the Public Resources Code,
24 and other geologic hazards known to the legislative body; flooding;
25 and wild land and urban fires. The safety element shall include
26 mapping of known seismic and other geologic hazards. It shall
27 also address evacuation routes, military installations, peakload
28 water supply requirements, and minimum road widths and
29 clearances around structures, as those items relate to identified fire
30 and geologic hazards.

31 (2) *The safety element, upon the next revision of the housing*
32 *element on or after January 1, 2008, shall also do the following:*

33 (A) *Identify information regarding flood hazards, including,*
34 *but not limited to, the following:*

35 (i) *Flood hazard zones. As used in this subdivision, "flood*
36 *hazard zone" means an area subject to flooding that is delineated*
37 *as either a special hazard area or an area of moderate or minimal*
38 *hazard on an official flood insurance rate map issued by the*
39 *Federal Emergency Management Agency. The identification of a*
40 *flood hazard zone does not imply that areas outside the flood*

- 1 *hazard zones or uses permitted within flood hazard zones will be*
2 *free from flooding or flood damage.*
- 3 *(ii) National Flood Insurance Program maps published by*
4 *FEMA.*
- 5 *(iii) Information about flood hazards that is available from the*
6 *United States Army Corp of Engineers.*
- 7 *(iv) Designated floodway maps that are available from the*
8 *Reclamation Board.*
- 9 *(v) Dam failure inundation maps prepared pursuant to Section*
10 *8589.5 that are available from the Office of Emergency Services.*
- 11 *(vi) Awareness Floodplain Mapping Program maps that are*
12 *available from the Department of Water Resources.*
- 13 *(vii) Areas subject to inundation in the event of the failure of*
14 *levees or floodwalls.*
- 15 *(viii) Historical data on flooding, including locally prepared*
16 *maps of areas that are subject to flooding, areas that are*
17 *vulnerable to flooding after wildfires, and sites that have been*
18 *repeatedly damaged by flooding.*
- 19 *(ix) Existing and planned development in flood hazard zones,*
20 *including structures, roads, utilities, and essential public facilities.*
- 21 *(x) Local, state, and federal agencies with responsibility for*
22 *flood protection, including special districts and local offices of*
23 *emergency services.*
- 24 *(B) Establish a set of comprehensive goals, policies, and*
25 *objectives based on the information identified pursuant to*
26 *subparagraph (A), for the protection of the community from the*
27 *unreasonable risks of flooding, including, but not limited to:*
- 28 *(i) Avoiding or minimizing the risks of flooding to new*
29 *development.*
- 30 *(ii) Evaluating whether new development should be located in*
31 *flood hazard zones, and identifying construction methods or other*
32 *methods to minimize damage if new development is located in*
33 *flood hazard zones.*
- 34 *(iii) Maintaining the structural and operational integrity of*
35 *essential public facilities during flooding.*
- 36 *(iv) Locating, when feasible, new essential public facilities*
37 *outside of flood hazard zones, including hospitals and health care*
38 *facilities, emergency shelters, fire stations, emergency command*
39 *centers, and emergency communications facilities or identifying*

1 *construction methods or other methods to minimize damage if*
2 *these facilities are located in flood hazard zones.*

3 *(v) Establishing cooperative working relationships among public*
4 *agencies with responsibility for flood protection.*

5 *(C) Establish a set of feasible implementation measures designed*
6 *to carry out the goals, policies, and objectives established pursuant*
7 *to subparagraph (B).*

8 *(3) After the initial revision of the safety element pursuant to*
9 *paragraph (2), upon each revision of the housing element, the*
10 *planning agency shall review and, if necessary, revise the safety*
11 *element to identify new information that was not available during*
12 *the previous revision of the safety element.*

13 *(4) Cities and counties that have floodplain management*
14 *ordinances that have been approved by FEMA that substantially*
15 *comply with this section, or have substantially equivalent*
16 *provisions to this subdivision in their general plans, may use that*
17 *information in the safety element to comply with this subdivision,*
18 *and shall summarize and incorporate by reference into the safety*
19 *element the other general plan provisions or the flood plain*
20 *ordinance, specifically showing how each requirement of this*
21 *subdivision has been met.*

