

AMENDED IN ASSEMBLY AUGUST 20, 2010
AMENDED IN ASSEMBLY AUGUST 16, 2010
AMENDED IN ASSEMBLY JUNE 28, 2010
AMENDED IN ASSEMBLY JUNE 10, 2010
AMENDED IN SENATE JANUARY 13, 2010
AMENDED IN SENATE MAY 4, 2009
AMENDED IN SENATE APRIL 14, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 812

Introduced by Senator Ashburn

February 27, 2009

An act to amend Section 65583 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, Ashburn. Developmental services: housing.

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. That law also requires the housing element to contain an analysis of any special housing needs. Existing law defines "developmental disability" as a disability that originates before an individual attains 18 years of age, continues or may continue indefinitely, and constitutes a substantial disability for that individual. Existing law expressly includes specified disabling conditions within that definition.

This bill would require the local government to include in the special housing needs analysis, needs of individuals with a developmental disability within the community. By expanding the duties of local jurisdictions in relation to the general plans, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 65583 of the Government Code proposed by AB 2762, that would become operative only if AB 2762 and this bill are both chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

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

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

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

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

1 SECTION 1. Section 65583 of the Government Code is
 2 amended to read:
 3 65583. The housing element shall consist of an identification
 4 and analysis of existing and projected housing needs and a
 5 statement of goals, policies, quantified objectives, financial
 6 resources, and scheduled programs for the preservation,
 7 improvement, and development of housing. The housing element
 8 shall identify adequate sites for housing, including rental housing,
 9 factory-built housing, mobilehomes, and emergency shelters, and
 10 shall make adequate provision for the existing and projected needs
 11 of all economic segments of the community. The element shall
 12 contain all of the following:
 13 (a) An assessment of housing needs and an inventory of
 14 resources and constraints relevant to the meeting of these needs.
 15 The assessment and inventory shall include all of the following:
 16 (1) An analysis of population and employment trends and
 17 documentation of projections and a quantification of the locality's
 18 existing and projected housing needs for all income levels,
 19 including extremely low income households, as defined in
 20 subdivision (b) of Section 50105 and Section 50106 of the Health
 21 and Safety Code. These existing and projected needs shall include

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

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

16 (3) An inventory of land suitable for residential development,
17 including vacant sites and sites having potential for redevelopment,
18 and an analysis of the relationship of zoning and public facilities
19 and services to these sites.

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

- 1 (i) The maximum number of beds or persons permitted to be
2 served nightly by the facility.
- 3 (ii) Off-street parking based upon demonstrated need, provided
4 that the standards do not require more parking for emergency
5 shelters than for other residential or commercial uses within the
6 same zone.
- 7 (iii) The size and location of exterior and interior onsite waiting
8 and client intake areas.
- 9 (iv) The provision of onsite management.
- 10 (v) The proximity to other emergency shelters, provided that
11 emergency shelters are not required to be more than 300 feet apart.
- 12 (vi) The length of stay.
- 13 (vii) Lighting.
- 14 (viii) Security during hours that the emergency shelter is in
15 operation.
- 16 (B) The permit processing, development, and management
17 standards applied under this paragraph shall not be deemed to be
18 discretionary acts within the meaning of the California
19 Environmental Quality Act (Division 13 (commencing with Section
20 21000) of the Public Resources Code).
- 21 (C) A local government that can demonstrate to the satisfaction
22 of the department the existence of one or more emergency shelters
23 either within its jurisdiction or pursuant to a multijurisdictional
24 agreement that can accommodate that jurisdiction's need for
25 emergency shelter identified in paragraph (7) may comply with
26 the zoning requirements of subparagraph (A) by identifying a zone
27 or zones where new emergency shelters are allowed with a
28 conditional use permit.
- 29 (D) A local government with an existing ordinance or ordinances
30 that comply with this paragraph shall not be required to take
31 additional action to identify zones for emergency shelters. The
32 housing element must only describe how existing ordinances,
33 policies, and standards are consistent with the requirements of this
34 paragraph.
- 35 (5) An analysis of potential and actual governmental constraints
36 upon the maintenance, improvement, or development of housing
37 for all income levels, including the types of housing identified in
38 paragraph (1) of subdivision (c), and for persons with disabilities
39 as identified in the analysis pursuant to paragraph (7), including
40 land use controls, building codes and their enforcement, site

1 improvements, fees and other exactions required of developers,
2 and local processing and permit procedures. The analysis shall
3 also demonstrate local efforts to remove governmental constraints
4 that hinder the locality from meeting its share of the regional
5 housing need in accordance with Section 65584 and from meeting
6 the need for housing for persons with disabilities, supportive
7 housing, transitional housing, and emergency shelters identified
8 pursuant to paragraph (7). Transitional housing and supportive
9 housing shall be considered a residential use of property, and shall
10 be subject only to those restrictions that apply to other residential
11 dwellings of the same type in the same zone.

