

Introduced by Senator Cannella

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 581, as introduced, Cannella. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element. The law requires the housing element to contain specified information.

This bill would revise references to redevelopment agencies within those housing element provisions to instead refer to successor housing agencies and would make other nonsubstantive changes to the housing element requirement.

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 rental housing,
- 9 factory-built housing, mobilehomes, and emergency shelters, and

1 shall make adequate provision for the existing and projected needs
2 of all economic segments of the community. The element shall
3 contain all of the following:

4 (a) An assessment of housing needs and an inventory of *the*
5 resources and constraints relevant to ~~the~~ meeting of these needs.
6 The assessment and inventory shall include all of the following:

7 (1) An analysis of population and employment trends and
8 documentation of projections and a quantification of the locality's
9 existing and projected housing needs for all income levels,
10 including extremely low income households, as defined in
11 subdivision (b) of Section 50105 and Section 50106 of the Health
12 and Safety Code. These existing and projected needs shall include
13 the locality's share of the regional housing need in accordance
14 with Section 65584. Local agencies shall calculate the subset of
15 very low income households allotted under Section 65584 that
16 qualify as extremely low income households. The local agency
17 may either use available census data to calculate the percentage
18 of very low income households that qualify as extremely low
19 income households or presume that 50 percent of the very low
20 income households qualify as extremely low income households.
21 The number of extremely low income households and very low
22 income households shall equal the jurisdiction's allocation of very
23 low income households pursuant to Section 65584.

24 (2) An analysis and documentation of household characteristics,
25 including level of payment compared to ability to pay, housing
26 characteristics, including overcrowding, and housing stock
27 condition.

28 (3) An inventory of land suitable for residential development,
29 including vacant sites and sites having potential for redevelopment,
30 and an analysis of the relationship of zoning and public facilities
31 and services to these sites.

32 (4) (A) ~~The~~ An identification of a zone or zones where
33 emergency shelters are allowed as a permitted use without a
34 conditional use or other discretionary permit. The identified zone
35 or zones shall include sufficient capacity to accommodate the need
36 for emergency shelter identified in paragraph (7), except that each
37 local government shall identify a zone or zones that can
38 accommodate at least one year-round emergency shelter. If the
39 local government cannot identify a zone or zones with sufficient
40 capacity, the local government shall include a program to amend

1 its zoning ordinance to meet the requirements of this paragraph
2 within one year of the adoption of the housing element. The local
3 government may identify additional zones where emergency
4 shelters are permitted with a conditional use permit. The local
5 government shall also demonstrate that existing or proposed permit
6 processing, development, and management standards are objective
7 and encourage and facilitate the development of, or conversion to,
8 emergency shelters. Emergency shelters may only be subject to
9 those development and management standards that apply to
10 residential or commercial development within the same zone except
11 that a local government may apply written, objective standards
12 that include all of the following:

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

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

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

21 (iv) The provision of onsite management.

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

24 (vi) The length of stay.

25 (vii) Lighting.

26 (viii) Security during hours that the emergency shelter is in
27 operation.

28 (B) The permit processing, development, and management
29 standards applied under this paragraph shall not be deemed to be
30 discretionary acts within the meaning of the California
31 Environmental Quality Act (Division 13 (commencing with Section
32 21000) of the Public Resources Code).

33 (C) A local government that can demonstrate to the satisfaction
34 of the department the existence of one or more emergency shelters
35 either within its jurisdiction or pursuant to a multijurisdictional
36 agreement that can accommodate that jurisdiction's need for
37 emergency shelter identified in paragraph (7) may comply with
38 the zoning requirements of subparagraph (A) by identifying a zone
39 or zones where new emergency shelters are allowed with a
40 conditional use permit.

1 (D) A local government with an existing ordinance or ordinances
2 that comply with this paragraph shall not be required to take
3 additional action to identify zones for emergency shelters. The
4 housing element must only describe how existing ordinances,
5 policies, and standards are consistent with the requirements of this
6 paragraph.

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

24 (6) An analysis of potential and actual nongovernmental
25 constraints upon the maintenance, improvement, or development
26 of housing for all income levels, including the availability of
27 financing, the price of land, and the cost of construction.