22 ~~(1)~~

23 *(5) Prior to the periodic review of its general plan and prior to*
24 *preparing or revising its safety element, each city and county shall*
25 *consult the California Geological Survey of the Department of*
26 *Conservation, the Reclamation Board, if the city or county is*
27 *located within the boundaries of the Sacramento and San Joaquin*
28 *Drainage District, as set forth in Section 8501 of the Water Code,*
29 *and the Office of Emergency Services for the purpose of including*
30 *information known by and available to the department—and the,*
31 *the office, and the board required by this subdivision.*

32 ~~(2)~~

33 *(6) To the extent that a county's safety element is sufficiently*
34 *detailed and contains appropriate policies and programs for*
35 *adoption by a city, a city may adopt that portion of the county's*
36 *safety element that pertains to the city's planning area in*
37 *satisfaction of the requirement imposed by this subdivision.*

38 SEC. 2. Section 65302.7 is added to the Government Code, to
39 read:

1 65302.7. (a) For the purposes of complying with Section
2 65302.5, each county or city located within the boundaries of the
3 Sacramento and San Joaquin Drainage District, as set forth in
4 Section 8501 of the Water Code, shall submit the draft element
5 of, or draft amendment to, the safety element to the Reclamation
6 Board and to every local agency that provides flood protection to
7 territory in the city or county at least 90 days prior to the adoption
8 of, or amendment to, the safety element of its general plan.

9 (b) The Reclamation Board and each local agency described in
10 paragraph (1) shall review the draft or an existing safety element
11 and report their respective written recommendations to the planning
12 agency within 60 days of the receipt of the draft or existing safety
13 element. The Reclamation Board and each local agency shall
14 review the draft or existing safety element and may offer written
15 recommendations for changes to the draft or existing safety element
16 regarding both of the following:

17 (1) Uses of land and policies in areas subjected to flooding that
18 will protect life, property, and natural resources from unreasonable
19 risks associated with flooding.

20 (2) Methods and strategies for flood risk reduction and
21 protection within areas subjected to flooding.

22 (c) Prior to the adoption of its draft element or draft amendments
23 to the safety element, the board of supervisors of the county or the
24 city council of a city shall consider the recommendations made by
25 the Reclamation Board and any local agency that provides flood
26 protection to territory in the city or county. If the board of
27 supervisors or the city council determines not to accept all or some
28 of the recommendations, if any, made by the Reclamation Board
29 or the local agency, the board of supervisors or the city council
30 shall make findings that state its reasons for not accepting a
31 recommendation and shall communicate those findings in writing
32 to the Reclamation Board or to the local agency.

33 (d) If the Reclamation Board's or the local agency's
34 recommendations are not available within the time limits required
35 by this section, the board of supervisors or the city council may
36 act without those recommendations. The board of supervisors or
37 city council shall consider the recommendations at the next time
38 it considers amendments to its safety element.

39 SEC. 3. Section 65303.4 of the Government Code is amended
40 to read:

1 65303.4. The Department of Water Resources *or the*
2 *Reclamation Board, as appropriate*, and the Department of Fish
3 and Game may develop site design and planning policies to assist
4 local agencies which request help in implementing the general
5 plan guidelines for meeting flood control objectives and other land
6 management needs.

7 SEC. 4. Section 65352 of the Government Code is amended
8 to read:

9 65352. (a) Prior to action by a legislative body to adopt or
10 substantially amend a general plan, the planning agency shall refer
11 the proposed action to all of the following entities:

12 (1) A city or county, within or abutting the area covered by the
13 proposal, and any special district that may be significantly affected
14 by the proposed action, as determined by the planning agency.

15 (2) An elementary, high school, or unified school district within
16 the area covered by the proposed action.

17 (3) The local agency formation commission.

18 (4) An areawide planning agency whose operations may be
19 significantly affected by the proposed action, as determined by the
20 planning agency.

21 (5) A federal agency if its operations or lands within its
22 jurisdiction may be significantly affected by the proposed action,
23 as determined by the planning agency.

