Bay Area Metro Center
375 Beale Street
Suite 800
San Francisco, California

Meeting Agenda - Final

Joint ABAG MTC Housing Legislative Working Group

Chair, Julie Pierce, Vice Mayor, Clayton
Vice Chair, Jake Mackenzie, Councilmember, Rohnert Park

Wednesday, May 1, 2019 **3:00 PM** **Board Room**

Association of Bay Area Governments – Metropolitan Transportation Commission
Housing Legislative Working Group

The meeting is scheduled to begin at 3:00 p.m.
Agenda, roster, and webcast available at http://abag.ca.gov and http://mtc.ca.gov
For information, contact Clerk of the Board at (415) 820-7913.

Location
Bay Area Metro Center, 375 Beale Street, Board Room, San Francisco, California
Teleconference Locations
Napa County Library, 2nd Floor Conference Room, 580 Coombs Street, Napa, California
City Hall, 420 Litho Street, Conference Room, Sausalito, California
Rohnert Park Senior Center, The Drop-in Room Conference Room, 6800 Hunter Drive, Rohnert Park, California

Roster
Julie Pierce, Jake Mackenzie, Margaret Abe-Koga, Anthony Adams, Newell Arnerich, Judy Arnold, Marilyn Ezzy Ashcraft, Gina Belforte, Keith Carson, Anna Chouteau, Donna Colson, Joan Cox, Susan Ellenberg, Alice Fredericks, John Gioia, James Gore, Ryan Gregory, Amy Harrington, Laura Hoffmeister, Don Horsley, Larry Klein, Cliff Lentz, Mary Luros, Kevin McDonnell, Lily Mei, Trish Munro, John Rahaim, Ken Rich, Hilary Ronen, Ron Rowlett, John Vasquez

1. Roll Call/Confirm Quorum

2. Chair's Report

2. 19-0469 Chair's Report

Action: Information

Presenter: Julie Pierce

Attachments: Schedule 20190404.pdf
Roster 20190416.pdf
Handout Notes Apr 25_Final v2.pdf

3. Report on Housing Bill Landscape

3. 19-0470 Report on Housing Bill Landscape

Action: Information

Presenter: Rebecca Long

Attachments: Handout Housing Bill Matrix _5 1 19.pdf
Handout Bill Matrix_Principles.pdf
Handout Presentation.pdf

4. Report on Housing Bills

4. 19-0471 Report on Housing Bills

Staff will review bills originally on the April 25 agenda (AB1279 and AB1483); and present on bills related to public lands, AB1485 (streamlining) and AB 11 (Redevelopment 2.0).

Action: Information

Presenter: Rebecca Long

4.a. 19-0472 Upzoning in High Resource Areas: AB 1279 (Bloom)

Action: Information

Presenter: Rebecca Long

Attachments: Item 04A Text AB1279.pdf
Item 04A Analysis AB1279_Assembly Local Government.pdf

4.b. 19-0473 Housing Data: AB 1483 (Grayson)

Action: Information

Presenter: Rebecca Long

Attachments: Item 04B Text AB1483.pdf
Item 04B Analysis AB1483_Assembly Local Government.pdf

4.c. 19-0474 Streamlining “Missing Middle” Housing: AB 1485 (Wicks)

Action: Information

Presenter: Rebecca Long

Attachments: Item 04C Text AB1485.pdf
Item 04C Analysis AB1485_Assembly Local Government.pdf

4.d. 19-0475 Public Lands: AB 1486 (Ting), SB 6 (Beall)

Action: Information

Presenter: Rebecca Long

Attachments: Item 04D Text AB1486.pdf
Item 04D Analysis AB1486_Assembly Housing And Community Development.p
Item 04D Text SB6.pdf
Item 04D Analysis SB6_Senate Governmental Organization.pdf

4.e. 19-0476 Redevelopment 2.0: AB 11 (Chiu)

Action: Inforrmation

Presenter: Rebecca Long

Attachments: Item 04E Text AB11.pdf
Item 04E Analysis AB11_Assembly Local Government.pdf

5. Public Comment

Information

6. Adjournment / Next Meeting

The next meeting of the ABAG MTC Housing Legislative Working Group is on May 23, 2019.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章：MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

Acceso y el Titulo VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.

375 Beale Street, Suite 800
San Francisco, CA 94105

Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0469	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
File created:	4/26/2019			**In control:**	Joint ABAG MTC Housing Legislative Working Group
On agenda:	5/1/2019			**Final action:**	
Title:	Chair's Report				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Schedule 20190404.pdf Roster 20190416.pdf Handout Notes Apr 25_Final v2.pdf				

Date	Ver.	Action By	Action	Result

Chair's Report

Julie Pierce

Information

Proposed ABAG MTC Housing Legislative Working Group Meeting Calendar

Location: Bay Area Metro Center, 375 Beale Street, San Francisco

Note: ABAG and MTC meetings are also listed for information purposes only.

Housing Legislative Working Group (HLWG)	**Friday, 4/5/19**	**11:00 a.m. to 1:00 p.m.**	**Yerba Buena/Ohlone**
HLWG	**Thursday, 4/11/19**	**2:00 p.m. to 4:00 p.m.**	**Board Room**
Joint ABAG Legislation Committee and MTC Legislation Committee (Joint ABAG/MTC Legislation)	*Friday, 4/12/19*	*9:15 a.m.*	*Board Room*
HLWG	**Thursday, 4/18/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
Metropolitan Transportation Commission (MTC)	*Wednesday, 4/24/19*	*9:45 a.m.*	*Board Room*
HLWG	**Thursday, 4/25/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
HLWG	**Wednesday, 5/1/19**	**3:00 p.m. to 5:00 p.m.**	**Board Room**
Joint ABAG/MTC Legislation Committee	*Friday, 5/10/19*	*9:15 a.m.*	*Board Room*
ABAG Legislation Committee and ABAG Executive Board	*Thursday, 5/16/19*	*5:00 p.m. and 7:00 p.m.*	*Board Room*
MTC	*Wednesday, 5/22/19*	*9:45 a.m.*	*Board room*
HLWG	**Thursday, 5/23/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
HLWG	**Friday, 5/31/19**	**1:00 p.m. to 3:00 p.m.**	**Yerba Buena/Ohlone**
Joint ABAG/MTC Legislation Committee	*Friday, 6/14/19*	*9:15 a.m.*	*Board Room*
MTC	*Wednesday, 6/26/19*	*9:45 a.m.*	*Board Room*
ABAG Legislation Committee and ABAG Executive Board	*Thursday, 7/18/19*	*5:00 p.m. and 7:00 p.m.*	*Board room*

ABAG MTC Housing Legislative Working Group

Chair—Julie Pierce, Vice Mayor, City of Clayton

Vice Chair—Jake Mackenzie, Councilmember, City of Rohnert Park

County of Alameda—Supervisor Keith Carson

County of Contra Costa—Supervisor John Gioia

County of Marin—Supervisor Judy Arnold

County of Napa—Supervisor Ryan Gregory

City and County of San Francisco—Supervisor Hillary Ronen

County of San Mateo—Supervisor Don Horsley

County of Santa Clara—Supervisor Susan Ellenberg

County of Solano—Supervisor John Vasquez

County of Sonoma—Supervisor James Gore

Alameda County Mayors Conference—

Marilyn Ezzy Ashcraft, Mayor, City of Alameda

Lily Mei, Mayor, City of Fremont

Contra Costa County Mayors Conference—

Newell Arnerich, Councilmember, City of Danville

Laura Hoffmeister, Councilmember, City of Concord

Marin County City Selection Committee—

Joan Cox, Councilmember, City of Sausalito

Alice Fredericks, Councilmember, Town of Tiburon

Napa County City Selection Committee—

Mary Luros, Councilmember, City of Napa

Anna Chouteau, Councilmember, City of St. Helena

ABAG MTC Housing Legislative Working Group

City and County of San Francisco, Mayor—

Ken Rich, Development Director, Office of Economic and Workforce Development

John Rahaim, Planning Director

San Mateo County City Selection Committee—

Donna Colson, Mayor, City of Burlingame

Cliff Lentz, Councilmember, City of Brisbane

Cities Association of Santa Clara County—

Larry Klein, Mayor, City of Sunnyvale

Margaret Abe-Koga, Vice Mayor, City of Mountain View

Solano County City Selection Committee—

Ron Rowlett, Mayor, City of Vacaville

Anthony Adams, Councilmember, City of Suisun City

Sonoma County Mayors and Councilmembers Association—

Amy Harrington, Mayor, City of Sonoma

Gina Belforte, Mayor, City of Rohnert Park

Association of Bay Area Governments—

Kevin McDonnell, Vice Mayor, City of Petaluma

Metropolitan Transportation Commission—

Trish Munro, Councilmember, City of Livermore

4/16/19

Host: Housing Legislative Working Group Meeting
Date: Thursday, April 25, 2019 7 PM-9:30 PM
Location: Board Room, MTC
Staffing: Julie Pierce, HLWG Chair
Jake Mackenzie, HLWG Vice Chair
Cindi Segal, General Counsel
Rebecca Long, Government Relations Manager
Brad Paul, Deputy Executive Director
Alix Bockelman, Deputy Executive Director
Fred Castro, ABAG Clerk of the Board
Notes taken by Lily Rockholt, Civic Edge Consulting
Attendance: Approximately 21 committee members, including call-ins.

Chair's Report: Reviewed meeting structure for members.

Report on Housing Bill Landscape (Updates)

Long: Stated the most recent amendments to SB 50 (Weiner) are not yet available, so they are not fully incorporated into the presentation and instead staff is working from a summary document. Offered an opportunity to answer any follow-up questions about the last meeting (April 18). Provided an overview of recent amendments to bills.

Alameda:

- Stated that AB 1487 seems to indicate that the Housing Alliance for the Bay Area (HABA) would be collecting money, but there is no directive as to how or what HABA would do with the funding nor any indication of who the HABA members will be.

