

ASSEMBLY BILL

No. 745

Introduced by Assembly Member Levine

February 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 745, as introduced, Levine. Land use: housing element.

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's 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, requires a city or county to determine (1) whether each site in the inventory can accommodate some portion of its share, as specified, and (2) the number of housing units that can be accommodated on each site, as specified. That law requires a city or county, for the number of units calculated to accommodate its share of the regional housing need for lower income households, to either provide a prescribed analysis demonstrating how the adopted densities accommodate this need, or deem certain densities appropriate to accommodate housing for lower income households, based on specified classifications.

This bill would authorize a city or county to request the appropriate council of governments to adjust a density to be deemed appropriate if it is inconsistent with the city’s or county’s existing density.

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 *determined* pursuant to Section
9 65584. As used in this section, “land suitable for residential
10 development” 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.
- 25 (4) A general description of any environmental constraints to
26 the development of housing within the jurisdiction, the
27 documentation for which has been made available to the
28 jurisdiction. This information need not be identified on a
29 site-specific basis.
- 30 (5) A general description of existing or planned water, sewer,
31 and other dry utilities supply, including the availability and access

1 to distribution facilities. This information need not be identified
2 on a site-specific basis.

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

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

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

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

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

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

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

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

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

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

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

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

12 (4) *A city or county may request the appropriate council of*
13 *governments to adjust a density specified in subparagraph (B) of*
14 *paragraph (3) if the density specified is inconsistent with the city's*
15 *or county's existing density.*

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

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

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

39 (g) For sites described in paragraph (3) of subdivision (b), the
40 city or county shall specify the additional development potential

1 for each site within the planning period and shall provide an
2 explanation of the methodology used to determine the development
3 potential. The methodology shall consider factors including the
4 extent to which existing uses may constitute an impediment to
5 additional residential development, development trends, market
6 conditions, and regulatory or other incentives or standards to
7 encourage additional residential development on these sites.

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

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

- 1 Use by right for all rental multifamily residential housing shall be
- 2 provided in accordance with subdivision (f) of Section 65589.5.

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