

AMENDED IN ASSEMBLY APRIL 20, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2508

Introduced by Assembly Member Caballero

February 19, 2010

~~An act to amend Section 65583.2 of the Government Code, relating to land use.~~ *An act to add Section 50515 to the Health and Safety Code, relating to housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2508, as amended, Caballero. ~~Land use: housing element.~~ *Housing: assistance activities.*

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of land suitable for residential development. Existing law sets forth various classifications and definitions for purposes of determining a city or county's inventory.

Existing law authorizes the Department of Housing and Community Development to provide technical assistance to groups and persons with various housing needs and to administer various housing programs, including, but not limited to, programs promoting infill residential development.

This bill would, upon request by a local agency, allow that agency to petition the department for a reclassification of its jurisdiction under a specified provision of the Planning and Zoning Law, if that classification jeopardizes its ability to meet threshold requirements for

infill development programs administered by the department. The bill would establish procedures for a reclassification request.

~~The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan that includes various, mandatory elements, including a housing element that, in turn, is required to contain, among other things, an inventory of resources and constraints relevant to meeting the city or county’s housing needs. That law also requires a city’s or county’s inventory of land suitable for residential development to be used to identify sites that can be developed for housing that are sufficient to provide for the city’s or county’s share of the regional housing need, and for that purpose, further requires a city or county to determine whether each site in the inventory can accommodate some portion of its share. For these purposes, that law provides that a jurisdiction is considered suburban if it does not meet specified requirements, unless that jurisdiction’s population is greater than 100,000, in which case it is considered metropolitan.~~

~~This bill would modify the provision of that law controlling when a jurisdiction is considered suburban, by adjusting the minimum population at which a jurisdiction is required to be considered metropolitan, from 100,000 to 175,000.~~

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 50515 is added to the Health and Safety
2 Code, to read:
3 50515. A local agency may petition the department for a
4 jurisdiction reclassification if its classification pursuant to
5 subdivisions (d) to (f), inclusive, of Section 65583.2 of the
6 Government Code jeopardizes the agency’s ability to meet
7 threshold requirements for programs promoting infill development,
8 as administered by the department. The local agency shall submit
9 the petition with its application for the relevant program and shall
10 include the reasons why the agency believes the classification to
11 be in error. The agency shall also provide other information
12 supporting the need for the classification change, including, but
13 not limited to, any limitations that the local agency may encounter
14 in meeting the density requirements specified in subparagraph (B)

1 of paragraph (3) of subdivision (c) of Section 65583.2 of the
2 Government Code.

3 SECTION 1. ~~Section 65583.2 of the Government Code is~~
4 ~~amended to read:~~

5 ~~65583.2. (a) A city's or county's inventory of land suitable~~
6 ~~for residential development pursuant to paragraph (3) of~~
7 ~~subdivision (a) of Section 65583 shall be used to identify sites that~~
8 ~~can be developed for housing within the planning period and that~~
9 ~~are sufficient to provide for the jurisdiction's share of the regional~~
10 ~~housing need for all income levels pursuant to Section 65584. As~~
11 ~~used in this section, "land suitable for residential development"~~
12 ~~includes all of the following:~~

13 ~~(1) Vacant sites zoned for residential use.~~

14 ~~(2) Vacant sites zoned for nonresidential use that allows~~
15 ~~residential development.~~

16 ~~(3) Residentially zoned sites that are capable of being developed~~
17 ~~at a higher density.~~

18 ~~(4) Sites zoned for nonresidential use that can be redeveloped~~
19 ~~for, and as necessary, rezoned for, residential use.~~

20 ~~(b) The inventory of land shall include all of the following:~~

21 ~~(1) A listing of properties by parcel number or other unique~~
22 ~~reference.~~

23 ~~(2) The size of each property listed pursuant to paragraph (1),~~
24 ~~and the general plan designation and zoning of each property.~~

25 ~~(3) For nonvacant sites, a description of the existing use of each~~
26 ~~property.~~

27 ~~(4) A general description of any environmental constraints to~~
28 ~~the development of housing within the jurisdiction, the~~
29 ~~documentation for which has been made available to the~~
30 ~~jurisdiction. This information need not be identified on a~~
31 ~~site-specific basis.~~

32 ~~(5) A general description of existing or planned water, sewer,~~
33 ~~and other dry utilities supply, including the availability and access~~
34 ~~to distribution facilities. This information need not be identified~~
35 ~~on a site-specific basis.~~

36 ~~(6) Sites identified as available for housing for above~~
37 ~~moderate-income households in areas not served by public sewer~~
38 ~~systems. This information need not be identified on a site-specific~~
39 ~~basis.~~