12 (6) An analysis of potential and actual nongovernmental
13 constraints upon the maintenance, improvement, or development
14 of housing for all income levels, including the availability of
15 financing, the price of land, and the cost of construction.

16 (7) An analysis of any special housing needs, such as those of
17 the elderly; persons with disabilities, including a developmental
18 disability, as defined in Section 4512 of the Welfare and
19 Institutions Code; large families; farmworkers; families with female
20 heads of households; and families and persons in need of
21 emergency shelter. The need for emergency shelter shall be
22 assessed based on annual and seasonal need. The need for
23 emergency shelter may be reduced by the number of supportive
24 housing units that are identified in an adopted 10-year plan to end
25 chronic homelessness and that are either vacant or for which
26 funding has been identified to allow construction during the
27 planning period.

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

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

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

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

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

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

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

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

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

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

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

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

5 (A) Where the inventory of sites, pursuant to paragraph (3) of
6 subdivision (a), does not identify adequate sites to accommodate
7 the need for groups of all household income levels pursuant to
8 Section 65584, rezoning of those sites, including adoption of
9 minimum density and development standards, for jurisdictions
10 with an eight-year housing element planning period pursuant to
11 Section 65588, shall be completed no later than three years after
12 either the date the housing element is adopted pursuant to
13 subdivision (f) of Section 65585 or the date that is 90 days after
14 receipt of comments from the department pursuant to subdivision
15 (b) of Section 65585, whichever is earlier, unless the deadline is
16 extended pursuant to subdivision (f). Notwithstanding the
17 foregoing, for a local government that fails to adopt a housing
18 element within 120 days of the statutory deadline in Section 65588
19 for adoption of the housing element, rezoning of those sites,
20 including adoption of minimum density and development standards,
21 shall be completed no later than three years and 120 days from the
22 statutory deadline in Section 65588 for adoption of the housing
23 element.

24 (B) Where the inventory of sites, pursuant to paragraph (3) of
25 subdivision (a), does not identify adequate sites to accommodate
26 the need for groups of all household income levels pursuant to
27 Section 65584, the program shall identify sites that can be
28 developed for housing within the planning period pursuant to
29 subdivision (h) of Section 65583.2. The identification of sites shall
30 include all components specified in subdivision (b) of Section
31 65583.2.

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

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

4 (3) Address and, where appropriate and legally possible, remove
5 governmental constraints to the maintenance, improvement, and
6 development of housing, including housing for all income levels
7 and housing for persons with disabilities. The program shall remove
8 constraints to, and provide reasonable accommodations for housing
9 designed for, intended for occupancy by, or with supportive
10 services for, persons with disabilities.

11 (4) Conserve and improve the condition of the existing
12 affordable housing stock, which may include addressing ways to
13 mitigate the loss of dwelling units demolished by public or private
14 action.

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

18 (6) Preserve for lower income households the assisted housing
19 developments identified pursuant to paragraph (9) of subdivision
20 (a). The program for preservation of the assisted housing
21 developments shall utilize, to the extent necessary, all available
22 federal, state, and local financing and subsidy programs identified
23 in paragraph (9) of subdivision (a), except where a community has
24 other urgent needs for which alternative funding sources are not
25 available. The program may include strategies that involve local
26 regulation and technical assistance.

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

31 (8) Include a diligent effort by the local government to achieve
32 public participation of all economic segments of the community
33 in the development of the housing element, and the program shall
34 describe this effort.

35 (d) (1) A local government may satisfy all or part of its
36 requirement to identify a zone or zones suitable for the
37 development of emergency shelters pursuant to paragraph (4) of
38 subdivision (a) by adopting and implementing a multijurisdictional
39 agreement, with a maximum of two other adjacent communities,
40 that requires the participating jurisdictions to develop at least one

1 year-round emergency shelter within two years of the beginning
2 of the planning period.

3 (2) The agreement shall allocate a portion of the new shelter
4 capacity to each jurisdiction as credit towards its emergency shelter
5 need, and each jurisdiction shall describe how the capacity was
6 allocated as part of its housing element.

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

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

11 (B) The jurisdiction's contribution to the facility for both the
12 development and ongoing operation and management of the
13 facility.