Sonoma:

- Asked if .5 parking space/unit requirement in SB 330 takes into account transit access.
  - **Long**: Stated that the bill has changed to allow local governments to enforce parking restrictions of up to a .5 space per unit with new developments, but it has not placed further limits near the nexus of transit.
  - **Chair Pierce:** MTC staff will check further and provide HLWG with more information.

San Mateo:

- Asked if .5 parking space/unit requirement applies to shared parking or personal parking.
  - **Long:** Stated staff would review further and provide HLWG with an answer.

Report on Production Related Housing Bills

Long:

- SB 4 (McGuire and Beale) has been dropped with many of its provisions now to be incorporated into SB 50, so the discussion will focus on that bill.

- Noted additional amendments are planned to SB 50 to clarify how it interacts with current density bonus law and housing affordability requirements.
- Noted SB 50 was amended to impose more rigorous standards to designate High Quality Bus Transit (i.e. minimum of 10 minute headways during the peak commute hours) and limiting the SB 50 height requirements related to rail and ferry stations to counties greater than 600,000 people. The North Bay would not have the extra height provisions for Major Transit Stops.
- Noted there is a "jobs-rich" component which has not yet been explicitly defined. The UC Berkeley Terner Center live link included in the presentation is the closest example to what Senator Weiner's office is considering. Exclusion areas, fire hazard areas, coastal zones are excluded. In the North Bay (counties with less than 600,000 in population) there is some upzoning mandated (one story above current zoning) but only in cities less than 50,000 in population sizes.
- Another amendment allows by-right fourplexes on any vacant residentially zoned property or thru conversion of existing homes. For existing properties, 75 percent of exterior walls must remain intact, but can build up as far as local zoning permits.

Discussion related to SB 50

San Mateo:

- Asked for clarification if the bill applies to homes that are currently used as rentals.
- Asked if ADUs could be built within each fourplex unit, effectively allowing eight-plexes.
    - **Long:** Stated that MTC staff will investigate this and the interaction of these bills and report back to the HLWG. Stated that local design requirements remain intact unless they undermine the height or density allowed in the bill.
- Stated they need clarification on the jobs-rich language in SB 50.
- Noted SB 50, as well as the other bills discussed, do not address the major jobs producers or their significant role in creating the jobs-housing imbalance.
- Stated HLWG members would like staff to provide more detailed maps (with street names) for individual cities.
    - **Chair Pierce:** Stated Terner Center map has this level of detail.
    - **Long:** Stated that MTC has an online map that they are trying to overlay, it is at the parcel level, that staff will share the URL for this Friday, April 26. [Map is posted and available here.]
- Suggested the state should contribute more money to build affordable housing and to buy down existing market rate units (adding affordable units more quickly).
- Expressed frustration that the county-based population thresholds that exclude the North Bay. Feels like the bill is rewarding Marin County for not building BART and picking on the Peninsula. Instead, would like to see a universal standard for the entire region based on jobs/housing balance.
- Prefer that other metrics be used to determine exemptions and mandatory rezoning, like proximity to jobs rich areas, and past performance regarding building and zoning.

- Expressed concern that allowing fourplexes would diminish the opportunity for "smaller entry level homes" for first time home buyers.
    - **Chair Pierce**: Noted SB 50 doesn't allow for complete demolitions of homes.
- Noted they think "home share" would be a viable alternative to fourplexes that the state should incentivize.
- Felt threat of these bills made cities get their act together and approve more housing.
- Stated that if a city rezones in a different way using local input and that rezoning results in increased housing numbers, the state should accept that approach.
- Urged the state to put up more of its money to pay for cities to plan and rezone.
- Expressed frustration that the state keeps enacting housing bills, year after year, and moving the goal post.

Contra Costa:

- Asked for clarification on what constitutes a multi-family projects/homes.
- Thought that combining SB 4 and SB 50 was a good idea.
- Requested reevaluation and a better definition of Sensitive Communities boundaries.
- Stated that giving extra height doesn't always get you more units since developers feel bigger units sell better (with greater profit). Suggested setting density requirements instead.
- Concerned about fourplexes changing character of existing neighborhoods.
- Stated developers should be limited to height increases of no more than 50% of the height of adjacent buildings, noting these heights would gradually increase over time.
- Stated there needs to be a better definition of "historical" buildings and districts.
- Stated mixed reaction to carve outs for counties under 600,000 people, particularly carve outs for Marin County, given its proximity to San Francisco.
- Asked if a house burns or needs to be demoed, can it be made into a fourplex when the property is being rebuilt?
- Urged staying out of parking issues since building near transit does not automatically reduce the need for parking (we can't make people ride transit). Local staff see three bedroom units with one parking space become home to families with 3-4 cars.
- Cities need authority to set parking standards based on the specifics of each project.
- Asked how hook-up fees would work when a single-family home was being changed to a fourplex if three extra units required higher capacity water pipes/sewer laterals.
- Stated legislation needs to address root financial causes of housing crisis including changing lending practices and loss of construction labor force after last recession.
- Stated that their jurisdiction had 500 units entitled but they aren't being built.
- Noted last week a developer with housing development that was approved in 4 months asked for 2-year extension because banks only willing to loan 40% on project.
    - **Chair Pierce:** maybe we need a state bank to make construction loans.

Marin:

- Asked how the bill considered disabled folks, especially their parking needs.
- Stated that Marin's jobs/housing imbalance is not as large as that of the large 5 counties (San Francisco, Alameda, Santa Clara, San Mateo and Contra Costa).
- Thought SB 50's population thresholds give smaller cities a rational, flexible path to address housing problems, including builing duplexes, triplexes and fourplexes.
- Stated support for requiring developers to simultaneously pull permits for both their market rate and related affordable housing.
- Showed support that there would be adjustment to the ways that developers could pay in lieu funds instead of incorporating affordable units into their projects.
- Stated that McGuire and Weiner should work with HCD to figure out how to track outcomes and measure the success of SB 50.
- Support for fourplexes if 75 percent of exterior walls must remain intact, they comply with local zoning ordinances and with historic districts in place since 2010.
- Showed support for the Historical Building exemptions.
- Thought that the addition of the fourplex is a valuable way to add more housing and lessen the housing crisis.

Napa:

- Asked how the regulations about housing close to rail would impact the area around the Napa Valley Wine Train.
    - **Long:** Stated that MTC staff would research and check back in with Napa. [Does not count as a rail station for purposes of SB 50]
- Stated that by right fourplexes would be a big problem.
- Asked how other local zoning regulations will function if fourplex by-right supersedes.
    - **Long:** Stated that SB 50 was mainly aiming for vacant lots. Gave the examples that the setback requirements would be maintained, if the existing structure was there, a homeowner can convert it.
    - **Chair Pierce:** Stated any residentially zoned parcel could increase their units up to four if its largely within the original blueprint.
    - **Long:** Stated the amendments to SB 50 allow for up to 15 percent square footage increase on the ground, or within a second floor for single family units. (Stated staff would clarify that the 15 percent square footage increase is based on existing structure)
- Stated that for smaller cities with smaller staff, these kinds of changes are difficult to track. The rapid pace of revisions is posing a challenge to small city staffs that are reviewing and implementing them.

Alameda:

- Expressed concern that new carve outs by county population size don't fully address one-size-fits-all problem, would prefer sorting by small, medium, large, really large and isolated cities,
- Asked if bill might have unintended consequence of incentivizing current transit-poor communities to delay or avoid any transit improvements.
- Stated jobs-rich provision doesn't address the need to move jobs from West to East Bay, focusing on housing without transportation doesn't address jobs-housing balance.
- Recounted Scott Wiener's statements from April 24 related to share of state's children who are homeless and other shocking statistics (people having to work 2-3 jobs and live in cars) and why SB 50 is so important.
- Stated that with some amendments, SB 50 deserves our support.
- Noted that greenhouse gas reduction was a major consideration of this bill.
- Stated that fourplexes seems like "low hanging fruit" to address the housing crisis.
- Stated that the smaller units created by the fourplex regulation would be more affordable by design, especially if they must be built within the original blueprint of a house.
- Wondered if there was a way to guard against unintentionally incentivizing poor transit, for example, tying regulations to conditions dating back five years.
- Stated bill seems to punish cities that have the best jobs-housing balance in the region.
- Noted that Fremont will be adversely impacted by SB 50, despite having created 5,000 units of housing next to BART and feels past success is not being accounted for at all.
- Stated bill does not look at ways to use existing reverse commute capacity.
- Expressed concern that population increases that follow upzoning require more public safety officers, teachers, schools, etc. but bill doesn't identify new funding sources for them.

Santa Clara:

- Thought this bill was trying to achieve too much to be truly successful.
- Wondered if adding the fourplex component to this bill made it less politically palatable.
- The broken transportation system largely contributed to longer commute times and people being more car-dependent, which is why the parking needs to be local decision. While the VTA comes every 15 minutes, it's so slow between stations no one uses it.
- Mountainview stated that they are just under 50,000 in population in larger county with more than 600,000 people. Asked how the population threshold levels affected them.
    - **Long:** Stated there are no special provisions for smaller cities in larger counties.
- Asked how this bill interacts with SB 330 limits on fees charged to developers.
- Asked if SB 50 will supersede local regulations and requirements related to affordability.
    - **Long:** Stated that more strict local requirements still stand.
- Stated that given there is less land for affordable housing, supports developers paying in lieu fees with cities deciding where to put those fees (½ mile radius would be too hard).
- Supported the scaling up of affordable units required based on the size of project.
- Expressed concern that SB 50 doesn't take into account built out cities versus cities with undeveloped land or jobs-housing balance of each city.
- Would like to see a more even distribution of housing across the region.

