

**ASSEMBLY BILL**

**No. 1343**

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**Introduced by Assembly Member Bonilla**

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1343, as introduced, Bonilla. Local government: general plan: housing element.

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 requires the housing element to, among other things, identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.

This bill would instead require the housing element to identify adequate sites for housing, including, but not limited to, rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.

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 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, *but not limited*  
9 *to*, rental housing, factory-built housing, mobilehomes, and  
10 emergency shelters, and shall make adequate provision for the  
11 existing and projected needs of all economic segments of the  
12 community. The element shall 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  
22 the locality’s share of the regional housing need in accordance  
23 with Section 65584. Local agencies shall calculate the subset of  
24 very low income households allotted under Section 65584 that  
25 qualify as extremely low income households. The local agency  
26 may either use available census data to calculate the percentage  
27 of very low income households that qualify as extremely low  
28 income households or presume that 50 percent of the very low  
29 income households qualify as extremely low income households.  
30 The number of extremely low income households and very low  
31 income households shall equal the jurisdiction’s allocation of very  
32 low income households pursuant to Section 65584.

33 (2) An analysis and documentation of household characteristics,  
34 including level of payment compared to ability to pay, housing  
35 characteristics, including overcrowding, and housing stock  
36 condition.

37 (3) An inventory of land suitable for residential development,  
38 including vacant sites and sites having potential for redevelopment,

1 and an analysis of the relationship of zoning and public facilities  
2 and services to these sites.

3 (4) (A) The identification of a zone or zones where emergency  
4 shelters are allowed as a permitted use without a conditional use  
5 or other discretionary permit. The identified zone or zones shall  
6 include sufficient capacity to accommodate the need for emergency  
7 shelter identified in paragraph (7), except that each local  
8 government shall identify a zone or zones that can accommodate  
9 at least one year-round emergency shelter. If the local government  
10 cannot identify a zone or zones with sufficient capacity, the local  
11 government shall include a program to amend its zoning ordinance  
12 to meet the requirements of this paragraph within one year of the  
13 adoption of the housing element. The local government may  
14 identify additional zones where emergency shelters are permitted  
15 with a conditional use permit. The local government shall also  
16 demonstrate that existing or proposed permit processing,  
17 development, and management standards are objective and  
18 encourage and facilitate the development of, or conversion to,  
19 emergency shelters. Emergency shelters may only be subject to  
20 those development and management standards that apply to  
21 residential or commercial development within the same zone except  
22 that a local government may apply written, objective standards  
23 that include all of the following:

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

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

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

32 (iv) The provision of onsite management.

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

35 (vi) The length of stay.

36 (vii) Lighting.

37 (viii) Security during hours that the emergency shelter is in  
38 operation.

39 (B) The permit processing, development, and management  
40 standards applied under this paragraph shall not be deemed to be

1 discretionary acts within the meaning of the California  
2 Environmental Quality Act (Division 13 (commencing with Section  
3 21000) of the Public Resources Code).

4 (C) A local government that can demonstrate to the satisfaction  
5 of the department the existence of one or more emergency shelters  
6 either within its jurisdiction or pursuant to a multijurisdictional  
7 agreement that can accommodate that jurisdiction's need for  
8 emergency shelter identified in paragraph (7) may comply with  
9 the zoning requirements of subparagraph (A) by identifying a zone  
10 or zones where new emergency shelters are allowed with a  
11 conditional use permit.

12 (D) A local government with an existing ordinance or ordinances  
13 that comply with this paragraph shall not be required to take  
14 additional action to identify zones for emergency shelters. The  
15 housing element must only describe how existing ordinances,  
16 policies, and standards are consistent with the requirements of this  
17 paragraph.

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

35 (6) An analysis of potential and actual nongovernmental  
36 constraints upon the maintenance, improvement, or development  
37 of housing for all income levels, including the availability of  
38 financing, the price of land, and the cost of construction.

39 (7) An analysis of any special housing needs, such as those of  
40 the elderly; persons with disabilities, including a developmental

1 disability, as defined in Section 4512 of the Welfare and  
2 Institutions Code; large families; farmworkers; families with female  
3 heads of households; and families and persons in need of  
4 emergency shelter. The need for emergency shelter shall be  
5 assessed based on annual and seasonal need. The need for  
6 emergency shelter may be reduced by the number of supportive  
7 housing units that are identified in an adopted 10-year plan to end  
8 chronic homelessness and that are either vacant or for which  
9 funding has been identified to allow construction during the  
10 planning period.