24 (6) (A) The branches of the United States Armed Forces that
25 have provided the Office of Planning and Research with a
26 California mailing address pursuant to subdivision (d) of Section
27 65944 when the proposed action is within 1,000 feet of a military
28 installation, or lies within special use airspace, or beneath a
29 low-level flight path, as defined in Section 21098 of the Public
30 Resources Code, provided that the United States Department of
31 Defense provides electronic maps of low-level flight paths, special
32 use airspace, and military installations at a scale and in an
33 electronic format that is acceptable to the Office of Planning and
34 Research.

35 (B) Within 30 days of a determination by the Office of Planning
36 and Research that the information provided by the Department of
37 Defense is sufficient and in an acceptable scale and format, the
38 office shall notify cities, counties, and cities and counties of the
39 availability of the information on the Internet. Cities, counties, and

1 cities and counties shall comply with subparagraph (A) within 30
2 days of receiving this notice from the office.

3 (7) A public water system, as defined in Section 116275 of the
4 Health and Safety Code, with 3,000 or more service connections,
5 that serves water to customers within the area covered by the
6 proposal. The public water system shall have at least 45 days to
7 comment on the proposed plan, in accordance with subdivision
8 (b), and to provide the planning agency with the information set
9 forth in Section 65352.5.

10 (8) The Bay Area Air Quality Management District for a
11 proposed action within the boundaries of the district.

12 (9) On and after March 1, 2005, a California Native American
13 tribe, that is on the contact list maintained by the Native American
14 Heritage Commission, with traditional lands located within the
15 city or county’s jurisdiction.

16 (10) *The Reclamation Board for a proposed action within the*
17 *boundaries of the Sacramento and San Joaquin Drainage District,*
18 *as set forth in Section 8501 of the Water Code.*

19 (b) Each entity receiving a proposed general plan or amendment
20 of a general plan pursuant to this section shall have 45 days from
21 the date the referring agency mails it or delivers it in which to
22 comment unless a longer period is specified by the planning
23 agency.

24 (c) (1) This section is directory, not mandatory, and the failure
25 to refer a proposed action to the other entities specified in this
26 section does not affect the validity of the action, if adopted.

27 (2) To the extent that the requirements of this section conflict
28 with the requirements of Chapter 4.4 (commencing with Section
29 65919), the requirements of Chapter 4.4 shall prevail.

30 SEC. 5. Section 65584.04 of the Government Code is amended
31 to read:

32 65584.04. (a) At least two years prior to a scheduled revision
33 required by Section 65588, each council of governments, or
34 delegate subregion as applicable, shall develop a proposed
35 methodology for distributing the existing and projected regional
36 housing need to cities, counties, and cities and counties within the
37 region or within the subregion, where applicable pursuant to this
38 section. The methodology shall be consistent with the objectives
39 listed in subdivision (d) of Section 65584.

1 (b) (1) No more than six months prior to the development of a
2 proposed methodology for distributing the existing and projected
3 housing need, each council of governments shall survey each of
4 its member jurisdictions to request, at a minimum, information
5 regarding the factors listed in subdivision (d) that will allow the
6 development of a methodology based upon the factors established
7 in subdivision (d).

8 (2) The council of governments shall seek to obtain the
9 information in a manner and format that is comparable throughout
10 the region and utilize readily available data to the extent possible.

11 (3) The information provided by a local government pursuant
12 to this section shall be used, to the extent possible, by the council
13 of governments, or delegate subregion as applicable, as source
14 information for the methodology developed pursuant to this section.
15 The survey shall state that none of the information received may
16 be used as a basis for reducing the total housing need established
17 for the region pursuant to Section 65584.01.

18 (4) If the council of governments fails to conduct a survey
19 pursuant to this subdivision, a city, county, or city and county may
20 submit information related to the items listed in subdivision (d)
21 prior to the public comment period provided for in subdivision
22 (c).