- Several people stated that adding housing near jobs doesn't guarantee that people living in that housing will work nearby. The only way to achieve that goal might be for the large employers to build worker housing directly tied to employment with that company.
- Stated that ADUs with no parking is a problem, fourplexes with no parking is a disaster.
- Asked how building additional units changes property taxes for certain properties.
- Upzoning through automatic height increases next to transit hubs goes against form-based zoning principles and will result in a proliferation of tall, square boxes.
- Stated bill needs bigger focus on improving/funding transit to reduce traffic congestion.

Solano:

- Stated that when you start adding language to secure votes you create more problems.
- Stated they were suspicious that the financial aspects of the revised SB 50 would cover the costs associated with the mandatory re-zoning.
- Stated Solano County needs funding to build the many houses that have already been permitted and will struggle to cover additional costs associated with new development.
- Expressed concern that there is not a viable funding element in SB 50.
- Asked for clarification on if fourplexes would be allowed in rural areas.

San Francisco:

- Asked where fourplexes would be by-right allowed if SB 50 passes.
    - **Long:** Stated that they would be allowed by-right anywhere in the state besides the specific areas excluded, such as high fire-risk, flood zones, etc.

Sonoma:

- Asked how the fourplexes will work in unincorporated areas.
    - **Long:** Noted fourplexes would be allowed anywhere that is zoned residential.
    - **Chair Pierce:** Mentioned that likely unincorporated properties were not included in residential permitting.
- Asked if lower parking requirements near transit included disabled parking.
- Stated they appreciated the conversation but do want to keep eye on the low- and very low-income requirement and affordability.
- Stated they worry about the population threshold levels, stated there should be a middle threshold number; it's a large jump from 50,000 to 600,000.
- Asked for clarification on by-right fourplex zoning, and how this interacts with other bills.
- Stated that large colleges in the county haven't done their part to address increasing student housing needs in recent years and worries the fourplex provision will encourage wholesale conversion of adjacent single family neighborhoods to student housing.
- Stated that fourplexes could change the feel of current residential areas.
- Believed they should look at transit in the same way as they look at jobs-rich areas in the new amendments to SB 50.
- Wondered if anything could be done to address second homes and vacation houses (e.g. AirBnB, VRBO) to that are removing much-needed housing.

- Stated that housing that cities have permitted takes years to build but housing units illegally converted to AirBnB can return to housing in 90 days with focused code enforcement.

Public Comment:

1. Veda Florez stated that she believed SB 50 should pass, and that she wanted the HLWG to vote in favor of it.
    - **Chair Pierce:** Reminded the HLWG that they are not taking a vote on any of these topics. Purpose is to hear about the bills and gather feedback to inform MTC and ABAG about local perspectives across the region.

2. Ken Bukowski: Stated he did not agree with the previous speaker, that these new zoning regulations, especially the fourplexes, won't fit into cities as they currently are.

3. Jordan Grimes: Stated that as a younger person who must live with the consequences of the lack of affordable housing, he was disappointed in most of the comments he heard in the HLWG meetings about this.

4. Jane Cramer: Stated this is a complicated issue for her, she does not want the neighborhood she lives in to change more, or for a one size fits all model to apply and remove what keeps the individual cities unique. Suggested cities should think about shared housing and shared vehicles.

Adjournment/Next Meeting:

For next week's meeting they decided:

- HLWG members should send in their opinions ahead of time so staff can include these in the presentation and share with other HLWG members
- The agenda would include public lands legislation and streamlining, as well as bills not covered in this meeting.
- They would discuss the housing bill landscape
- MTC Staff would look into extending the meeting in light of some time constraints to make last minute adjustments with the contract for the audio-visual team

375 Beale Street, Suite 800
San Francisco, CA 94105

Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0470	**Version:**	1	**Name:**	
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On agenda:	5/1/2019			**Final action:**	
Title:	Report on Housing Bill Landscape				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Handout Housing Bill Matrix _ 5 1 19.pdf Handout Bill Matrix_Principles.pdf Handout Presentation.pdf				

Date	Ver.	Action By	Action	Result

Report on Housing Bill Landscape

Rebecca Long

Information

Item 3, Attachment B

Shading indicates bills discussed by working group

2019 California Housing Bill Matrix

Last Updated: April 30, 2019 9:00 PM

Topic	Bill	Summary	Status as of 4/30/19
PROTECTION			
Rent Cap	AB 36 (Bloom)	Loosens, but does not repeal, Costa Hawkins to allow rent control to be imposed on single family homes and multifamily buildings ***20*** ~~10~~ years or older, with the exception of buildings owned by landlords who own just ***10 or fewer*** ~~one or two~~ units.	Assembly Rules (Non-fiscal; Amended 4/22)
	AB 1482 (Chiu)	Caps annual rent increases by **five percent** ~~an unspecified amount~~ above the percent change in the cost of living **and limits the total rental rate increase within a 12 month period to 10 percent**. Exempts housing subject to a local ordinance that is more restrictive than the bill. Prohibits termination of tenancy to avoid the bill's provisions.	Assembly Appropriations (Amended 4/22/19)
Just Cause Eviction	AB 1481 (Bonta)	Prohibits eviction of a tenant without just cause stated in writing. Requires tenant be provided a notice of a violation of lease and opportunity to cure violation prior to issuance of notice of termination.	Assembly (Passed Assembly Judiciary Committee on 4/30/19; Amended 4/23/19)
	AB 1697 (Grayson)	For a lease in which the tenant has occupied the property for 12 months or more, prohibits eviction of a tenant without just cause stated in writing.	Assembly (Passed Assembly Judiciary Committee as amended on 4/30/19)*
Tenant Organizing Rights	SB 529 (Durazo)	Declares that tenants have the right to form, join, and participate in the activities of a tenant association, subject to any restrictions as may be imposed by law, or to refuse to join or participate in the activities of a tenant association.	Senate Appropriations (Amended 4/23/19)*

Topic	Bill	Summary	Status as of 4/30/19
PROTECTION, cont.			
Rent Assistance & Access to Legal Counsel	SB 18 (Skinner)	• Authorizes a competitive grant program to be administered by Department of Housing and Community Development (HCD) to provide emergency rental assistance and moving expenses and grants to local governments to provide legal aid for tenants facing eviction, meditation between landlords and tenants and legal education. The primary use of grant funds must be for rental assistance. • Requires HCD to post all state laws applicable to the tenant-landlord relationship on its web site by January 1, 2021 and to update biannually	Senate Appropriations (Amended 4/23/19)*
PRODUCTION & PRESERVATION			
Accessory Dwelling Units (ADUs)	AB 68 (Ting)	• Prohibits local ADU standards from including certain requirements related to minimum lot size, floor area ratio or lot coverage, and parking spaces. • Requires an ADU (attached or detached) of at least 800 square feet and 16 feet in height to be allowed. • Reduces the allowable time to issue a permit from 120 days to 60 days.	Assembly Appropriations Suspense File
	AB 69 (Ting)	• Requires HCD to propose small home building standards to the California Building Standards Commission governing accessory dwelling units and homes smaller than 800 square feet. • Authorizes HCD to notify the Attorney General if they find that an ADU ordinance violates state law.	Assembly Appropriations Suspense File
	AB 587 (Friedman)	• ***Authorizes an local agency to allow, by ordinance,*** an ADU that was ministerially approved to be sold separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and a deed restriction exists that ensures the property will be preserved for affordable housing.	Senate Rules (Amended 4/22/19)
	AB 671 (Friedman)	Requires local agencies to include in their housing element a plan that incentivizes and promotes the creation of ADUs that can be offered for rent for very low-, low- and moderate-income households.	Assembly Appropriations
	AB 881 (Bloom)	Eliminates ability of local jurisdiction to mandate that an applicant for an ADU permit be an owner-occupant.	Assembly Third Reading

Topic	Bill	Summary	Status as of 4/25/19
PRODUCTION & PRESERVATION (cont'd)			
ADUs (cont'd)	SB 13 (Wieckowski)	• Maintains local jurisdictions' ability to define height, setback, lot coverage, parking and size of an ADU related to a specified amount of total floor area. • Prohibits local agency from requiring the replacement of parking if a space is demolished to construct an accessory dwelling unit. • Allows a local agency to count an ADU for purposes of identifying adequate sites for housing. • Expires January 1, 2040	Senate Appropriations (Amended 4/23/19)
Zoning/ Housing Approvals	AB 1279 (Bloom)	• Requires HCD to designate areas in the state as high-resource areas, by January 1, 2021, and every 5 years thereafter. • Makes housing development in such areas "by right" if the project is no more than four units in an area zoned for single family homes or up to 40 units and 30 feet in areas generally zoned for residential, subject to certain affordability requirements.	Assembly Appropriations
	SB 4 (McGuire)	• Allows an eligible transit-oriented development (TOD) project that is located within ½ mile of an existing or planned transit station and meets various height, parking, zoning and affordability requirements a height increase up to 15 feet above the existing highest allowable height for mixed use or residential use. • Exempts a TOD project within ¼ mile of a planned or existing station from minimum parking requirements in jurisdictions > 100,000 in population. • Establishes a new category of residential project – a "neighborhood multifamily project" as a project that on vacant land that is allowed to be a duplex in a nonurban community or a four-plex in an urban community and grants such projects ministerial approval.	Senate Governance and Finance (No longer active; provisions of the bill to be incorporated into SB 50 (Wiener))

Topic	Bill	Summary	Status as of 4/25/19
PRODUCTION & PRESERVATION (cont'd)			
Zoning/ Housing Approvals (cont'd)	SB 50 (Wiener)	• Allows upzoning within ½-mile of transit and in high-opportunity areas. Provides for a five-year deferral of bill's provisions in "sensitive communities" that would be defined by HCD in conjunction with community groups. • Defers applicability of bill in "sensitive communities" –to be defined by HCD in conjunction with local community-based organizations—until January 1, 2025. • Excludes sites that contain housing occupied by tenants or that was previously occupied by tenants within the preceding seven years or the owner has withdrawn the property from rent or lease within 15 years prior to the date of application.	Senate Appropriations (Passed Senate Governance and Finance with substantial amendments, 4/24/19)*
	SB 330 (Skinner)	• Restricts a local jurisdiction or ballot measure from downzoning, establishing or implementing limits on permit issuance or population ***unless the limit was approved prior to January 1, 2005 in a predominately agricultural county***, or imposing building moratoria on land where housing is an allowable use within an affected county or city identified by HCD as having fair market rate __ percent higher than ***national*** ~~statewide~~ average fair market rent for the year and a vacancy rate below __ percent. • Prohibits a city or county from conducting more than ***five*** ~~three~~ de novo hearings on an application for a housing development project. ***Modifies parking requirements to allow 0.5 space/unit, unless an affected city is located in a county with a population of 700,000 or greater or the affected city has a population of 100,000 or greater and is in a county of 700,000 in population or less.*** • Ten year emergency statute.	

