

**ASSEMBLY BILL**

**No. 1431**

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**Introduced by Assembly Member Gomez**

February 27, 2015

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An act to amend Section 65583 of the Government Code, relating to land use planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 1431, as introduced, Gomez. Housing element.

The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of housing. Existing law requires the housing element to include specified information.

This bill would make nonsubstantive changes to the provision regarding the information required to be included in the housing element.

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,

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 trends~~,  
11 documentation of ~~projections~~ *projections*, and a quantification of  
12 the locality's existing and projected housing needs for all income  
13 levels, 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~~ zone,  
14 except that a local government may apply written, objective  
15 standards that include all of the following:

- 16 (i) The maximum number of ~~beds or persons~~ *persons or beds*  
17 permitted to be 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~~ *demonstrate*, to  
37 the satisfaction of the ~~department~~ *department*, the existence of one  
38 or more emergency shelters either within its jurisdiction or pursuant  
39 to a multijurisdictional agreement that can accommodate that  
40 jurisdiction's need for emergency shelter identified in paragraph

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

4 (D) A local government with an existing ordinance ~~or ordinances~~  
5 that ~~comply~~ *complies* with this paragraph shall not be required to  
6 take additional action to identify zones for emergency shelters.  
7 The 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; persons with disabilities, including a developmental  
33 disability, as defined in Section 4512 of the Welfare and  
34 Institutions Code; large families; farmworkers; families with female  
35 heads of households; and families and persons in need of  
36 emergency shelter. The need for emergency shelter shall be  
37 assessed based on annual and seasonal need. The need for  
38 emergency shelter may be reduced by the number of supportive  
39 housing units that are identified in an adopted 10-year plan to end  
40 chronic homelessness and that are either vacant or for which

1 funding has been identified to allow construction during the  
2 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~~ so that  
31 there 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, the utilization of appropriate federal  
37 and state financing and subsidy programs when available, and the  
38 utilization of moneys in a low- and moderate-income housing fund  
39 of an agency if the locality has established a redevelopment project  
40 area pursuant to the Community Redevelopment Law (Division

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

5 (1) Identify actions that will be taken to make sites available  
6 during the planning period with appropriate zoning and  
7 development standards and with services and facilities to  
8 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) Include an identification of the agencies and officials  
2 responsible for the implementation of the various actions and the  
3 means by which consistency will be achieved with other general  
4 plan elements and community goals.

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

9 (d) (1) A local government may satisfy all or part of its  
10 requirement to identify a zone or zones suitable for the  
11 development of emergency shelters pursuant to paragraph (4) of  
12 subdivision (a) by adopting and implementing a multijurisdictional  
13 agreement, with a maximum of two other adjacent communities,  
14 that requires the participating jurisdictions to develop at least one  
15 year-round emergency shelter within two years of the beginning  
16 of the planning period.

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

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

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

25 (B) The jurisdiction's contribution to the facility for both the  
26 development and ongoing operation and management of the  
27 facility.

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

30 (4) The aggregate capacity claimed by the participating  
31 jurisdictions in their housing elements shall not exceed the actual  
32 capacity of the shelter.

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

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

1 (2) Any housing element or housing element amendment  
2 prepared pursuant to subdivision (e) of Section 65588 or Section  
3 65584.02, when the city, county, or city and county fails to submit  
4 the first draft to the department before the due date specified in  
5 Section 65588 or 65584.02.

6 (f) The deadline for completing required rezoning pursuant to  
7 subparagraph (A) of paragraph (1) of subdivision (c) shall be  
8 extended by one year if the local government has completed the  
9 rezoning at densities sufficient to accommodate at least 75 percent  
10 of the units for low- and very low income households and if the  
11 legislative body at the conclusion of a public hearing determines,  
12 based upon substantial evidence, that any of the following  
13 circumstances exist:

14 (1) The local government has been unable to complete the  
15 rezoning because of *due to* the action or inaction beyond the control  
16 of the local government of any other state, federal, or local agency.

17 (2) The local government is unable to complete the rezoning  
18 because of infrastructure deficiencies due to fiscal or regulatory  
19 constraints.

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

24 The resolution and the findings shall be transmitted to the  
25 department together with a detailed budget and schedule for  
26 preparation and adoption of the required rezonings, including plans  
27 for citizen participation and expected interim action. The schedule  
28 shall provide for adoption of the required rezoning within one year  
29 of the adoption of the resolution.

30 (g) (1) If a local government fails to complete the rezoning by  
31 the deadline provided in subparagraph (A) of paragraph (1) of  
32 subdivision (c), as it may be extended pursuant to subdivision (f),  
33 except as provided in paragraph (2), a local government may not  
34 disapprove a housing development project, nor require a  
35 conditional use permit, planned unit development permit, or other  
36 locally imposed discretionary permit, or impose a condition that  
37 would render the project infeasible, if the housing development  
38 project (A) is proposed to be located on a site required to be  
39 rezoned pursuant to the program action required by that  
40 subparagraph and (B) complies with applicable, objective general

1 plan and zoning standards and criteria, including design review  
2 standards, described in the program action required by that  
3 subparagraph. ~~Any~~A subdivision of sites shall be subject to the  
4 Subdivision Map Act (Division 2 (commencing with Section  
5 66410)). Design review shall not constitute a “project” for purposes  
6 of Division 13 (commencing with Section 21000) of the Public  
7 Resources Code.

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

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

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

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

36 (4) For purposes of this subdivision, “housing development  
37 project” means a project to construct residential units for which  
38 the project developer provides sufficient legal commitments to the  
39 appropriate local agency to ensure the continued availability and  
40 use of at least 49 percent of the housing units for very low, low-,

1 and moderate-income households with an affordable housing cost  
2 or affordable rent, as defined in Section 50052.5 or 50053 of the  
3 Health and Safety Code, respectively, for the period required by  
4 the applicable financing.

5 (h) An action to enforce the program actions of the housing  
6 element shall be brought pursuant to Section 1085 of the Code of  
7 Civil Procedure.

O