

AMENDED IN SENATE JUNE 23, 2016

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2208**

---

---

**Introduced by Assembly Member Santiago  
(Coauthor: Assembly Member Steinorth)**

February 18, 2016

---

---

An act to amend Section 65583.2 of the Government Code, and to amend Section 50459 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2208, as amended, Santiago. Local planning: housing element: inventory of land for residential development.

Existing law, 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 the county and of any land outside its boundaries that bears relation to its planning. That law requires the general plan to contain specified mandatory elements, including a housing element. Existing law requires the housing element to contain an inventory of land suitable for residential development, as defined, and requires that inventory to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels.

This bill would revise the definition of land suitable for residential development to include above sites owned or leased by a city, county, or city and county. By imposing new duties upon local agencies with

respect to the housing element of the general plan, this bill would impose a state-mandated local program.

*This bill would also require, until December 31, 2023, the department to provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to a requirement that the city or county consider the above-described guidelines for the preparation of housing elements. The bill would require the department to provide this guidance for purposes of the requirement that a city’s or county’s inventory of land suitable for residential development be used to identify sites that can be developed and provide for the jurisdiction’s share of the regional housing need for all income levels, as specified.*

Existing law authorizes the Department of Housing and Community Development to adopt and, from time to time, revise guidelines for the preparation of housing elements and a document that meets specified requirements.

This bill would require the department to adopt and revise, as necessary, these guidelines.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 65583.2 of the Government Code, as
- 2 amended by Section 232 of Chapter 303 of the Statutes of 2015,
- 3 is amended to read:
- 4 65583.2. (a) A city’s or county’s inventory of land suitable
- 5 for residential development pursuant to paragraph (3) of
- 6 subdivision (a) of Section 65583 shall be used to identify sites that
- 7 can be developed for housing within the planning period and that
- 8 are sufficient to provide for the jurisdiction’s share of the regional
- 9 housing need for all income levels pursuant to Section 65584. As
- 10 used in this section, “land suitable for residential development”
- 11 includes all of the following:
- 12 (1) Vacant sites zoned for residential use.

1 (2) Vacant sites zoned for nonresidential use that allows  
2 residential development.

3 (3) Residentially zoned sites that are capable of being developed  
4 at a higher density, including above sites owned or leased by a  
5 city, county, or city and county.

6 (4) Sites zoned for nonresidential use that can be redeveloped  
7 for, and as necessary, rezoned for, residential use, including above  
8 sites owned or leased by a city, county, or city and county.

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

10 (1) A listing of properties by parcel number or other unique  
11 reference.

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

14 (3) For nonvacant sites, a description of the existing use of each  
15 property.

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

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

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

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

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

1 determine the number of housing units that can be accommodated  
2 on each site as follows:

3 (1) If local law or regulations require the development of a site  
4 at a minimum density, the department shall accept the planning  
5 agency’s calculation of the total housing unit capacity on that site  
6 based on the established minimum density. If the city or county  
7 does not adopt a law or regulations requiring the development of  
8 a site at a minimum density, then it shall demonstrate how the  
9 number of units determined for that site pursuant to this subdivision  
10 will be accommodated.

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

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

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

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

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

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

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

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

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

1 as may be determined by the United States Census Bureau to be  
2 nonmetropolitan counties with micropolitan areas in the future.

3 (e) (1) Except as provided in paragraph (2), a jurisdiction shall  
4 be considered suburban if the jurisdiction does not meet the  
5 requirements of clauses (i) and (ii) of subparagraph (B) of  
6 paragraph (3) of subdivision (c) and is located in a Metropolitan  
7 Statistical Area (MSA) of less than 2,000,000 in population, unless  
8 that jurisdiction's population is greater than 100,000, in which  
9 case it shall be considered metropolitan. A county, not including  
10 the City and County of San Francisco, shall be considered suburban  
11 unless the county is in an MSA of 2,000,000 or greater in  
12 population in which case the county shall be considered  
13 metropolitan.

14 (2) (A) (i) Notwithstanding paragraph (1), if a county that is  
15 in the San Francisco-Oakland-Fremont California MSA has a  
16 population of less than 400,000, that county shall be considered  
17 suburban. If this county includes an incorporated city that has a  
18 population of less than 100,000, this city shall also be considered  
19 suburban. This paragraph shall apply to a housing element revision  
20 cycle, as described in subparagraph (A) of paragraph (3) of  
21 subdivision (e) of Section 65588, that is in effect from July 1,  
22 2014, to December 31, 2023, inclusive.

23 (ii) A county subject to this subparagraph shall utilize the sum  
24 existing in the county's housing trust fund as of June 30, 2013, for  
25 the development and preservation of housing affordable to low- and  
26 very low income households.

27 (B) A jurisdiction that is classified as suburban pursuant to this  
28 paragraph shall report to the Assembly Committee on Housing  
29 and Community Development, the Senate Committee on  
30 Transportation and Housing, and the Department of Housing and  
31 Community Development regarding its progress in developing  
32 low- and very low income housing consistent with the requirements  
33 of Section 65400. The report shall be provided twice: once, on or  
34 before December 31, 2019, which report shall address the initial  
35 four years of the housing element cycle, and a second time, on or  
36 before December 31, 2023, which report shall address the  
37 subsequent four years of the housing element cycle and the cycle  
38 as a whole. The reports shall be provided consistent with the  
39 requirements of Section 9795.