Topic	Bill	Summary	Status as of 4/25/19
PRODUCTION & PRESERVATION (cont'd)			
Fees/ Transparency	AB 724 (Wicks)	• Requires HCD to create a rental registry online portal designed to receive specified information from landlords and to disseminate this information to the general public. • Requires HCD complete the rental registry online portal by January 1, 2021, and would require landlords to register within 90 days and annually thereafter. Landlords that fail to register would be subject to a $50 civil penalty per rental unit. • ***Requires a code enforcement officer to report a residential property owned or operated by a landlord subject to the registration requirement to HCD.***	Senate Appropriations (Passed Senate Housing with substantial amendments, 4/22/19)
	AB 847 (Grayson)	• Requires HCD to establish a competitive grant program, subject to appropriation by the Legislature, to offset the cost of housing-related transportation impact fees. Qualifying recipients would be cities and counties, which may apply jointly with a developer. • Projects must be at least 20 percent affordable (specific area median income (AMI) level unspecified) and be consistent with sustainable communities strategy (SCS); • Preference for TOD.	Assembly Appropriations (Amended 4/25/19)
	AB 1483 (Grayson)	• Requires a city or county to ***maintain a current schedule of fees applicable to a housing development project*** ~~compile of zoning and planning standards, fees, special taxes, and assessments in the jurisdiction~~. • Requires each local agency to post the ***fee schedule*** ~~list~~ ***and all zoning ordinances and development standards*** on its website and provide the ***information*** ~~list~~ to the HCD and any applicable metropolitan planning organization (MPO). • Requires each city and county to annually submit specified information concerning pending housing development projects with completed applications HCD and any applicable MPO.	Assembly Appropriations (Amended 4/29/19)

Topic	Bill	Summary	Status as of 4/30/19
PRODUCTION & PRESERVATION (cont'd)			
Fees/ Transparency, cont.	AB 1484 (Grayson)	• Prohibits a local agency from imposing a fee on a housing development project unless the type and amount of the exaction is specifically identified on the local agency's internet website at the time the development project application is submitted. • Prohibits a local agency from imposing, increasing, or extending any fee on a housing development project at an amount that is in excess of information made available on its web site. Applicable to all cities statewide, including charter cities.	Assembly Appropriations
Streamlining	AB 1485 (Wicks)	Modifies affordability requirements applicable to the by-right provisions in SB 35 (Wiener, 2017) such that a project can dedicate 10% of the total number of units to housing affordable to households making below 80 percent of the AMI or 20 percent to households earning below 120 percent AMI with an average income of units at or below 100 percent. ***Substantially Amended*** 4/11/19	Assembly Third Reading (Passed Assembly Local Government with amendments, 4/24/19)*
	AB 1706 (Quirk)	• Provides specified financial incentives to a residential development project in the San Francisco Bay Area that dedicates at least 20 percent of the housing units to households making no more than 150 percent AMI. • Incentives include exemption from CEQA, a cap on fees, a density bonus of 35 percent, parking reductions and a waiver of physical building requirements imposed on development, such as green building standards.	Assembly Housing and Community Development (2-year bill)
	SB 621 (Glazer)	• Requires the Judicial Council to adopt a rule of court applicable to an action to challenge an environmental impact report for an affordable housing project, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceeding with the court. ***Provides that these provisions do not apply to an affordable housing project if it is in certain locations.*** • ~~Prohibits a court from staying or enjoining the construction or operation of an affordable housing project unless it makes certain findings.~~	Senate Appropriations (Amended 4/30/19)*

Topic	Bill	Summary	Status as of 4/30/19
PRODUCTION & PRESERVATION (cont'd)			
Public Lands	SB 6 (Beall)	• Requires HCD to provide the Department of General Services (DGS) with a list of local lands suitable and available for residential development as identified by a local government as part of the housing element of its general plan. ***Authorizes HCD to provide local governments standardized forms to develop site inventories and requires that local governments adopting housing elements after January 1, 2021 electronically submit site inventories to HCD.*** • Requires DGS to create a database of that information and information regarding state lands determined or declared excess and to make this database available and searchable by the public by means of a link on its internet website.	Senate Appropriations (Heard April 29) (Amendments accepted and re-referred to Senate Appropriations, 4/23/19)
	AB 1255 (Rivas)	Requires the housing element to contain a surplus lands inventory and requires the city or county to separately identify those sites that qualify as infill or high density.	Assembly Appropriations Suspense File
	AB 1486 (Ting)	• Revises the definitions of "local agency" and "surplus land" applicable to the current Surplus Lands Act (SLA) requirement that local agencies provide right of first refusal to affordable housing developers when disposing of surplus land. Revises and clarifies state and local process requirements related to surplus land disposal. • Permits 100 percent affordable development on surplus land regardless of local zoning; Provision does not apply to exempt surplus land or land ineligible for state affordable housing financing programs. • Requires that HCD create and maintain a statewide inventory of local surplus lands. The inventory would be developed from information submitted by local agencies. • Expands HCD's enforcement mandate to include the SLA.	Assembly Appropriations

Topic	Bill	Summary	Status as of 4/30/19
PRODUCTION & PRESERVATION (cont'd)			
Funding *(Note: Funding is the most relevant category for affordable housing preservation)*	AB 10 (Chiu)	Expands the state's Low Income Housing Tax Credit program by $500 million per year, up from $94 million, leveraging an estimated $1 billion in additional federal funds annually.	Assembly Revenue and Taxation (urgency bill)
	AB 11 (Chiu)	• Authorizes a city or county or two or more cities acting jointly to form an affordable housing and infrastructure agency that could use tax increment financing to fund affordable housing and infrastructure projects. • Requires the Strategic Growth Council approve new agencies and that expenditure plans for such agencies be aligned with the state's greenhouse gas reduction goals. • A minimum of 30 percent of funds would be required to be invested in affordable housing.	Assembly Appropriations (Passed Assembly Local Government, 4/24/19)
	AB 1487 (Chiu)	• Establishes the Housing Alliance for the Bay Area (HABA), a new regional entity serving the nine Bay Area counties to fund affordable housing production, preservation and tenant protection programs. • Authorizes HABA to place unspecified revenue measures on the ballot, issue bonds, allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, • Provides that HABA will governed by a board composed of ~~an unspecified number of~~ voting members ~~from MTC, ABAG and gubernatorial appointees~~ and staffed by MTC.	Assembly Appropriations (Amended 4/29/19 to remove governance provisions to allow more time to negotiate this aspect of the bill.)
	AB 1568 (McCarty)	Conditions eligibility for ***state grants*** ~~SB 1 local street and road fund~~ on an HCD determination that a ***jurisdiction*** ~~jurisdiction's housing element~~ is in compliance with state law, ***including that a jurisdiction has an HCD-approved housing element and that HCD has not found the jurisdiction in violation of the Housing Accountability Act or Density Bonus law.***	Assembly Appropriations

Topic	Bill	Summary	Status as of 4/30/19
PRODUCTION & PRESERVATION (cont'd)			
Funding (cont'd)	AB 1717 (Friedman)	Establishes the Transit-Oriented Affordable Housing Program, to be administered by the California Housing Finance Agency (CalHFA). The program would allow a city or county to participate in the program by enactment of an ordinance establishing a TOD housing district. Such a district would be authorized to use tax-increment finance through a diversion of property taxes, including the school portion, to finance affordable housing projects. Funds would be redirected to CalHFA who would be authorized to issue bonds to pay for the projects.	Assembly Appropriations
	SB 5 (Beall)	• Authorizes local agencies to apply to the state to reinvest their share of ERAF (Educational Revenue Augmentation Fund) funds in affordable housing or other community improvement purposes. Sets an initial limit of $200 million per year for the first five years, growing to $250 million in 2029. • Establishes the Local-State Sustainable Investment Incentive Program which would be administered by a new Sustainable Investment Incentive Committee comprised of state agency representatives and legislative and gubernatorial appointees. • Requires at least 50 percent of funds to be allocated for affordable housing and workforce housing and for 50 percent of the units to be affordable. • ***Authorize certain local agencies to establish an affordable housing and community development investment agency and authorize an agency to apply for funding under the program and issue bonds, as provided, to carry out a project under the program.*** • **MTC and ABAG support in concept**	Senate Appropriations (Heard April 30) (Amended 4/23/19)

Topic	Bill	Summary	Status as of 4/25/19
PRODUCTION & PRESERVATION (cont'd)			
Funding (cont'd)	ACA 1 (Aguiar-Curry)	• Reduces vote threshold for local bonds or special taxes for affordable housing production, preservation or public infrastructure. • **MTC and ABAG support**	Assembly Appropriations Suspense File
	SB 128 (Beall)	• Eliminates the voter approval requirement for Enhanced Infrastructure Financing Districts (EIFDs), which can be used to finance affordable housing production and preservation, among other purposes. • **MTC and ABAG support**	Assembly Desk
Planning	AB 725 (Wicks)	Prohibits more than 20% of a ***suburban or metropolitan*** jurisdiction's share of regional housing need for above moderate-income housing from being allocated to sites with zoning restricted to single-family development.	Assembly Housing and Community Development (2-year bill)
	SB 235 (Dodd)	Allows the City and the County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's regional housing needs assessment (RHNA) requirement.	Assembly Desk
	SB 744 (Caballero)	Requires a lead agency to prepare the record of proceeding for a No Place Like Home project with the environmental review of the project if it is not eligible for approval as a use by right.	Senate Appropriations (Amended on 4/29/19)

* Amendments are not yet in print and/or staff has not yet incorporated amendments into this matrix.