1 ~~(7) A map that shows the location of the sites included in the~~
2 ~~inventory, such as the land use map from the jurisdiction’s general~~
3 ~~plan for reference purposes only.~~
4 ~~(e) Based on the information provided in subdivision (b), a city~~
5 ~~or county shall determine whether each site in the inventory can~~
6 ~~accommodate some portion of its share of the regional housing~~
7 ~~need by income level during the planning period, as determined~~
8 ~~pursuant to Section 65584. The analysis shall determine whether~~
9 ~~the inventory can provide for a variety of types of housing,~~
10 ~~including multifamily rental housing, factory-built housing,~~
11 ~~mobilehomes, housing for agricultural employees, emergency~~
12 ~~shelters, and transitional housing. The city or county shall~~
13 ~~determine the number of housing units that can be accommodated~~
14 ~~on each site as follows:~~
15 ~~(1) If local law or regulations require the development of a site~~
16 ~~at a minimum density, the department shall accept the planning~~
17 ~~agency’s calculation of the total housing unit capacity on that site~~
18 ~~based on the established minimum density. If the city or county~~
19 ~~does not adopt a law or regulations requiring the development of~~
20 ~~a site at a minimum density, then it shall demonstrate how the~~
21 ~~number of units determined for that site pursuant to this subdivision~~
22 ~~will be accommodated.~~
23 ~~(2) The number of units calculated pursuant to paragraph (1)~~
24 ~~shall be adjusted as necessary, based on the land use controls and~~
25 ~~site improvements requirement identified in paragraph (5) of~~
26 ~~subdivision (a) of Section 65583.~~
27 ~~(3) For the number of units calculated to accommodate its share~~
28 ~~of the regional housing need for lower income households pursuant~~
29 ~~to paragraph (2), a city or county shall do either of the following:~~
30 ~~(A) Provide an analysis demonstrating how the adopted densities~~
31 ~~accommodate this need. The analysis shall include, but is not~~
32 ~~limited to, factors such as market demand, financial feasibility, or~~
33 ~~information based on development project experience within a~~
34 ~~zone or zones that provide housing for lower income households.~~
35 ~~(B) The following densities shall be deemed appropriate to~~
36 ~~accommodate housing for lower income households:~~
37 ~~(i) For incorporated cities within nonmetropolitan counties and~~
38 ~~for nonmetropolitan counties that have micropolitan areas: sites~~
39 ~~allowing at least 15 units per acre.~~

- 1 ~~(ii) For unincorporated areas in all nonmetropolitan counties~~
2 ~~not included in clause (i): sites allowing at least 10 units per acre.~~
- 3 ~~(iii) For suburban jurisdictions: sites allowing at least 20 units~~
4 ~~per acre.~~
- 5 ~~(iv) For jurisdictions in metropolitan counties: sites allowing~~
6 ~~at least 30 units per acre.~~
- 7 ~~(d) For purposes of this section, metropolitan counties,~~
8 ~~nonmetropolitan counties, and nonmetropolitan counties with~~
9 ~~micropolitan areas are as determined by the United States Census~~
10 ~~Bureau. Nonmetropolitan counties with micropolitan areas include~~
11 ~~the following counties: Del Norte, Humboldt, Lake, Mendocino,~~
12 ~~Nevada, Tehama, and Tuolumne and such other counties as may~~
13 ~~be determined by the United States Census Bureau to be~~
14 ~~nonmetropolitan counties with micropolitan areas in the future.~~
- 15 ~~(e) A jurisdiction is considered suburban if the jurisdiction does~~
16 ~~not meet the requirements of clauses (i) and (ii) of subparagraph~~
17 ~~(B) of paragraph (3) of subdivision (c) and is located in a~~
18 ~~Metropolitan Statistical Area (MSA) of less than 2,000,000 in~~
19 ~~population, unless that jurisdiction's population is greater than~~
20 ~~175,000, in which case it is considered metropolitan. Counties,~~
21 ~~not including the City and County of San Francisco, will be~~
22 ~~considered suburban unless they are in a MSA of 2,000,000 or~~
23 ~~greater in population in which case they are considered~~
24 ~~metropolitan.~~
- 25 ~~(f) A jurisdiction is considered metropolitan if the jurisdiction~~
26 ~~does not meet the requirements for "suburban area" above and is~~
27 ~~located in a MSA of 2,000,000 or greater in population, unless~~
28 ~~that jurisdiction's population is less than 25,000 in which case it~~
29 ~~is considered suburban.~~
- 30 ~~(g) For sites described in paragraph (3) of subdivision (b), the~~
31 ~~city or county shall specify the additional development potential~~
32 ~~for each site within the planning period and shall provide an~~
33 ~~explanation of the methodology used to determine the development~~
34 ~~potential. The methodology shall consider factors including the~~
35 ~~extent to which existing uses may constitute an impediment to~~
36 ~~additional residential development, development trends, market~~
37 ~~conditions, and regulatory or other incentives or standards to~~
38 ~~encourage additional residential development on these sites.~~
- 39 ~~(h) The program required by subparagraph (A) of paragraph (1)~~
40 ~~of subdivision (c) of Section 65583 shall accommodate 100 percent~~

1 of the need for housing for very low and low-income households
2 allocated pursuant to Section 65584 for which site capacity has
3 not been identified in the inventory of sites pursuant to paragraph
4 (3) of subdivision (a) on sites that shall be zoned to permit
5 owner-occupied and rental multifamily residential use by right
6 during the planning period. These sites shall be zoned with
7 minimum density and development standards that permit at least
8 16 units per site at a density of at least 16 units per acre in
9 jurisdictions described in clause (i) of subparagraph (B) of
10 paragraph (3) of subdivision (e) and at least 20 units per acre in
11 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
12 of paragraph (3) of subdivision (e). At least 50 percent of the very
13 low and low-income housing need shall be accommodated on sites
14 designated for residential use and for which nonresidential uses
15 or mixed-uses are not permitted.

16 (i) For purposes of this section and Section 65583, the phrase
17 “use by right” shall mean that the local government’s review of
18 the owner-occupied or multifamily residential use may not require
19 a conditional use permit, planned unit development permit, or other
20 discretionary local government review or approval that would
21 constitute a “project” for purposes of Division 13 (commencing
22 with Section 21000) of the Public Resources Code. Any subdivision
23 of the sites shall be subject to all laws, including, but not limited
24 to, the local government ordinance implementing the Subdivision
25 Map Act. A local ordinance may provide that “use by right” does
26 not exempt the use from design review. However, that design
27 review shall not constitute a “project” for purposes of Division 13
28 (commencing with Section 21000) of the Public Resources Code.
29 Use by right for all rental multifamily residential housing shall be
30 provided in accordance with subdivision (f) of Section 65589.5.