11 (8) An analysis of opportunities for energy conservation with  
12 respect to residential development. Cities and counties are  
13 encouraged to include weatherization and energy efficiency  
14 improvements as part of publicly subsidized housing rehabilitation  
15 projects. This may include energy efficiency measures that  
16 encompass the building envelope, its heating and cooling systems,  
17 and its electrical system.

18 (9) An analysis of existing assisted housing developments that  
19 are eligible to change from low-income housing uses during the  
20 next 10 years due to termination of subsidy contracts, mortgage  
21 prepayment, or expiration of restrictions on use. “Assisted housing  
22 developments,” for the purpose of this section, shall mean  
23 multifamily rental housing that receives governmental assistance  
24 under federal programs listed in subdivision (a) of Section  
25 65863.10, state and local multifamily revenue bond programs,  
26 local redevelopment programs, the federal Community  
27 Development Block Grant Program, or local in-lieu fees. “Assisted  
28 housing developments” shall also include multifamily rental units  
29 that were developed pursuant to a local inclusionary housing  
30 program or used to qualify for a density bonus pursuant to Section  
31 65916.

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

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

8 (C) The analysis shall identify public and private nonprofit  
 9 corporations known to the local government which have legal and  
 10 managerial capacity to acquire and manage these housing  
 11 developments.

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

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

27 (2) It is recognized that the total housing needs identified  
 28 pursuant to subdivision (a) may exceed available resources and  
 29 the community’s ability to satisfy this need within the content of  
 30 the general plan requirements outlined in Article 5 (commencing  
 31 with Section 65300). Under these circumstances, the quantified  
 32 objectives need not be identical to the total housing needs. The  
 33 quantified objectives shall establish the maximum number of  
 34 housing units by income category, including extremely low income,  
 35 that can be constructed, rehabilitated, and conserved over a  
 36 five-year time period.

37 (c) A program which sets forth a schedule of actions during the  
 38 planning period, each with a timeline for implementation, which  
 39 may recognize that certain programs are ongoing, such that there  
 40 will be beneficial impacts of the programs within the planning

1 period, that the local government is undertaking or intends to  
2 undertake to implement the policies and achieve the goals and  
3 objectives of the housing element through the administration of  
4 land use and development controls, the provision of regulatory  
5 concessions and incentives, the utilization of appropriate federal  
6 and state financing and subsidy programs when available, and the  
7 utilization of moneys in a low- and moderate-income housing fund  
8 of an agency if the locality has established a redevelopment project  
9 area pursuant to the Community Redevelopment Law (Division  
10 24 (commencing with Section 33000) of the Health and Safety  
11 Code). In order to make adequate provision for the housing needs  
12 of all economic segments of the community, the program shall do  
13 all of the following:

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

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

1 element within 120 days of the statutory deadline in Section 65588  
2 for adoption of the housing element, rezoning of those sites,  
3 including adoption of minimum density and development standards,  
4 shall be completed no later than three years and 120 days from the  
5 statutory deadline in Section 65588 for adoption of the housing  
6 element.

7 (B) Where the inventory of sites, pursuant to paragraph (3) of  
8 subdivision (a), does not identify adequate sites to accommodate  
9 the need for groups of all household income levels pursuant to  
10 Section 65584, the program shall identify sites that can be  
11 developed for housing within the planning period pursuant to  
12 subdivision (h) of Section 65583.2. The identification of sites shall  
13 include all components specified in subdivision (b) of Section  
14 65583.2.

15 (C) Where the inventory of sites pursuant to paragraph (3) of  
16 subdivision (a) does not identify adequate sites to accommodate  
17 the need for farmworker housing, the program shall provide for  
18 sufficient sites to meet the need with zoning that permits  
19 farmworker housing use by right, including density and  
20 development standards that could accommodate and facilitate the  
21 feasibility of the development of farmworker housing for low- and  
22 very low income households.

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

26 (3) Address and, where appropriate and legally possible, remove  
27 governmental constraints to the maintenance, improvement, and  
28 development of housing, including housing for all income levels  
29 and housing for persons with disabilities. The program shall remove  
30 constraints to, and provide reasonable accommodations for housing  
31 designed for, intended for occupancy by, or with supportive  
32 services for, persons with disabilities.

33 (4) Conserve and improve the condition of the existing  
34 affordable housing stock, which may include addressing ways to  
35 mitigate the loss of dwelling units demolished by public or private  
36 action.