Bill Number	AB 1279	AB 1483	AB 1485	AB 1486	SB 6	AB 11
Summary	By-right development approval in state-designated high-resource areas (HRAs)	Mandatory posting on local web site all housing development-related fees and all zoning and planning requirements Authorizes MPO's to request additional local housing data via HCD. Requires HCD to develop data sharing and open source protocols.	Amends SB 35 (Wiener) to provide an option for the development proponent to qualify for streamlining by dedicating 20% of units to those affordable to households that earning between 80 and 120 percent of area median income (AMI).	Surplus Lands Act update that revises state and local requirements related to prioritizing affordable housing when disposing of land no longer necessary for the state or local agency's use	Statewide inventory of state surplus land and locally-identified sites suitable for development	Redevelopment 2:0 - allows cities and counties to form Affordable Housing & Infrastructure Agencies and use tax-increment finance for a variety of community improvements
Funding		HCD required to provide technical assistance to local agencies upon request. Potential new costs for MPO.				Requires 30% of revenue to be dedicated to affordable housing purposes in the agency's specified area. Redevelopment originally provided $1 billion/year for affordable housing statewide but only required 20% setaside for affordable housing
Production	Could add new units that are affordable to moderate- and low-income households in infill sites close to schools, jobs and transit. Would not require public subsidy for new deed-restricted affordable housing.	Indirect: Posting of all planning and zoning standards and fees on web site will help facilitate development by making such information more accessible to developers	May increase the production of middle (80-120% AMI) and market-rate units if the option added by this bill makes some market-rate projects more financially feasible.	Potential increased affordable housing production from: Requirement that state must annually seek to dispose of at least ten percent of its surplus land. Requirement that state and local agencies negotiate exclusively with the entity proposing the most units at the deepest levels of affordability (negotiations limited to sales price and lease terms) and new HCD enforcement authority. Increased awareness of public land available for development with statewide surplus lands inventory	Increased awareness of state and local surplus land (and other land) suitable for development	New funding source to subsidize affordable housing can be expected to support increased production.
Protection	Would protect existing tenants from physical displacement by disqualifying rental properties (in use over the last 10 years) from by-right approval. Would disqualify areas that are (or potentially could) experiencing gentrification or displacement from by-right approval.					States legislative intent that housing units not be destroyed, but also includes requirements for replacement housing for any affordable housing units destroyed within 1/2 mile of original units. Requires relocation assistance to be provided before any affordable units can be destroyed.

Bill Number	AB 1279	AB 1483	AB 1485	AB 1486	SB 6	AB 11
Flexibility	Allows local jurisdictions to set objective design standards. Prohibits discretionary review/approval that could trigger CEQA. Higher building intensity levels are tiered based on existing zoning.	Different levels of capacity at the local level to compile and track housing-related data.		Retains discretion for public agencies to determine which public land is deemed surplus (defined as land not being used for governmental operations). Applies to all local agencies, including cities and counties, special districts and former redevelopment agencies.		Local governments have authority to decide whether or not to form a new AHIA and to set the boundaries of the agency's area and prioritize the projects to be funded.
Jobs / Housing Balance	By definition, high-resource areas are near (high-performing) schools, job centers and/or public transit. By increasing middle- and low-income housing opportunities near schools, jobs and transit, the bill could make a substantial improvement in the jobs-housing balance at the local, county and regional level.		May improve jobs-housing balance if more units are built in high-cost jurisdictions that have under performed on market-rate housing production.			
Reward Best Practices	Benefits to jurisdictions that meet or exceed development standards proposed in this bill are unclear.	Jurisdictions with information already posted on their web site will already be in compliance.				
Financial Impact	Fee-based services provided by local jurisdictions such as garbage pickup and permit parking should see an increase in revenue. Administrative approvals should reduce the need for additional permit approval staff. Would not require public subsidy for new deed-instituted affordable housing.	Additional staffing costs associated with providing new information to HCD, posting zoning standards and fees on its web site and to the public upon request. Potentially offset by HCD technical assistance.		In the case that more affordable housing is proposed on public lands, local agencies may forego more profitable revenue generating opportunities Provision that invalidates the transfer of surplus land if a public agency does not comply with the Surplus Lands Act could make surplus land less marketable Potential administrative costs associated with reporting requirements	Potential reduction in administrative costs from HCD-provided standardized forms to develop site inventories; requires that local governments electornically submit site inventories after January 1, 2021	New access to tax-increment finance can pay for community improvements that will pay long-term dividends. Bill structured to hold other property tax recipients harmless, including schools.

Bill Number	AB 1279	AB 1483	AB 1485	AB 1486	SB 6	AB 11
Trans & Infrastructure Impacts	Does not limit local development impact fees or parking standards. Proposes higher densities and heights in low density areas at a scale that could potentially negatively impact congestion, school access or parking availability.					Can provide new funding source to pay for housing *and* transportation and other infrastructure projects. School facilities not a specified eligible use.
Resilience	Excludes by right approvals in severe fire hazard, flooding and earthquake zones.					Flood control listed as an eligible expense, but other potential uses to mitigate for sea level rise, seismic, fire not listed.
Parallel Policy Mandates	Will help achieve Fair Housing outcomes as part of RHNA goals by increasing the supply of middle- and low-income housing near amenities Could negatively impact GHG reduction targets by increasing density in neighborhoods without good access to transit or walk/bike friendly.	Help assist with annual tracking at local and regional levels towards RHNA goals	May increase the production of middle- and market-rate units near jobs and transit, which may contribute to a reduction in vehicle miles traveled, thereby reducing GHG emissions.	Increased production could help achieve RHNA goals; potential to help address SB 375 GHG with increased affordable housing on public lands near transit	Indirect: Increased production could help achieve RHNA goals	Could provide a funding source for transit and other transportation improvements to reduce GHG emissions.

Production-Related Housing Bills, Part 3

ABAG-MTC Housing Legislative Working Group

May 1, 2019

Production-Related Housing Bills for Review

Zoning

- AB 1279 (Bloom) *Housing Development in High-Resource Areas*

Fees/Transparency

- AB 1483 (Grayson) *Housing Data Collection and Reporting*

Streamlining

- AB 1485 (Wicks) *Streamlining for Missing Middle Housing*

Public Lands

- AB 1486 (Ting)/SB 6 *Public Lands for Affordable Housing*

Funding

- AB 11 (Chiu) *Redevelopment 2.0: California Redevelopment Law of 2019*

AB 1279 – Housing Development in High-Resource Areas

"Missing Middle" Housing

Highlights:

- Applicable in state-designated high-resource areas; designation can be appealed
- "By-right" approval of projects with 2 to 100 units, depending on existing zoning and parcel size
- Subject to local "objective" design standards, but cannot trigger CEQA or undermine fair housing law
- Larger projects eligible for state density bonus but also subject to affordability requirements
- Parcels with existing rental units (in use for the last 10 years) excluded
- Parcels in environmentally sensitive areas and open space excluded

High-Resource Area Definition

- Areas of high opportunity and low residential density not experiencing gentrification and displacement and not at high risk of future gentrification and displacement

- Designated by HCD by January 1, 2021 and every 5 years after, in consultation with CA Fair Housing Task Force and CA Tax Credit Allocation Committee

AB 1279 – Housing Development: High-Resource Areas

"Missing Middle" Housing

Current Zoning

Allowed Under AB 1279

I — Single-Family Housing Only

1. Up to 4 units and not more than 20 feet high
2. Affordability requirement:
   a. Affordable to households with incomes at 100 percent AMI

   OR

   b. Fee of 10 percent of difference between affordable and market rate for units

II — Residential Areas

Min. ¼-Acre, Near Major Road or Commercial Use

1. Up to 40 units and not more than 30 feet high
2. Projects ≤10 units:
   a. Same affordability requirements as for SF-zoned parcels
3. Projects > 10 units:
   a. 10 percent affordable to low- and 5 percent to very low-income HHs
   b. Local inclusionary standards apply if higher

III — Housing & Commercial Development Allowed

Min. ½-Acre, Near Major Road or Commercial Use

1. Up to 100 units and not more than 55 feet high
2. Affordability Requirements:
   a. 50% total; 25 percent affordable to low- and 25 percent to very low-income HHs

AB 1483: Housing Data Collection and Reporting

- Bill's underlying assumption: Better data = better outcomes
- Seeks to improve quality and availability of information local governments provide related to housing project approvals, fees and zoning standards.
- Expands on data already reported through "APR" – annual performance report jurisdictions submit to HCD to require annual reporting to HCD **and MPOs.**
- Additional detail required, such as name of applicant, # units, permits issued, number of certificates of occupancy issued.
- Allows MPOs to request additional information from local jurisdictions about housing, subject to HCD approval and conditional on provision of technical assistance from MPO or HCD.
- Requires posting on web site of all fees, zoning and planning standards related to housing development projects.

AB 1483: Statewide Housing Data Strategy & Database

- Requires HCD develop a 10-year housing data strategy in its next revision of the CA Statewide Housing Plan
- Requires HCD establish an accessible statewide publicly accessible database with parcel-level housing data
- Requires HCD develop by January 1, 2022 protocols for data sharing, documentation, quality control, public access and promotion of open source platforms and decision tools related to housing data.

