

AMENDED IN ASSEMBLY MAY 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 542

Introduced by Assembly Member Allen

February 16, 2011

An act to amend Section 65583.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 542, as amended, Allen. Land use: housing element: regional housing need.

The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan, and requires the general plan to include specified, mandatory elements, including a housing element. That law requires the housing element, in turn, to contain, among other items, an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs. That law requires that assessment and inventory, in turn, to contain an inventory of land suitable for residential development.

That law requires a city or county to determine whether each site in the inventory of land suitable for residential development can accommodate some portion of the city's or county's share of the regional housing need by income level, as specified, and the number of housing units that can be accommodated on each site. That law requires specified densities to be deemed appropriate to accommodate housing for lower income households.

This bill would require densities less than those specified to be deemed appropriate to accommodate housing for lower income households, if the site is *zoned to allow a minimum residential density of 10 units per*

acre, is located close to jobs and within one mile of a grocery store or elementary school, and is either owned by the city or county planning agency and, is set aside for affordable housing development, or if the planning agency has offered to provide subsidies of at least an unspecified amount per unit for affordable housing construction and will be provided for the development of affordable housing at no cost to the developer, or the county has committed to providing subsidies of at least 15% of the total development cost per unit for the construction of affordable housing on the site during the planning period, as specified.

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

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

- 1 SECTION 1. Section 65583.2 of the Government Code is
2 amended to read:
3 65583.2. (a) A city's or county's inventory of land suitable
4 for residential development pursuant to paragraph (3) of
5 subdivision (a) of Section 65583 shall be used to identify sites that
6 can be developed for housing within the planning period and that
7 are sufficient to provide for the jurisdiction's share of the regional
8 housing need for all income levels pursuant to Section 65584. As
9 used in this section, "land suitable for residential development"
10 includes all of the following:
11 (1) Vacant sites zoned for residential use.
12 (2) Vacant sites zoned for nonresidential use that allows
13 residential development.
14 (3) Residentially zoned sites that are capable of being developed
15 at a higher density.
16 (4) Sites zoned for nonresidential use that can be redeveloped
17 for, and as necessary, rezoned for, residential use.
18 (b) The inventory of land shall include all of the following:
19 (1) A listing of properties by parcel number or other unique
20 reference.
21 (2) The size of each property listed pursuant to paragraph (1),
22 and the general plan designation and zoning of each property.
23 (3) For nonvacant sites, a description of the existing use of each
24 property.

1 (4) A general description of any environmental constraints to
2 the development of housing within the jurisdiction, the
3 documentation for which has been made available to the
4 jurisdiction. This information need not be identified on a
5 site-specific basis.

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

10 (6) Sites identified as available for housing for above
11 moderate-income households in areas not served by public sewer
12 systems. This information need not be identified on a site-specific
13 basis.

14 (7) A map that shows the location of the sites included in the
15 inventory, such as the land use map from the jurisdiction's general
16 plan for reference purposes only.

17 (c) Based on the information provided in subdivision (b), a city
18 or county shall determine whether each site in the inventory can
19 accommodate some portion of its share of the regional housing
20 need by income level during the planning period, as determined
21 pursuant to Section 65584. The analysis shall determine whether
22 the inventory can provide for a variety of types of housing,
23 including multifamily rental housing, factory-built housing,
24 mobilehomes, housing for agricultural employees, emergency
25 shelters, and transitional housing. The city or county shall
26 determine the number of housing units that can be accommodated
27 on each site as follows:

28 (1) If local law or regulations require the development of a site
29 at a minimum density, the department shall accept the planning
30 agency's calculation of the total housing unit capacity on that site
31 based on the established minimum density. If the city or county
32 does not adopt a law or regulations requiring the development of
33 a site at a minimum density, then it shall demonstrate how the
34 number of units determined for that site pursuant to this subdivision
35 will be accommodated.

36 (2) The number of units calculated pursuant to paragraph (1)
37 shall be adjusted as necessary, based on the land use controls and
38 site improvements requirement identified in paragraph (5) of
39 subdivision (a) of Section 65583.

1 (3) For the number of units calculated to accommodate its share
 2 of the regional housing need for lower income households pursuant
 3 to paragraph (2), a city or county shall do either of the following:

4 (A) Provide an analysis demonstrating how the adopted densities
 5 accommodate this need. The analysis shall include, but is not
 6 limited to, factors such as market demand, financial feasibility, or
 7 information based on development project experience within a
 8 zone or zones that provide housing for lower income households.

9 (B) The following densities shall be deemed appropriate to
 10 accommodate housing for lower income households:

11 (i) For incorporated cities within nonmetropolitan counties and
 12 for nonmetropolitan counties that have micropolitan areas: sites
 13 allowing at least 15 units per acre.

14 (ii) For unincorporated areas in all nonmetropolitan counties
 15 not included in clause (i): sites allowing at least 10 units per acre.