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

1 (6) Preserve for lower income households the assisted housing  
2 developments identified pursuant to paragraph (9) of subdivision  
3 (a). The program for preservation of the assisted housing  
4 developments shall utilize, to the extent necessary, all available  
5 federal, state, and local financing and subsidy programs identified  
6 in paragraph (9) of subdivision (a), except where a community has  
7 other urgent needs for which alternative funding sources are not  
8 available. The program may include strategies that involve local  
9 regulation and technical assistance.

10 (7) Include an identification of the agencies and officials  
11 responsible for the implementation of the various actions and the  
12 means by which consistency will be achieved with other general  
13 plan elements and community goals.

14 (8) Include a diligent effort by the local government to achieve  
15 public participation of all economic segments of the community  
16 in the development of the housing element, and the program shall  
17 describe this effort.

18 (d) (1) A local government may satisfy all or part of its  
19 requirement to identify a zone or zones suitable for the  
20 development of emergency shelters pursuant to paragraph (4) of  
21 subdivision (a) by adopting and implementing a multijurisdictional  
22 agreement, with a maximum of two other adjacent communities,  
23 that requires the participating jurisdictions to develop at least one  
24 year-round emergency shelter within two years of the beginning  
25 of the planning period.

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

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

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

34 (B) The jurisdiction's contribution to the facility for both the  
35 development and ongoing operation and management of the  
36 facility.

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

1 (4) The aggregate capacity claimed by the participating  
2 jurisdictions in their housing elements shall not exceed the actual  
3 capacity of the shelter.

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

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

12 (2) Any housing element or housing element amendment  
13 prepared pursuant to subdivision (e) of Section 65588 or Section  
14 65584.02, when the city, county, or city and county fails to submit  
15 the first draft to the department before the due date specified in  
16 Section 65588 or 65584.02.

17 (f) The deadline for completing required rezoning pursuant to  
18 subparagraph (A) of paragraph (1) of subdivision (c) shall be  
19 extended by one year if the local government has completed the  
20 rezoning at densities sufficient to accommodate at least 75 percent  
21 of the units for low- and very low income households and if the  
22 legislative body at the conclusion of a public hearing determines,  
23 based upon substantial evidence, that any of the following  
24 circumstances exist:

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

28 (2) The local government is unable to complete the rezoning  
29 because of infrastructure deficiencies due to fiscal or regulatory  
30 constraints.

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

35 The resolution and the findings shall be transmitted to the  
36 department together with a detailed budget and schedule for  
37 preparation and adoption of the required rezonings, including plans  
38 for citizen participation and expected interim action. The schedule  
39 shall provide for adoption of the required rezoning within one year  
40 of the adoption of the resolution.

1 (g) (1) If a local government fails to complete the rezoning by  
2 the deadline provided in subparagraph (A) of paragraph (1) of  
3 subdivision (c), as it may be extended pursuant to subdivision (f),  
4 except as provided in paragraph (2), a local government may not  
5 disapprove a housing development project, nor require a  
6 conditional use permit, planned unit development permit, or other  
7 locally imposed discretionary permit, or impose a condition that  
8 would render the project infeasible, if the housing development  
9 project (A) is proposed to be located on a site required to be  
10 rezoned pursuant to the program action required by that  
11 subparagraph and (B) complies with applicable, objective general  
12 plan and zoning standards and criteria, including design review  
13 standards, described in the program action required by that  
14 subparagraph. Any subdivision of sites shall be subject to the  
15 Subdivision Map Act (Division 2 (commencing with Section  
16 66410)). Design review shall not constitute a “project” for purposes  
17 of Division 13 (commencing with Section 21000) of the Public  
18 Resources Code.

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

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

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

36 (3) The applicant or any interested person may bring an action  
37 to enforce this subdivision. If a court finds that the local agency  
38 disapproved a project or conditioned its approval in violation of  
39 this subdivision, the court shall issue an order or judgment  
40 compelling compliance within 60 days. The court shall retain

1 jurisdiction to ensure that its order or judgment is carried out. If  
2 the court determines that its order or judgment has not been carried  
3 out within 60 days, the court may issue further orders to ensure  
4 that the purposes and policies of this subdivision are fulfilled. In  
5 any such action, the city, county, or city and county shall bear the  
6 burden of proof.

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

16 (h) An action to enforce the program actions of the housing  
17 element shall be brought pursuant to Section 1085 of the Code of  
18 Civil Procedure.