AB-1485 (Wicks): Streamlining Housing Development

Highlights

- Creates a new option for housing developers to qualify for the streamlining provisions of SB 35 (Wiener, 2017), which currently provides for ministerial approval for housing projects that meet "objective planning standards," and numerous other requirements until January 1, 2026.
- Under current law, in jurisdictions falling short of their above-moderate income housing targets, to qualify for streamlining, projects over 10 units must include a minimum of 10% of units affordable to households earning **80% of Area Median Income (AMI)**
- Under AB 1485, a project could also meet this requirement by dedicating **20% of units to those affordable to households earning 120% of AMI or less, with the average income of the units affordable to those earning 100% of AMI or less.**
- Specifies that the rents charged for units dedicated to households earning 80-120% AMI be **20% below the fair market rate** for the county.

* Households
** Area median income

AB 1486 (Ting) – Surplus Lands Act Expansion and Revision

- Expands requirement that local agencies provide right of first refusal to affordable housing developers when disposing of surplus land.
- Revises and clarifies state and local process requirements; Sets 10% annual state surplus land disposal goal
- Requires that the Department of Housing and Community Development (HCD) create and maintain statewide inventory of local surplus public lands.
- Expands HCD's enforcement mandate.
- Permits 100% affordable development on surplus land regardless of zoning; Provision does not apply to exempt surplus land (ex: protected open space) or land ineligible for state affordable housing financing programs.

SB 6 (Beall) – Statewide Developable Land Inventory

- Requires the Department of General Services (DGS) to add to the state-owned surplus lands inventory a list of local lands suitable and available for residential development

Local Surplus Land Disposal – *AB 1486 Revisions*

Scope

Land owned by cities, counties, ***successors to redevelopment agencies,*** and districts and not necessary for the local agency's ***governmental operations. Land is presumed "surplus" when a local agency agency takes an action to dispose of it.***

How it Works

Current Law	AB 1486
Local agencies inventory surplus (excess) land	*HCD to compile local inventories*
Written notice prior to disposing of property	Written notice *prior to negotiations*
Give interested parties 60 days to respond	No change
Enter into good faith negotiations	*Negotiations limited to sales price and lease terms*
Prioritize affordable housing proposals (≥25% affordable).	*Prioritize means exclusive negotiations*

100% affordable allowance

HCD enforcement authority

Public Lands Bills: Discussion Questions

- **Surplus Lands Act Revisions** What does the committee think about the bill's transparency and clarifying provisions?

- **100 Percent Affordable Housing** What might the impact be of permitting 100% affordable housing on non-exempt surplus land? Does the bill's new provision tying this to affordable housing financing eligibility address concerns? Might this be a useful tool?

- **Inventory Tool** Would a central statewide land inventory support local governments and your partners in identifying development opportunity sites? What should it look like?

AB 11 (Chiu): Community Redevelopment Law of 2019

- Authorizes a city or county (or multiple cities) to form an Affordable Housing and Infrastructure Agency (AHIA) with authority similar to former redevelopment agencies, subject to approval of Strategic Growth Council (SGC)
- Agencies would have ability to use tax-increment finance for improvements in a specified area that need not be contiguous
- SGC approval would be based on fiscal impact to state and whether agency's plan would promote greenhouse gas reduction goals
- Annual local and statewide reporting required on projects funded to address concerns about lack of oversight and transparency under redevelopment

AB 11 (Chiu): Community Redevelopment Law of 2019

Wide array of eligible expenditures

Bonds could be used for any of the following purposes:

- Affordable housing for low, very low and moderate income households
- Transit priority projects located in a transit priority area
- Any project to implement an approved Sustainable Communities Strategy
- Roadway improvements, parking facilities, and transit facilities
- Sewage treatment and water reclamation plants and interceptor pipes
- Water collection and treatment facilities
- Flood control levees and dams, retention basins, and drainage channels
- Child care facilities
- Libraries
- Parks, recreational facilities, and open space
- Solid waste-related transfer and disposal facilities
- Brownfield restoration and other environmental mitigation
- Port or harbor infrastructure

AB 11 (Chiu): Community Redevelopment Law of 2019 Affordable Housing Provisions

- At least 30% of funds required to be spent on affordable housing for low and moderate income
- Deed restrictions required (55 years rental, 45 years ownership)
- Replacement requirement for loss of any low or moderate income housing as a result of an agency-funded project within ½ mile of the project within two years
- No destruction of existing low income units before existing residents have been relocated

AB 11 (Chiu): Community Redevelopment Law of 2019
Fiscal Provisions

- Other public agencies that receive property tax within the designated area would be held harmless by mandatory pass-through of taxes in amount they would have received without the AHIA
- Bonds could be issued without voter approval
- Statewide cap proposed –amount TBD–on total amount of debt to be issued as a way to minimize fiscal impact on state because all diverted school-related property taxes would be backfilled by state, similar to redevelopment.

AB 11 (Chiu): Community Redevelopment Law of 2019
Discussion Questions

- Should eligible expenditures be expanded to include other local resilience needs, such as sea level rise mitigation, fire mitigation, and seismic retrofit?
- Is there a concern about giving these new agencies the authority to take property by eminent domain?
- Is the bill's provision regarding the backfill of school funding sufficient protection to maintain school funding levels?

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Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0471	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
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On agenda:	5/1/2019			**Final action:**	
Title:	Report on Housing Bills Staff will review bills originally on the April 25 agenda (AB1279 and AB1483); and present on bills related to public lands, AB1485 (streamlining) and AB 11 (Redevelopment 2.0).				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result

Report on Housing Bills

Staff will review bills originally on the April 25 agenda (AB1279 and AB1483); and present on bills related to public lands, AB1485 (streamlining) and AB 11 (Redevelopment 2.0).

Rebecca Long

Information

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Metropolitan Transportation Commission

Legislation Details (With Text)

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Indexes:					
Code sections:					
Attachments:	Item 04A Text AB1279.pdf Item 04A Analysis AB1279_Assembly Local Government.pdf				

Date	Ver.	Action By	Action	Result

Upzoning in High Resource Areas: AB 1279 (Bloom)

Rebecca Long

Information

ASSEMBLY BILL No. 1279

Introduced by Assembly Member Bloom

February 21, 2019

An act to add Section 65913.6 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as introduced, Bloom. Planning and zoning: housing development: high-resource areas.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. That law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided.

This bill would require the department to designated areas in this state as high-resource areas, as provided, by January 1, 2021, and every 5 years thereafter. The bill would authorize a city or county to appeal the designation of an area within its jurisdiction as a high-resource area during that 5-year period. In any area designated as a high-resource area, the bill would require that a housing development project be a use

by right, upon the request of a developer, in any high-resource area designated pursuant be a use by right in certain parts of the high-resource area if those projects meet specified requirements, including specified affordability requirements. For certain development projects where the initial sales price or initial rent exceeds the affordable housing cost or affordable rent to households with incomes equal to or less than 100% of the area median income, the bill would require the applicant agree to pay a fee equal to 10% of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable, as provided. The bill would require the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50% of the area median income.

This bill would require that the applicant agree to, and the city and county ensure, the continued affordability of units affordable to lower income and very low income households for 45 years, for rented units, or 55 years, for owner-occupied years. The bill would provide that a development housing is ineligible as a use by right under these provisions if it would require the demolition of rental housing that is currently occupied by tenants, or has been occupied by tenants within the past 10 years, or is located in certain areas. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by requiring approval of certain development projects as a use by right, would expand the exemption for ministerial approval of projects under CEQA.

By adding to the duties of local planning officials with respect to approving certain development projects, this bill would impose a state-mandated local program.

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:

SECTION 1. Section 65913.6 is added to the Government Code, to read:

65913.6. (a) For purposes of this section:

(1) "Department" means the Department of Housing and Community Development.

(2) "High-resource area" means an area of high opportunity and low residential density that is not currently experiencing gentrification and displacement, and that is not at a high risk of future gentrification and displacement, designated by the department pursuant to subdivision (b).

(3) "Infill site" means a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(4) (A) "Use by right" means that the local government's review of the development project under this section may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act (Division 2 (commencing with Section 66410)).

(B) A local ordinance may provide that "use by right" does not exempt the development project from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) (1) No later than January 1, 2021, and every five years thereafter, the department shall designate areas in this state as

high-resource areas in accordance with this section. In designating areas of the state as high-resource areas, the department shall collaborate with the California Fair Housing Task Force, convened by the department and the California Tax Credit Allocation Committee, and shall solicit input from members of the public and ensure participation from all economic segments of the community as well as members of those classes protected pursuant to Section 12955. Except as provided in paragraph (2), the designation of an area as a high-resource area shall remain valid for five years.

(2) (A) A city or county that includes within its jurisdictional boundaries an area designated as a high-resource area pursuant to this section may appeal to the department to remove that designation at any point during the five-year period specified in paragraph (1) by submitting an appeal in a form and manner prescribed by the department.

(B) The department may remove the designation of a city or county that submits an appeal pursuant to subparagraph (A) if it finds, based on substantial evidence, that the city or county has adopted policies after the area was designated as a high-resource area that meet the following requirements:

(i) The policies permit development of higher density housing in the high-resource area, in a manner substantially similar to subdivision (c), than were allowed under the city's or county's policies in effect at the time the area was designated as a high-resource area.

(ii) The policies are sufficient to accommodate a similar number of housing units within the area and at similar levels of affordability as would be allowed under subdivision (c).

(iii) The policies are consistent with the city's or county's obligation to affirmatively further fair housing pursuant to Section 8899.50.

(C) In considering an appeal of a city or county submitted pursuant to this subparagraph (A), the department shall consult with the California Fair Housing Task Force and shall issue a decision within 90 days of receiving the appeal.

(D) The decision of the department regarding an appeal pursuant to this paragraph shall be final.

(c) Notwithstanding any inconsistent provision of a city's or county's general plan, specific plan, zoning ordinance, or regulation, upon the request of a developer a housing development

project shall be a use by right in any high-resource area designated pursuant to this section if the development satisfies the following criteria:

(1) If the development project is located in any portion of the high-resource area where allowable uses are limited to single-family residential development:

(A) The development project consists of no more than four residential units and has a height of no more than 20 feet.