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

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

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

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

27 (2) Any housing element or housing element amendment
28 prepared pursuant to subdivision (e) of Section 65588 or Section
29 65584.02, when the city, county, or city and county fails to submit
30 the first draft to the department before the due date specified in
31 Section 65588 or 65584.02.

32 (f) The deadline for completing required rezoning pursuant to
33 subparagraph (A) of paragraph (1) of subdivision (c) shall be
34 extended by one year if the local government has completed the
35 rezoning at densities sufficient to accommodate at least 75 percent
36 of the units for low- and very low income households and if the
37 legislative body at the conclusion of a public hearing determines,
38 based upon substantial evidence, that any of the following
39 circumstances exist:

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

4 (2) The local government is unable to complete the rezoning
5 because of infrastructure deficiencies due to fiscal or regulatory
6 constraints.

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

11 The resolution and the findings shall be transmitted to the
12 department together with a detailed budget and schedule for
13 preparation and adoption of the required rezonings, including plans
14 for citizen participation and expected interim action. The schedule
15 shall provide for adoption of the required rezoning within one year
16 of the adoption of the resolution.

17 (g) (1) If a local government fails to complete the rezoning by
18 the deadline provided in subparagraph (A) of paragraph (1) of
19 subdivision (c), as it may be extended pursuant to subdivision (f),
20 except as provided in paragraph (2), a local government may not
21 disapprove a housing development project, nor require a
22 conditional use permit, planned unit development permit, or other
23 locally imposed discretionary permit, or impose a condition that
24 would render the project infeasible, if the housing development
25 project (A) is proposed to be located on a site required to be
26 rezoned pursuant to the program action required by that
27 subparagraph; and (B) complies with applicable, objective general
28 plan and zoning standards and criteria, including design review
29 standards, described in the program action required by that
30 subparagraph. Any subdivision of sites shall be subject to the
31 Subdivision Map Act (Division 2 (commencing with Section
32 66410)). Design review shall not constitute a “project” for purposes
33 of Division 13 (commencing with Section 21000) of the Public
34 Resources Code.

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

39 (A) The housing development project would have a specific,
40 adverse impact upon the public health or safety unless the project

1 is disapproved or approved upon the condition that the project be
2 developed at a lower density. As used in this paragraph, a “specific,
3 adverse impact” means a significant, quantifiable, direct, and
4 unavoidable impact, based on objective, identified written public
5 health or safety standards, policies, or conditions as they existed
6 on the date the application was deemed complete.

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

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

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

32 (h) An action to enforce the program actions of the housing
33 element shall be brought pursuant to Section 1085 of the Code of
34 Civil Procedure.

35 *SEC. 1.5. Section 65583 of the Government Code is amended*
36 *to read:*

37 65583. The housing element shall consist of an identification
38 and analysis of existing and projected housing needs and a
39 statement of goals, policies, quantified objectives, financial
40 resources, and scheduled programs for the preservation,

1 improvement, and development of housing. The housing element
2 shall identify adequate sites for housing, including rental housing,
3 factory-built housing, mobilehomes, and emergency shelters, and
4 shall make adequate provision for the existing and projected needs
5 of all economic segments of the community. The element shall
6 contain all of the following:

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

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

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

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

35 (4) (A) The identification of a zone or zones where emergency
36 shelters are allowed as a permitted use without a conditional use
37 or other discretionary permit. The identified zone or zones shall
38 include sufficient capacity to accommodate the need for emergency
39 shelter identified in paragraph (7), except that each local
40 government shall identify a zone or zones that can accommodate

1 at least one year-round emergency shelter. If the local government
2 cannot identify a zone or zones with sufficient capacity, the local
3 government shall include a program to amend its zoning ordinance
4 to meet the requirements of this paragraph within one year of the
5 adoption of the housing element. The local government may
6 identify additional zones where emergency shelters are permitted
7 with a conditional use permit. The local government shall also
8 demonstrate that existing or proposed permit processing,
9 development, and management standards are objective and
10 encourage and facilitate the development of, or conversion to,
11 emergency shelters. Emergency shelters may only be subject to
12 those development and management standards that apply to
13 residential or commercial development within the same zone except
14 that a local government may apply written, objective standards
15 that include all of the following:

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

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

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

24 (iv) The provision of onsite management.

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

27 (vi) The length of stay.

28 (vii) Lighting.

29 (viii) Security during hours that the emergency shelter is in
30 operation.

31 (B) The permit processing, development, and management
32 standards applied under this paragraph shall not be deemed to be
33 discretionary acts within the meaning of the California
34 Environmental Quality Act (Division 13 (commencing with Section
35 21000) of the Public Resources Code).