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

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

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

36 (i) For purposes of this section and Section 65583, the phrase  
37 “use by right” shall mean that the local government’s review of  
38 the owner-occupied or multifamily residential use may not require  
39 a conditional use permit, planned unit development permit, or other  
40 discretionary local government review or approval that would

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

11 (j) Notwithstanding any other provision of this section, within  
12 one-half mile of a Sonoma-Marín Area Rail Transit station, housing  
13 density requirements in place on June 30, 2014, shall apply.

14 (k) For purposes of subdivisions (a) and (b), the department  
15 shall provide guidance to local governments to properly survey,  
16 detail, and account for sites listed pursuant to Section 65585.

17 (l) This section shall remain in effect only until December 31,  
18 2023, and as of that date is repealed, unless a later enacted statute,  
19 that is enacted before December 31, 2023, deletes or extends that  
20 date.

21 SEC. 2. Section 65583.2 of the Government Code, as added  
22 by ~~Chapter 875~~Section 2.5 of the ~~Statutes~~Chapter 875 of the  
23 *Statutes of 2014*, is amended to read:

24 65583.2. (a) A city’s or county’s inventory of land suitable  
25 for residential development pursuant to paragraph (3) of  
26 subdivision (a) of Section 65583 shall be used to identify sites that  
27 can be developed for housing within the planning period and that  
28 are sufficient to provide for the jurisdiction’s share of the regional  
29 housing need for all income levels pursuant to Section 65584. As  
30 used in this section, “land suitable for residential development”  
31 includes all of the following:

- 32 (1) Vacant sites zoned for residential use.
- 33 (2) Vacant sites zoned for nonresidential use that allows  
34 residential development.
- 35 (3) Residentially zoned sites that are capable of being developed  
36 at a higher density, including above sites owned or leased by a  
37 city, county, or city and county.
- 38 (4) Sites zoned for nonresidential use that can be redeveloped  
39 for, and, as necessary, rezoned for, residential use, including above  
40 sites owned or leased by a city, county, or city and county.

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

2 (1) A listing of properties by parcel number or other unique  
3 reference.

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

6 (3) For nonvacant sites, a description of the existing use of each  
7 property.

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

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

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

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

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

35 (1) If local law or regulations require the development of a site  
36 at a minimum density, the department shall accept the planning  
37 agency’s calculation of the total housing unit capacity on that site  
38 based on the established minimum density. If the city or county  
39 does not adopt a law or regulations requiring the development of  
40 a site at a minimum density, then it shall demonstrate how the

1 number of units determined for that site pursuant to this subdivision  
2 will be accommodated.

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

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

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

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

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

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

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

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

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

34 (e) A jurisdiction shall be considered suburban if the jurisdiction  
35 does not meet the requirements of clauses (i) and (ii) of  
36 subparagraph (B) of paragraph (3) of subdivision (c) and is located  
37 in a Metropolitan Statistical Area (MSA) of less than 2,000,000  
38 in population, unless that jurisdiction's population is greater than  
39 100,000, in which case it shall be considered metropolitan. A  
40 county, not including the City and County of San Francisco, shall

1 be considered suburban unless the county is in an MSA of  
2 2,000,000 or greater in population in which case the county shall  
3 be considered metropolitan.

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

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

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

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

14 ~~(k) For purposes of subdivisions (a) and (b), the department~~  
15 ~~shall provide guidance to local governments to properly survey,~~  
16 ~~detail, and account for sites listed pursuant to Section 65585.~~

17 ~~(t)~~

18 (k) This section shall become operative on December 31, 2023.

19 SEC. 3. Section 50459 of the Health and Safety Code is  
20 amended to read:

21 50459. (a) The department shall adopt, and revise, as  
22 necessary, guidelines for any of the following:

23 (1) The preparation of housing elements required by Section  
24 65302 and Article 10.6 (commencing with Section 65580) of  
25 Chapter 3 of Division 1 of Title 7 of the Government Code.

26 (2) The preparation of a document that meets both of the  
27 following sets of requirements:

28 (A) Requirements for housing elements pursuant to Section  
29 65302 and Article 10.6 (commencing with Section 65580) of  
30 Chapter 3 of Division 1 of Title 7 of the Government Code.

31 (B) Requirements for the Consolidated Submissions for  
32 Community Planning and Development Programs required by Part  
33 91 of Title 24 of the Code of Federal Regulations.

34 (b) The department shall review housing elements and  
35 amendments for substantial compliance with Article 10.6  
36 (commencing with Section 65580) of Chapter 3 of Division 1 of  
37 Title 7 of the Government Code and report its findings pursuant  
38 to Section 65585 of the Government Code.

39 (c) On or before April 1, 1995, and annually thereafter, the  
40 department shall report to the Legislature on the status of housing

1 elements and the extent to which they comply with the  
2 requirements of Article 10.6 (commencing with Section 65580)  
3 of Chapter 3 of Division 1 of Title 7 of the Government Code. The  
4 department shall also make this report available to any other public  
5 agency, group, or person who requests a copy.

6 (d) The department may, in connection with any loan or grant  
7 application submitted to the agency, require submission to the  
8 department for review of any housing element and any local  
9 housing assistance plan adopted pursuant to the Housing and  
10 Community Development Act of 1974 (Public Law 93-383).

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 a local agency or school district has the authority to levy service  
14 charges, fees, or assessments sufficient to pay for the program or  
15 level of service mandated by this act, within the meaning of Section  
16 17556 of the Government Code.