(B) Either of the following apply:

(i) The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income equal to or less than 100 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(ii) If the initial sales price or initial rent exceeds the limit specified in clause (i), the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income, as provided in this subparagraph. The city or county shall deposit any fee received pursuant to this clause into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income less than 50 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(C) The development project complies with all objective design standard of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to four units or impose a maximum height limitation of less than 20 feet.

(2) If the development project is located in any portion of the high-resource area where residential use is an allowable use:

(A) The development project consists of no more than 40 residential units and has a height of no more than 30 feet.

(B) The development project is located on a site that is one-quarter acre in size or greater and is either adjacent to an arterial road or located within a central business district.

(C) (i) For development projects consisting of 10 or fewer units, either of the following apply:

(I) The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income equal to or less than 100 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(II) If the initial sales price or initial rent exceeds the limit specified in subclause (I), the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income, as provided in this subparagraph. The city or county shall deposit any fee received pursuant to this subparagraph into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income less than 50 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(ii) For development projects consisting of more than 10 units, at least 10 percent of the units in the development project have an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income households and at least 5 percent have an affordable housing cost or affordable rent to very low income households. However, if the city or county requires that the development project include a greater percentage of units that are affordable to lower income and very low income households, the development project shall comply with that greater requirement.

(D) The development project complies with all objective design standards of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to 40 units or impose a maximum height limitation of less than 30 feet.

(3) (A) If the development project is located in any portion of the high-resource area where residential or commercial uses are an allowable use:

(i) The development project consists of no more than 100 residential units and has a height of no more than 55 feet.

(ii) The development project is located on a site that is one-half acre in size or greater and is either adjacent to an arterial road or located within a central business district.

(iii) At least 25 percent of the units in the development project have an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income households and at least 25 percent have an affordable housing cost or affordable rent to very low income households.

(iv) The development project complies with all objective design standards of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to 100 units or impose a maximum height limitation of less than 55 feet.

(B) A development project that is a use by right pursuant to this paragraph shall be eligible for a density bonus or other incentives or concessions if it includes units within an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income and very low income households in excess of the minimum amount required by clause (ii) of subparagraph (A).

(4) An applicant for a development project that is a use by right pursuant to paragraph (1), (2), or (3) shall agree to, and the city or county shall ensure, the continued affordability of units included in the development project that are affordable to lower income and very low income households in accordance with the applicable affordability requirement under this subdivision for at least the following periods of time:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owner occupied.

(d) A development project shall not be eligible for approval as a use by right pursuant to subdivision (c) if any of the following apply:

(1) The development project would require the demolition of rental housing that is currently occupied by tenants or has been occupied by tenants within the past 10 years.

(2) The development project is proposed to be located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high- or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall

not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(3) The development project is proposed to be located on a site that is not an infill site.

(e) This section shall not be construed to prevent a developer from submitting an application for a development permit in a high-resource area under the county's or city's general plan, specific plan, zoning ordinance, or regulation for a project that does not meet the criteria specified in subdivisions (c) and (d).

(f) The Legislature finds and declares that ensuring residential development at greater density in high-resource areas of this state is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or

level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1279 (Bloom) – As Introduced February 21, 2019

SUBJECT: Planning and zoning: housing development: high-resource areas.

SUMMARY: Requires by right approval of certain housing development projects in high-resource areas. Specifically, **this bill**:

1) Defines the following terms:

   a) "Department" to mean the Department of Housing and Community Development (HCD);

   b) "High-resource area" to mean an area of high opportunity and low residential density that is not currently experiencing gentrification and displacement, and that is not at a high risk for future gentrification and displacement, designated by HCD;

   c) "Infill site" to mean a site in which at least 75% of the perimeter of the site adjoins parcels that are developed with urban uses, including parcels that are only separated by a street or highway; and,

   d) "Use by right" to mean that the local government's review of the development project may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of the California Environmental Quality Act (CEQA). Provides that any subdivision of sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. Declares that design review shall not constitute a "project" for purposes of CEQA.

2) Requires, no later than January 1, 2021, and every five years thereafter, HCD to designate areas as high-resource areas, in collaboration with the California Fair Housing Task Force (Task Force), convened by HCD, and the California Tax Credit Allocation Committee. Requires HCD to solicit input from members of the public and ensure participation from all economic segments of the community as well as members of protected classes, as specified.

3) Provides that the designation of an area as a high-resource area shall remain valid for five years. Allows a city or county with an area designated as a high-resource area to appeal to HCD to remove that designation at any point during the five-year period by submitting an appeal in a form and manner prescribed by HCD.

4) Allows HCD to remove the designation of a city or county, if it finds, based on substantial evidence, that the city or county has adopted policies after the area was designated as a high-resource area that meet specified requirements. Requires HCD to consult with the Task Force and issue a decision within 90 days.

5) Provides that, upon the request of a developer, a housing development project shall be a use by right in any high-resource area, in spite of any inconsistent provision of a city or county's

general plan, specific plan, zoning ordinance, or regulation, if the development satisfies the following criteria:

a) If the development project is located in any portion of the high-resource area where allowable uses are limited to single-family residential development:

   i) The development project consists of no more than four residential units and has a height of no more than 20 feet;

   ii) Either of the following apply:

      (1) The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent, as specified, to households with a household income equal to or less than 100% of the area median income (AMI); or,

      (2) If the initial sales price or initial rent exceeds the limit in (1), above, the developer agrees to pay a fee to the county or city equal to 10% of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100% of the AMI. Requires the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent, as specified, to households with a household income less than 50% of the AMI;

   iii) The development project complies with all objective design standards of the city or county. Prohibits the city or county from requiring the development project to comply with an objective design standard that would preclude the development from including up to four units or impose a maximum height limitation of less than 20 feet;

b) If the development project is located in any portion of the high-resource area where residential use is an allowable use:

   i) The development project consists of no more than 40 residential units and has a height of no more than 30 feet;

   ii) The development project is located on a site that is one-quarter acre in size or greater and is either adjacent to an arterial road or located within a central business district;

   iii) For development projects consisting of 10 or fewer units, see 5)a)ii);

   iv) For development projects consisting of more than 10 units, at least 10% of the units in the development project have an affordable housing cost or affordable rent, as specified, to lower income households and at least 5% have an affordable housing cost or affordable rent to very low income households. Provides that if the city or county requires that the project include a greater percentage of units that are affordable to lower income and very low income households, the development project shall comply with that greater requirement;

   v) The development project complies with all objective design standards of the city or county. Prohibits the city or county from requiring the project to comply with a

standard that would preclude development from including up to 40 units or impose a maximum height limitation of less than 30 feet;

c) If the development project is located in any portion of the high-resource area where residential or commercial uses are an allowable use:

i) The development project consists of no more than 100 residential units and has a height of no more than 55 feet;

ii) The development project is located on a site that in one-half acre is size or greater and is either adjacent to an arterial road or located within a central business district;

iii) At least 25% of the units in the development project have an affordable housing cost or affordable rent, as specified, to lower income households and at least 25% have an affordable housing cost or affordable rent to very low income households; and,

iv) The development project complies with all objective design standards of the city or county. Prohibits a city or county from requiring the development project to comply with a standard that would preclude the development from including up to 100 units or impose a maximum height limitation of less than 55 feet.

6) Allows a development project that is a use by right pursuant to 5c), above, to be eligible for a density bonus or other incentives or concessions if it includes units with an affordable housing cost, or affordable rent, as specified to lower income and very low income households in excess of the minimum amount.

7) Requires an applicant for a development project that is a use by right, pursuant to the bill's provisions to agree to, and the city or county to ensure that the continued affordability of units is included in the project for at least 55 years for units that are rented, and 45 years for units that are owner-occupied.

8) Prohibits a development project from being eligible as a use by right if any of the following apply:

a) The development project would require the demolition of rental housing, as specified;

b) The development project is proposed to be located on a site that is any of the following: a coastal zone; prime farmland or farmland of statewide importance; wetlands; within a very high or high fire hazard severity zone; a hazardous waste site; within a delineated earthquake fault zone; within a special flood hazard area, as specified; within a regulatory floodway; lands identified for conservation in an adopted natural community conservation plan; habitat for protected species, as specified; or lands under conservation easement; or,

c) The development project is proposed to be located on a site that is not an infill site.

9) Applies the bill's provisions to all cities, including charter cities.

10) States that no reimbursement is necessary because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

1) **Bill Summary.** This bill would streamline mixed-income and affordable housing in high-resource areas that are not experiencing nor at risk of gentrification and displacement. The bill would make certain kinds of housing development a use by-right in these areas, as follows:

   a) In areas zoned only for single-family residential development, the development project could consist of up to four residential units with a height of up to 20 feet. The units would have to be either affordable to households making 100% of the area median income (AMI), or sold or rented at a higher AMI if the developer pays 10% of the difference to the local jurisdiction, who would be required to use it to build deed-restricted units for households at 50% AMI or less;

   b) In areas zoned for residential use that are in more prime development locations (i.e., at least one-quarter acre in size and located on a major street and/or the central business district), the development project could consist of up to 40 residential units with a height of up to 30 feet. Projects with 10 or fewer units would need to meet the same affordability parameters as the projects in single-family zones discussed above. Projects of more than 10 units would need to dedicate at least 10% of the units to households with low incomes (typically 50%-80% AMI) and 5% to very low incomes (typically under 50% AMI); and,

   c) If the parcel exceeded one-half acre in these prime locations, the development would have an extra incentive to have higher affordability requirements. A project that had at least 25% of its units dedicated to low-income households and 25% to very-low income households would be allowed to have up to 100 residential units with a height of up to 55 feet. Such a project could receive a density bonus if it were to include additional affordable units.

   The bill specifies that a qualifying project cannot require the demolition of housing that is currently for rent or has been in the past ten years, or be located in an environmentally unsafe or sensitive area.