36 (C) A local government that can demonstrate to the satisfaction
37 of the department the existence of one or more emergency shelters
38 either within its jurisdiction or pursuant to a multijurisdictional
39 agreement that can accommodate that jurisdiction's need for
40 emergency shelter identified in paragraph (7) may comply with

1 the zoning requirements of subparagraph (A) by identifying a zone
2 or zones where new emergency shelters are allowed with a
3 conditional use permit.

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

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

27 (6) An analysis of potential and actual nongovernmental
28 constraints upon the maintenance, improvement, or development
29 of housing for all income levels, including the availability of
30 financing, the price of land, and the cost of construction.

31 (7) An analysis of any special housing needs, such as those of
32 ~~the elderly~~, *elderly*; persons with disabilities, ~~large families~~,
33 ~~farmworkers~~, *including a developmental disability, as defined in*
34 *Section 4512 of the Welfare and Institutions Code; large families;*
35 *farmworkers; families with female heads of* ~~households~~,
36 *households*; and families and persons in need of emergency shelter.
37 The need for emergency shelter shall be assessed based on annual
38 and seasonal need. The need for emergency shelter may be reduced
39 by the number of supportive housing units that are identified in an
40 adopted 10-year plan to end chronic homelessness and that are

1 either vacant or for which funding has been identified to allow
2 construction during the planning period.

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

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

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

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

39 (C) The analysis shall identify public and private nonprofit
40 corporations known to the local government which have legal and

1 managerial capacity to acquire and manage these housing
2 developments.

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

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

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

28 (c) A program which sets forth a schedule of actions during the
29 planning period, each with a timeline for implementation, which
30 may recognize that certain programs are ongoing, such that there
31 will be beneficial impacts of the programs within the planning
32 period, that the local government is undertaking or intends to
33 undertake to implement the policies and achieve the goals and
34 objectives of the housing element through the administration of
35 land use and development controls, the provision of regulatory
36 concessions and incentives, ~~and~~ the utilization of appropriate
37 federal and state financing and subsidy programs when ~~available~~
38 *available*, and the utilization of moneys in a low- and
39 moderate-income housing fund of an agency if the locality has
40 established a redevelopment project area pursuant to the

1 Community Redevelopment Law (Division 24 (commencing with
2 Section 33000) of the Health and Safety Code). In order to make
3 adequate provision for the housing needs of all economic segments
4 of the community, the program shall do all of the following:

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

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

38 (B) Where the inventory of sites, pursuant to paragraph (3) of
39 subdivision (a), does not identify adequate sites to accommodate
40 the need for groups of all household income levels pursuant to

1 Section 65584, the program shall identify sites that can be
2 developed for housing within the planning period pursuant to
3 subdivision (h) of Section 65583.2. The identification of sites shall
4 include all components specified in subdivision (b) of Section
5 65583.2.

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

14 (2) Assist in the development of adequate housing to meet the
15 needs of extremely low, very low, low-, and moderate-income
16 households.

17 (3) Address and, where appropriate and legally possible, remove
18 governmental constraints to the maintenance, improvement, and
19 development of housing, including housing for all income levels
20 and housing for persons with disabilities. The program shall remove
21 constraints to, and provide reasonable accommodations for housing
22 designed for, intended for occupancy by, or with supportive
23 services for, persons with disabilities.

24 (4) Conserve and improve the condition of the existing
25 affordable housing stock, which may include addressing ways to
26 mitigate the loss of dwelling units demolished by public or private
27 action.

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

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

1 (7) ~~The program shall include~~ *Include* an identification of the
2 agencies and officials responsible for the implementation of the
3 various actions and the means by which consistency will be
4 achieved with other general plan elements and community goals.
5 ~~The local government shall make a diligent effort to achieve public~~
6 ~~participation of all economic segments of the community in the~~
7 ~~development of the housing element, and the program shall~~
8 ~~describe this effort.~~

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 towards 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~~ *state, federal,* or
22 local agency.

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

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

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

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

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

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

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

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

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

1 any such action, the city, county, or city and county shall bear the
2 burden of proof.

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

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

15 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
16 *Section 65583 of the Government Code proposed by both this bill*
17 *and AB 2762. It shall only become operative if (1) both bills are*
18 *enacted and become effective on or before January 1, 2011, (2)*
19 *each bill amends Section 65583 of the Government Code, and (3)*
20 *this bill is enacted after AB 2762, in which case Section 1 of this*
21 *bill shall not become operative.*

22 ~~SEC. 2.~~

23 *SEC. 3.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.