23 (c) Public participation and access shall be required in the
24 development of the methodology and in the process of drafting
25 and adoption of the allocation of the regional housing needs.
26 Participation by organizations other than local jurisdictions and
27 councils of governments shall be solicited in a diligent effort to
28 achieve public participation of all economic segments of the
29 community. The proposed methodology, along with any relevant
30 underlying data and assumptions, and an explanation of how
31 information about local government conditions gathered pursuant
32 to subdivision (b) has been used to develop the proposed
33 methodology, and how each of the factors listed in subdivision (d)
34 is incorporated into the methodology, shall be distributed to all
35 cities, counties, any subregions, and members of the public who
36 have made a written request for the proposed methodology. 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.

1 (d) To the extent that sufficient data is available from local
2 governments pursuant to subdivision (b) or other sources, each
3 council of governments, or delegate subregion as applicable, shall
4 include the following factors to develop the methodology that
5 allocates regional housing needs:

6 (1) Each member jurisdiction's existing and projected jobs and
7 housing relationship.

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

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

17 (B) The availability of land suitable for urban development or
18 for conversion to residential use, the availability of underutilized
19 land, and opportunities for infill development and increased
20 residential densities. The council of governments may not limit
21 its consideration of suitable housing sites or land suitable for urban
22 development to existing zoning ordinances and land use restrictions
23 of a locality, but shall consider the potential for increased
24 residential development under alternative zoning ordinances and
25 land use restrictions. *The determination of available land suitable*
26 *for urban development may exclude lands where the flood*
27 *management infrastructure designed to protect that land is not*
28 *adequate to avoid the risk of flooding such that the development*
29 *of housing on that land would be infeasible because of cost or*
30 *other considerations. Information from the Reclamation Board,*
31 *the Army Corps of Engineers, or other sources may be used to*
32 *support determinations made pursuant to this subparagraph.*

33 (C) Lands preserved or protected from urban development under
34 existing federal or state programs, or both, designed to protect
35 open space, farmland, environmental habitats, and natural resources
36 on a long-term basis.

37 (D) County policies to preserve prime agricultural land, as
38 defined pursuant to Section 56064, within an unincorporated area.

39 (3) The distribution of household growth assumed for purposes
40 of a comparable period of regional transportation plans and

1 opportunities to maximize the use of public transportation and
2 existing transportation infrastructure.

3 (4) The market demand for housing.

4 (5) Agreements between a county and cities in a county to direct
5 growth toward incorporated areas of the county.

6 (6) The loss of units contained in assisted housing developments,
7 as defined in paragraph (8) of subdivision (a) of Section 65583,
8 that changed to non-low-income use through mortgage prepayment,
9 subsidy contract expirations, or termination of use restrictions.

10 (7) High-housing costs burdens.

11 (8) The housing needs of farmworkers.

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

15 (10) Any other factors adopted by the council of governments.

16 (e) The council of governments, or delegate subregion, as
17 applicable, shall explain in writing how each of the factors
18 described in subdivision (d) was incorporated into the methodology
19 and how the methodology is consistent with subdivision (d) of
20 Section 65584. The methodology may include numerical weighting.

21 (f) Any ordinance, policy, voter-approved measure, or standard
22 of a city or county that directly or indirectly limits the number of
23 residential building permits issued by a city or county shall not be
24 a justification for a determination or a reduction in the share of a
25 city or county of the regional housing need.

26 (g) In addition to the factors identified pursuant to subdivision
27 (d), the council of governments, or delegate subregion, as
28 applicable, shall identify any existing local, regional, or state
29 incentives, such as a priority for funding or other incentives
30 available to those local governments that are willing to accept a
31 higher share than proposed in the draft allocation to those local
32 governments by the council of governments or delegate subregion
33 pursuant to Section 65584.05.

34 (h) Following the conclusion of the 60-day public comment
35 period described in subdivision (c) on the proposed allocation
36 methodology, and after making any revisions deemed appropriate
37 by the council of governments, or delegate subregion, as applicable,
38 as a result of comments received during the public comment period,
39 each council of governments, or delegate subregion, as applicable,
40 shall adopt a final regional, or subregional, housing need allocation

1 methodology and provide notice of the adoption of the
2 methodology to the jurisdictions within the region, or delegate
3 subregion as applicable, and to the department.

4 SEC. 6. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this act, within the meaning of Section
9 17556 of the Government Code.

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