

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1537

Introduced by Assembly Member Levine

January 22, 2014

An act to amend, *repeal, and add* Section 65583.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1537, as amended, Levine. General plan housing element: regional housing need.

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, include an inventory of land suitable for residential development and make adequate provision for the existing and projected needs of all economic segments of the community. That law prescribes the densities appropriate to ~~accommodate~~ *accommodate* housing for lower income households and varies those densities depending upon how an area is classified, whether as metropolitan, suburban, or in another category. A city, county, or city and county is required to submit a draft housing element or draft amendment to its housing element to the Department of Housing and Community Development for a determination of whether the draft substantially complies with state law governing housing elements.

This bill would require, *until December 31, 2023*, a county ~~in a~~ *that is in the San Francisco-Oakland-Fremont, California Metropolitan Statistical Area of 2,000,000 or more* and that has a population of less

than 400,000 to be considered suburban for purposes of determining the densities appropriate to ~~accommodate~~ *accommodate* housing for lower income households. The bill would, for that same purpose, also require a city that has a population of less than 100,000 and is incorporated within that county to be considered suburban. *The bill would require a county or city so classified to make 2 reports, as specified, to the Legislature and the Department of Housing and Community Development.*

Vote: majority. Appropriation: no. Fiscal committee: yes. 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.
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

1 jurisdiction. This information need not be identified on a
2 site-specific basis.

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

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

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

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

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

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

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

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

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

8 (i) For an incorporated city within a nonmetropolitan county
9 and for a nonmetropolitan county that has a micropolitan area:
10 sites allowing at least 15 units per acre.

11 (ii) For an unincorporated area in a nonmetropolitan county not
12 included in clause (i): sites allowing at least 10 units per acre.

13 (iii) For a suburban jurisdiction, ~~jurisdiction~~: sites allowing at
14 least 20 units per acre.

15 (iv) For a jurisdiction in a metropolitan county: sites allowing
16 at least 30 units per acre.

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

25 (e) ~~(1) Except as provided in paragraph (2), a jurisdiction~~
26 ~~shall be considered suburban if the jurisdiction does not meet the~~
27 ~~requirements of clauses (i) and (ii) of subparagraph (B) of~~
28 ~~paragraph (3) of subdivision (c) and is located in a Metropolitan~~
29 ~~Statistical Area (MSA) of less than 2,000,000 in population, unless~~
30 ~~that jurisdiction’s population is greater than 100,000, in which~~
31 ~~case it shall be considered metropolitan. A county, not including~~
32 ~~the City and County of San Francisco, shall be considered suburban~~
33 ~~unless the county is in a MSA of 2,000,000 or greater in population~~
34 ~~in which case the county shall be considered metropolitan.~~

35 (2) (A) ~~Notwithstanding paragraph (2), if a county that is~~
36 ~~included in a MSA of 2,000,000 or greater in population, and in~~
37 ~~the San Francisco-Oakland-Fremont, California MSA has a~~
38 ~~population of less than 400,000 400,000, that county shall be~~
39 ~~considered suburban. When~~ *If* this county includes an incorporated
40 city that has a population of less than 100,000, this city shall also

1 be considered suburban. *This paragraph shall apply to a housing*
2 *element revision cycle, as described in subparagraph (A) of*
3 *paragraph (3) of subdivision (e) of Section 65588, that is in effect*
4 *from July 1, 2014, to December 31, 2023, inclusive.*

5 (B) *A jurisdiction that is classified as suburban pursuant to this*
6 *paragraph shall report to Assembly Committee on Housing and*
7 *Community Development, the Senate Committee on Transportation*
8 *and Housing, and the Department of Housing and Community*
9 *Development regarding its progress in developing low- and very*
10 *low-income housing consistent with the requirements of Section*
11 *65400. The report shall be provided twice, once, on or before*
12 *December 31, 2019, which report shall address the initial four*
13 *years of the housing element cycle, and a second time, on or before*
14 *December 31, 2023, which report shall address the subsequent*
15 *four years of the housing element cycle and the cycle as a whole.*
16 *The reports shall be provided consistent with the requirements of*
17 *Section 9795.*

18 (f) A jurisdiction shall be considered metropolitan if the
19 jurisdiction does not meet the requirements for “suburban area”
20 above and is located in a MSA of 2,000,000 or greater in
21 population, unless that jurisdiction’s population is less than 25,000
22 in which case it shall be considered suburban.