16 (iii) For suburban jurisdictions: sites allowing at least 20 units
 17 per acre.

18 (iv) For jurisdictions in metropolitan counties: sites allowing
 19 at least 30 units per acre.

20 ~~(4) Densities less than those specified in subparagraph (B) of~~
 21 ~~paragraph (3) shall be deemed appropriate to accommodate housing~~
 22 ~~for lower income households, if the site is owned by the planning~~
 23 ~~agency and set aside for affordable housing development, or if the~~
 24 ~~planning agency has offered to provide subsidies of at least \$ _____~~
 25 ~~per unit for affordable housing construction.~~

26 (4) (A) *Notwithstanding subparagraph (B) of paragraph (3),*
 27 *a site within the unincorporated area of a county shall be deemed*
 28 *appropriate to accommodate housing for lower income households*
 29 *if all of the following criteria apply:*

30 (i) *Either of the following has occurred:*

31 (I) *The site is owned by the county, is set aside for affordable*
 32 *housing, and the land will be provided for the development of*
 33 *affordable housing at no cost to the developer.*

34 (II) *The county has committed to providing subsidies of at least*
 35 *15 percent of the total development cost per unit for the*
 36 *construction of affordable housing on the site during the planning*
 37 *period.*

38 (ii) *The site is zoned to allow a minimum residential density of*
 39 *10 units per acre.*

1 (iii) *The site is located close to jobs and within one mile of a*
2 *grocery store or an elementary school.*

3 (B) *If, by the end of the second year of the planning period, the*
4 *county has not entered into an enforceable agreement to provide*
5 *committed assistance, as defined by paragraph (4) of subdivision*
6 *(c) of Section 65583.1, for the development of affordable units on*
7 *a site included in a county's housing element pursuant to this*
8 *paragraph, the county shall, not later than July 1 of the fourth*
9 *year of the planning period, identify additional adequate sites*
10 *pursuant to paragraph (1) of subdivision (c) of Section 65583*
11 *sufficient to accommodate the number of units for which committed*
12 *assistance was not provided.*

13 (d) For purposes of this section, metropolitan counties,
14 nonmetropolitan counties, and nonmetropolitan counties with
15 micropolitan areas are as determined by the United States Census
16 Bureau. Nonmetropolitan counties with micropolitan areas include
17 the following counties: Del Norte, Humboldt, Lake, Mendocino,
18 Nevada, Tehama, and Tuolumne and such other counties as may
19 be determined by the United States Census Bureau to be
20 nonmetropolitan counties with micropolitan areas in the future.

21 (e) A jurisdiction is considered suburban if the jurisdiction does
22 not meet the requirements of clauses (i) and (ii) of subparagraph
23 (B) of paragraph (3) of subdivision (c) and is located in a
24 Metropolitan Statistical Area (MSA) of less than 2,000,000 in
25 population, unless that jurisdiction's population is greater than
26 100,000, in which case it is considered metropolitan. Counties,
27 not including the City and County of San Francisco, will be
28 considered suburban unless they are in a MSA of 2,000,000 or
29 greater in population in which case they are considered
30 metropolitan.

31 (f) A jurisdiction is considered metropolitan if the jurisdiction
32 does not meet the requirements for "suburban area" above and is
33 located in a MSA of 2,000,000 or greater in population, unless
34 that jurisdiction's population is less than 25,000 in which case it
35 is considered suburban.

36 (g) For sites described in paragraph (3) of subdivision (b), the
37 city or county shall specify the additional development potential
38 for each site within the planning period and shall provide an
39 explanation of the methodology used to determine the development
40 potential. The methodology shall consider factors including the

1 extent to which existing uses may constitute an impediment to
2 additional residential development, development trends, market
3 conditions, and regulatory or other incentives or standards to
4 encourage additional residential development on these sites.

5 (h) The program required by subparagraph (A) of paragraph (1)
6 of subdivision (c) of Section 65583 shall accommodate 100 percent
7 of the need for housing for very low and low-income households
8 allocated pursuant to Section 65584 for which site capacity has
9 not been identified in the inventory of sites pursuant to paragraph
10 (3) of subdivision (a) on sites that shall be zoned to permit
11 owner-occupied and rental multifamily residential use by right
12 during the planning period. These sites shall be zoned with
13 minimum density and development standards that permit at least
14 16 units per site at a density of at least 16 units per acre in
15 jurisdictions described in clause (i) of subparagraph (B) of
16 paragraph (3) of subdivision (c) and at least 20 units per acre in
17 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
18 of paragraph (3) of subdivision (c). At least 50 percent of the very
19 low and low-income housing need shall be accommodated on sites
20 designated for residential use and for which nonresidential uses
21 ~~or mixed-uses~~ *mixed uses* are not permitted.

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

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