28 (7) An analysis of any special housing needs, such as those of
29 the elderly; persons with disabilities, including a developmental
30 disability, as defined in Section 4512 of the Welfare and
31 Institutions Code; large families; farmworkers; families with female
32 heads of households; and families and persons in need of
33 emergency shelter. The need for emergency shelter shall be
34 assessed based on annual and seasonal need. The need for
35 emergency shelter may be reduced by the number of supportive
36 housing units that are identified in an adopted 10-year plan to end
37 chronic homelessness and that are either vacant or for which
38 funding has been identified to allow construction during the
39 planning period.

1 (8) An analysis of opportunities for energy conservation with
2 respect to residential development. Cities and counties are
3 encouraged to include weatherization and energy efficiency
4 improvements as part of publicly subsidized housing rehabilitation
5 projects. This may include energy efficiency measures that
6 encompass the building envelope, its heating and cooling systems,
7 and its electrical system.

8 (9) An analysis of existing assisted housing developments that
9 are eligible to change from low-income housing uses during the
10 next 10 years due to termination of subsidy contracts, mortgage
11 prepayment, or expiration of restrictions on use. ~~“Assisted housing~~
12 ~~developments,” for the purpose~~ *For purposes* of this section, ~~shall~~
13 ~~mean~~ *“assisted housing developments,” means* multifamily rental
14 housing that receives governmental assistance under federal
15 programs listed in subdivision (a) of Section 65863.10, state and
16 local multifamily revenue bond programs, local redevelopment *or*
17 *housing successor agency* programs, the federal Community
18 Development Block Grant Program, or local in-lieu fees. “Assisted
19 housing developments” ~~shall also include~~ *also includes* multifamily
20 rental units that were developed pursuant to a local inclusionary
21 housing program or used to qualify for a density bonus pursuant
22 to Section 65916. *The analysis shall do all of the following:*

23 (A) ~~The analysis shall include~~ *Include* a listing of each
24 development by project name and address, the type of
25 governmental assistance received, the earliest possible date of
26 change from low-income use, and the total number of elderly and
27 nonelderly units that could be lost from the locality’s low-income
28 housing stock in each year during the 10-year period. For purposes
29 of state and federally funded projects, the analysis required by this
30 subparagraph ~~need only~~ *only needs to* contain information available
31 on a statewide basis.

32 (B) ~~The analysis shall estimate~~ *Estimate* the total cost of
33 producing new rental housing that is comparable in size and rent
34 levels, to replace the units that could change from low-income use,
35 ~~and an estimated~~ *estimate the* cost of preserving the assisted
36 housing developments. This cost analysis for replacement housing
37 may be done aggregately for each five-year period and does not
38 have to contain a project-by-project cost estimate.

39 (C) ~~The analysis shall identify~~ *Identify* public and private
40 nonprofit corporations known to the local government ~~which that~~

1 have legal and managerial capacity to acquire and manage these
2 housing developments.

3 (D) ~~The analysis shall identify~~ *Identify* and consider the use of
4 all federal, state, and local financing and subsidy programs ~~which~~
5 *that* can be used to preserve, for lower income households, the
6 assisted housing developments, identified in this paragraph,
7 including, but not limited to, federal Community Development
8 Block Grant Program funds, tax increment funds received by a
9 redevelopment agency of the community, *funding available to a*
10 *housing successor agency*, and administrative fees received by a
11 housing authority operating within the community. In considering
12 the use of these financing and subsidy programs, the analysis shall
13 identify the amounts of funds under each available program ~~which~~
14 *that* have not been legally obligated for other purposes and ~~which~~
15 *that* could be available for use in preserving assisted housing
16 developments.

17 (b) (1) A statement of the community's goals, quantified
18 objectives, and policies relative to the maintenance, preservation,
19 improvement, and development of housing.

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

30 (c) A program ~~which~~ *that* sets forth a schedule of actions during
31 the planning period, each with a timeline for implementation,
32 which may recognize that certain programs are ongoing, such that
33 there will be beneficial impacts of the programs within the planning
34 period, that the local government is undertaking or intends to
35 undertake to implement the policies and achieve the goals and
36 objectives of the housing element through the administration of
37 land use and development controls, the provision of regulatory
38 concessions and incentives, the utilization of appropriate federal
39 and state financing and subsidy programs when available, and the
40 utilization of moneys in a low- and moderate-income housing fund