23 (g) For sites described in paragraph (3) of subdivision (b), the
24 city or county shall specify the additional development potential
25 for each site within the planning period and shall provide an
26 explanation of the methodology used to determine the development
27 potential. The methodology shall consider factors including the
28 extent to which existing uses may constitute an impediment to
29 additional residential development, development trends, market
30 conditions, and regulatory or other incentives or standards to
31 encourage additional residential development on these sites.

32 (h) The program required by subparagraph (A) of paragraph (1)
33 of subdivision (c) of Section 65583 shall accommodate 100 percent
34 of the need for housing for very low and low-income households
35 allocated pursuant to Section 65584 for which site capacity has
36 not been identified in the inventory of sites pursuant to paragraph
37 (3) of subdivision (a) on sites that shall be zoned to permit
38 owner-occupied and rental multifamily residential use by right
39 during the planning period. These sites shall be zoned with
40 minimum density and development standards that permit at least

1 16 units per site at a density of at least 16 units per acre in
 2 jurisdictions described in clause (i) of subparagraph (B) of
 3 paragraph (3) of subdivision (c) and at least 20 units per acre in
 4 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
 5 of paragraph (3) of subdivision (c). At least 50 percent of the very
 6 low and low-income housing need shall be accommodated on sites
 7 designated for residential use and for which nonresidential uses
 8 or mixed-uses are not permitted.

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

24 (j) *This section shall remain in effect only until December 31,*
 25 *2023, and as of that date is repealed, unless a later enacted statute,*
 26 *that is enacted before December 31, 2023, deletes or extends that*
 27 *date.*

28 *SEC. 2. Section 65583.2 is added to the Government Code, to*
 29 *read:*

30 *65583.2. (a) City’s or county’s inventory of land suitable for*
 31 *residential development pursuant to paragraph (3) of subdivision*
 32 *(a) of Section 65583 shall be used to identify sites that can be*
 33 *developed for housing within the planning period and that are*
 34 *sufficient to provide for the jurisdiction’s share of the regional*
 35 *housing need for all income levels pursuant to Section 65584. As*
 36 *used in this section, “land suitable for residential development”*
 37 *includes all of the following:*

- 38 (1) *Vacant sites zoned for residential use.*
- 39 (2) *Vacant sites zoned for nonresidential use that allows*
 40 *residential development.*

1 (3) *Residentially zoned sites that are capable of being developed*
2 *at a higher density.*

3 (4) *Sites zoned for nonresidential use that can be redeveloped*
4 *for, and as necessary, rezoned for, residential use.*

5 (b) *The inventory of land shall include all of the following:*

6 (1) *A listing of properties by parcel number or other unique*
7 *reference.*

8 (2) *The size of each property listed pursuant to paragraph (1),*
9 *and the general plan designation and zoning of each property.*

10 (3) *For nonvacant sites, a description of the existing use of each*
11 *property.*

12 (4) *A general description of any environmental constraints to*
13 *the development of housing within the jurisdiction, the*
14 *documentation for which has been made available to the*
15 *jurisdiction. This information need not be identified on a*
16 *site-specific basis.*

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

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

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

28 (c) *Based on the information provided in subdivision (b), a city*
29 *or county shall determine whether each site in the inventory can*
30 *accommodate some portion of its share of the regional housing*
31 *need by income level during the planning period, as determined*
32 *pursuant to Section 65584. The analysis shall determine whether*
33 *the inventory can provide for a variety of types of housing,*
34 *including multifamily rental housing, factory-built housing,*
35 *mobilehomes, housing for agricultural employees, emergency*
36 *shelters, and transitional housing. The city or county shall*
37 *determine the number of housing units that can be accommodated*
38 *on each site as follows:*

39 (1) *If local law or regulations require the development of a site*
40 *at a minimum density, the department shall accept the planning*

1 agency's calculation of the total housing unit capacity on that site
2 based on the established minimum density. If the city or county
3 does not adopt a law or regulations requiring the development of
4 a site at a minimum density, then it shall demonstrate how the
5 number of units determined for that site pursuant to this subdivision
6 will be accommodated.

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

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

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

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

21 (i) For an incorporated city within a nonmetropolitan county
22 and for a nonmetropolitan county that has a micropolitan area:
23 sites allowing at least 15 units per acre.