1 of an agency if the locality has established a redevelopment project
2 area pursuant to the Community Redevelopment Law ~~(Division~~
3 ~~24 (commencing with Section 33000) (Part 1 (commencing with~~
4 ~~Section 33000) of Division 24 of the Health and Safety Code).~~
5 *Code) or a housing successor agency.* In order to make adequate
6 provision for the housing needs of all economic segments of the
7 community, the program shall do all of the following:

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

22 (A) ~~Where~~ *If* the inventory of sites, pursuant to paragraph (3)
23 of subdivision (a), does not identify adequate sites to accommodate
24 the need for groups of all household income levels pursuant to
25 Section 65584, rezoning of those sites, including adoption of
26 minimum density and development standards, for jurisdictions
27 with an eight-year housing element planning period pursuant to
28 Section 65588, shall be completed no later than three years after
29 either the date the housing element is adopted pursuant to
30 subdivision (f) of Section 65585 or the date that is 90 days after
31 receipt of comments from the department pursuant to subdivision
32 (b) of Section 65585, whichever is earlier, unless the deadline is
33 extended pursuant to subdivision (f). Notwithstanding the
34 foregoing, for a local government that fails to adopt a housing
35 element within 120 days of the statutory deadline in Section 65588
36 for adoption of the housing element, rezoning of those sites,
37 including adoption of minimum density and development standards,
38 shall be completed no later than three years and 120 days from the
39 statutory deadline in Section 65588 for adoption of the housing
40 element.

1 (B) ~~Where~~*If* the inventory of sites, pursuant to paragraph (3)
2 of subdivision (a), does not identify adequate sites to accommodate
3 the need for groups of all household income levels pursuant to
4 Section 65584, the program shall identify sites that can be
5 developed for housing within the planning period pursuant to
6 subdivision (h) of Section 65583.2. The identification of sites shall
7 include all components specified in subdivision (b) of Section
8 65583.2.

9 (C) ~~Where~~*If* the inventory of ~~sites~~ *sites*, pursuant to paragraph
10 (3) of subdivision ~~(a)~~ *(a)*, does not identify adequate sites to
11 accommodate the need for farmworker housing, the program shall
12 provide for sufficient sites to meet the need with zoning that
13 permits farmworker housing use by right, including density and
14 development standards that could accommodate and facilitate the
15 feasibility of the development of farmworker housing for low- and
16 very low income households.

17 (2) Assist in the development of adequate housing to meet the
18 needs of extremely low, very low, low-, and moderate-income
19 households.

20 (3) Address and, where appropriate and legally possible, remove
21 governmental constraints to the maintenance, improvement, and
22 development of housing, including housing for all income levels
23 and housing for persons with disabilities. The program shall remove
24 constraints to, and provide reasonable accommodations for housing
25 designed for, intended for occupancy by, or with supportive
26 services for, persons with disabilities.

27 (4) Conserve and improve the condition of the existing
28 affordable housing stock, which may include addressing ways to
29 mitigate the loss of dwelling units demolished by public or private
30 action.

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

34 (6) Preserve for lower income households the assisted housing
35 developments identified pursuant to paragraph (9) of subdivision
36 (a). The program for preservation of the assisted housing
37 developments shall utilize, to the extent necessary, all available
38 federal, state, and local financing and subsidy programs identified
39 in paragraph (9) of subdivision (a), except where a community has
40 other urgent needs for which alternative funding sources are not

1 available. The program may include strategies that involve local
2 regulation and technical assistance.

3 (7) Include an identification of the agencies and officials
4 responsible for the implementation of the various actions and the
5 means by which consistency will be achieved with other general
6 plan elements and community goals.

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

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

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

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

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

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

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

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

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

38 (1) A housing element or housing element amendment prepared
39 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
40 when a city, county, or city and county submits a draft to the

1 department for review pursuant to Section 65585 more than 90
2 days after the effective date of the amendment to this section.

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

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

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

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

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

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

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

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

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

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

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

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

38 (4) For purposes of this subdivision, “housing development
39 project” means a project to construct residential units for which
40 the project developer provides sufficient legal commitments to the

1 appropriate local agency to ensure the continued availability and
2 use of at least 49 percent of the housing units for very low, low-,
3 and moderate-income households with an affordable housing cost
4 or affordable rent, as defined in Section 50052.5 or 50053 of the
5 Health and Safety Code, respectively, for the period required by
6 the applicable financing.

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

O