24 (ii) For an unincorporated area in a nonmetropolitan county
25 not included in clause (i): sites allowing at least 10 units per acre.

26 (iii) For a suburban jurisdiction: sites allowing at least 20 units
27 per acre.

28 (iv) For a jurisdiction in a metropolitan county: sites allowing
29 at least 30 units per acre.

30 (d) For purposes of this section, a metropolitan county,
31 nonmetropolitan county, and nonmetropolitan county with a
32 micropolitan area shall be as determined by the United States
33 Census Bureau. A nonmetropolitan county with a micropolitan
34 area includes the following counties: Del Norte, Humboldt, Lake,
35 Mendocino, Nevada, Tehama, and Tuolumne and other counties
36 as may be determined by the United States Census Bureau to be
37 nonmetropolitan counties with micropolitan areas in the future.

38 (e) A jurisdiction shall be considered suburban if the jurisdiction
39 does not meet the requirements of clauses (i) and (ii) of
40 subparagraph (B) of paragraph (3) of subdivision (c) and is located

1 *in a Metropolitan Statistical Area (MSA) of less than 2,000,000*
2 *in population, unless that jurisdiction’s population is greater than*
3 *100,000, in which case it shall be considered metropolitan. A*
4 *county, not including the City and County of San Francisco, shall*
5 *be considered suburban unless the county is in a MSA of 2,000,000*
6 *or greater in population in which case the county shall be*
7 *considered metropolitan.*

8 (f) *A jurisdiction shall be considered metropolitan if the*
9 *jurisdiction does not meet the requirements for “suburban area”*
10 *above and is located in a MSA of 2,000,000 or greater in*
11 *population, unless that jurisdiction’s population is less than 25,000*
12 *in which case it shall be considered suburban.*

13 (g) *For sites described in paragraph (3) of subdivision (b), the*
14 *city or county shall specify the additional development potential*
15 *for each site within the planning period and shall provide an*
16 *explanation of the methodology used to determine the development*
17 *potential. The methodology shall consider factors including the*
18 *extent to which existing uses may constitute an impediment to*
19 *additional residential development, development trends, market*
20 *conditions, and regulatory or other incentives or standards to*
21 *encourage additional residential development on these sites.*

22 (h) *The program required by subparagraph (A) of paragraph*
23 *(1) of subdivision (c) of Section 65583 shall accommodate 100*
24 *percent of the need for housing for very low and low-income*
25 *households allocated pursuant to Section 65584 for which site*
26 *capacity has not been identified in the inventory of sites pursuant*
27 *to paragraph (3) of subdivision (a) on sites that shall be zoned to*
28 *permit owner-occupied and rental multifamily residential use by*
29 *right during the planning period. These sites shall be zoned with*
30 *minimum density and development standards that permit at least*
31 *16 units per site at a density of at least 16 units per acre in*
32 *jurisdictions described in clause (i) of subparagraph (B) of*
33 *paragraph (3) of subdivision (c) and at least 20 units per acre in*
34 *jurisdictions described in clauses (iii) and (iv) of subparagraph*
35 *(B) of paragraph (3) of subdivision (c). At least 50 percent of the*
36 *very low and low-income housing need shall be accommodated*
37 *on sites designated for residential use and for which nonresidential*
38 *uses or mixed-uses are not permitted.*

39 (i) *For purposes of this section and Section 65583, the phrase*
40 *“use by right” shall mean that the local government’s review of*

1 *the owner-occupied or multifamily residential use may not require*
2 *a conditional use permit, planned unit development permit, or*
3 *other discretionary local government review or approval that*
4 *would constitute a “project” for purposes of Division 13*
5 *(commencing with Section 21000) of the Public Resources Code.*
6 *Any subdivision of the sites shall be subject to all laws, including,*
7 *but not limited to, the local government ordinance implementing*
8 *the Subdivision Map Act. A local ordinance may provide that “use*
9 *by right” does not exempt the use from design review. However,*
10 *that design review shall not constitute a “project” for purposes*
11 *of Division 13 (commencing with Section 21000) of the Public*
12 *Resources Code. Use by right for all rental multifamily residential*
13 *housing shall be provided in accordance with subdivision (f) of*
14 *Section 65589.5.*

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