   To facilitate the implementation of these requirements, the bill requires HCD to undergo a process to define "high-resource areas," based on consultation with stakeholders, and with an appeal process for jurisdictions that disagree with designations within their borders. This bill is sponsored by the California Rural Legal Assistance Foundation, Public Advocates, and Western Center on Law & Poverty.

2) **Author's Statement.** According to the author, "California's housing shortage is well-documented, and it is primarily a shortage of units affordable to households at the lower end of the income spectrum. Facilitating the production of affordable housing units requires increasing allowable residential densities in many communities and creating more opportunities for multifamily development. Allowing these types of projects to be developed by right in the most exclusionary places is crucial to ensuring that they are able to proceed.

"In addition to an overall shortage of housing, California remains highly segregated in many areas of the state, and low-income people and people of color continue to lack access to many high resource areas. It is particularly important for the state to encourage multifamily affordable development in these areas to address the historic and present barriers to entry and to allow more people to enjoy the resources that these communities offer."

3) **Policy Considerations.** The California State Association of Counties and Urban Counties of California have a "concerns" position on the bill, stating that they "are concerned with the bill's delegation of legislative prerogative to the executive branch to develop definitions that will dictate the communities or neighborhoods where AB 1279's provisions overriding local zoning will apply.…[we would] strongly prefer to develop a specific definition in statute." They are also concerned with the appeals process in the bill, and suggest that instead of the prescriptive approach, that the bill require local plans to allow for similar number of units at similar levels of affordability as would be possible under AB 1279's by-right provisions.

4) **Arguments in Support.** Supporters argue that this bill addresses exclusionary zoning practices in high-resource areas, which exacerbate racial and economic segregation and reduce opportunities for lower-wage workers to live close to where they work, and will facilitate mixed-income and affordable housing in high-resource, lower-density communities.

5) **Arguments in Opposition.** None on file.

6) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 10, 2019, and passed with a 6-1 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation [SPONSOR]
Western Center On Law & Poverty, Inc. [SPONSOR]
Dan Kalb, City Councilmember, City of Oakland
Public Advocates Inc.
Techequity Collaborative

Concerns

California State Association of Counties
Urban Counties of California

Opposition

None on file

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Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0473	**Version:**	1	**Name:**	
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File created:	4/26/2019			**In control:**	Joint ABAG MTC Housing Legislative Working Group
On agenda:	5/1/2019			**Final action:**	
Title:	Housing Data: AB 1483 (Grayson)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Item 04B Text AB1483.pdf Item 04B Analysis AB1483_Assembly Local Government.pdf				

Date	Ver.	Action By	Action	Result

Housing Data: AB 1483 (Grayson)

Rebecca Long

Information

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1483

Introduced by Assembly Member Grayson

February 22, 2019

An act to amend Section 65400 of, and to add Sections 65940.1 and 65940.2 to, the Government Code, and to amend Section 50452 of, and to add Sections 50457.5, 50469, and 50515 to, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1483, as amended, Grayson. Housing data: collection and reporting.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development (department) that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided.

This bill would authorize the department to require a planning agency to include in that annual report specified additional information that this bill would require, as described below. The bill would require the department, if requested, to provide technical assistance in providing this additional information to the local public entity that is required to

include this additional information in the annual report. The bill would also authorize the department to assess the accuracy of the information submitted as part of the annual report and, if it determines that any report submitted to it by a planning agency contains inaccurate information, require that the planning agency correct that inaccuracy.

This bill would authorize a metropolitan planning organization to request that the department require the planning agency for a county or a city located within its territorial boundaries to provide data regarding housing production within the county or city. The bill would require the department to grant this request if it determines that the metropolitan planning organization has complied with specified requirements and the request is justified on the basis of furthering the state's housing goals. The bill would require the metropolitan planning organization to provide, or enter into an agreement with the department to provide, technical assistance to the planning agency of the county or city that was the subject of the request in order to fulfill that request.

(2) The Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. Existing law prohibits a local agency from requiring additional information from an applicant that was not specified in that list.

The Mitigation Fee Act requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

This bill would require a city or county to compile a list that provides ~~zoning and planning standards,~~ fees imposed under the Mitigation Fee Act, special taxes, and assessments applicable to housing development projects in the jurisdiction. *The bill would also require a city or county to make all zoning and planning standards available on its internet website and to maintain and annually update an archive of those standards.* This bill would require each local agency to post the list on its internet website and provide the list to the department and any applicable metropolitan planning organization. The bill would require the department to post the information submitted pursuant to these provisions on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

This bill would require each city and county to annually submit specified information concerning pending housing development projects with completed applications within the city or county, the number of applications deemed complete, and the number of discretionary permits, building permits, ~~and~~ certificates of occupancy issued by the city or ~~county~~ *county, and specified information regarding each housing development project for which the city or county deemed an application to be complete or issued a building permit or certificate of occupancy* to the department and any applicable metropolitan planning organization. The bill would require the department to post the information submitted pursuant to these provisions on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

(3) Existing law requires the department to update and provide a revision of the California Statewide Housing Plan to the Legislature every 4 years, as provided. Existing law requires that these revisions contain specified segments, including a comparison of the housing need for the preceding 4 years with the amount of building permits issued and mobilehome units sold in those fiscal years.

This bill, for the next revision of the plan on or after January 1, 2020, and each subsequent revision thereafter, would require that revisions of the plan include a 10-year housing data strategy, as provided.

(4) Existing law requires the department to make available to the public information about federal, state, and local laws regarding housing and community development and to develop specifications for the structure, functions, and organization of a housing and community development information system for this state, as provided.

This bill would require the department to establish a statewide, publicly accessible, geographic information system database of parcel boundaries. The bill would also require the department to develop specified protocols relating to housing data and submit a report to the Legislature on those protocols by January 1, ~~2021.~~ *2022*. The bill would require a recipient of state funds through a grant or contract for research or a project relating to housing to adhere to these protocols as a condition of receiving state funds. The bill would require the department to coordinate and integrate existing housing data from local, state, and federal agencies and to develop, operate, and maintain a data portal for all nonpersonal housing data collected by the department.

(5) By requiring each city and county to report on, and post on its internet website, specified information regarding housing development, this bill would impose a state-mandated local program.

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:

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of

occupancy, a unique site identifier which must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) Any additional information required by the Department of Housing and Community Development pursuant to subdivision (b).

(K) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its ~~Internet Web site~~ *internet website* within a reasonable time of receiving the report.

(b) As part of the annual report submitted to it pursuant to paragraph (2) of subdivision (a), the Department of Housing and Community Development may require the planning agency to include the following additional information:

(1) The information concerning ~~zoning and planning standards,~~ fees, special taxes, and property assessments required pursuant to Section 65940.1.

(2) The information concerning the number of housing development applications deemed complete, pursuant to Section 65943, and the number of discretionary permits, building permits, and certificates of occupancy issued by the city or county required pursuant to Section 65940.2.

(3) Any other information the Department of Housing and Community deems necessary or convenient for purposes of assessing progress toward the state's housing goals.

(c) (1) (A) A metropolitan planning organization, by a majority vote of its governing board, may submit a request to the Department of Housing and Community Development to require that a planning agency for a county or a city located within the territorial boundaries of the metropolitan planning organization provide data regarding housing production within the county or city. The request shall be in the form and manner required by the

department and shall demonstrate that the request for housing data is justified on the basis of furthering the state's housing goals.

(B) A metropolitan planning organization that requests housing data pursuant to this subdivision shall collaborate with the county or city from which the data is sought to establish the scope of the requested data, so as to ensure that the request does not create an undue burden on the staff of the county or city.

(C) The Department of Housing and Community Development shall grant a request for housing data pursuant to this subdivision, and shall require the planning agency of the county or city that is the subject of the request to provide that data to the metropolitan planning organization, if it determines that all of the following apply:

(i) The request is justified on the basis of furthering the state's housing goals.

(ii) The metropolitan planning organization has collaborated with the county or city to establish the scope of the requested data.

(iii) The scope of the requested data does not create an undue burden on the staff of the county or city.

(iv) The metropolitan planning organization has agreed to provide, or has proposed to enter into an agreement with the department to provide, technical assistance to the county or city to fulfill the request, in accordance with paragraph (2).

(2) If the Department of Housing and Community Development grants a request for housing data pursuant to this subdivision, the metropolitan planning organization shall provide, or enter into an agreement with the department to provide, technical assistance to the planning agency of the county or city that was the subject of the request in order to fulfill that request.

(d) The Department of Housing and Community Development may assess the accuracy of the information submitted as part of the annual report required pursuant to paragraph (2) of subdivision (a). If the department determines that any report submitted to it by a planning agency pursuant to this section contains inaccurate information, the department may require that the planning agency correct that inaccuracy.

(e) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph

(2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65940.1 is added to the Government Code, to read:

65940.1. (a) Each city and county shall compile one or more lists that specify in detail all of the following information applicable to housing development projects in its jurisdiction:

~~(1) All zoning and planning standards.~~

~~(2)~~

(1) All fees imposed by the city or county and any other local agency on a housing development project under the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)).

~~(3)~~

(2) All special taxes and property assessments imposed on a development including charges by an assessment district, taxes for the payment of principal and interest on voter-approved bonds, and fees authorized by the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).

(b) A city or county shall make ~~the list required by subdivision (a)~~ *both of the following* available on its internet ~~website and available upon request.~~ *website:*

(1) The list required by subdivision (a). The city or county shall also make the list be made available upon request.

(2) All zoning and planning standards. The city or county shall also maintain and annually update a publicly accessible archive of its zoning and planning standards.

(c) (1) Each city and county shall annually provide the lists of information required by subdivision (a) *and the information required by paragraph (2) of subdivision (b)* to the Department of Housing and Community Development and any applicable metropolitan planning organization. The department shall post the information submitted pursuant to subdivision (a) on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

(2) The Department of Housing and Community development may require that the city or county provide the lists of information required by subdivision (a) as part of the annual report required by paragraph (2) of subdivision (a) of Section 65400.

(d) For purposes of this section, "housing development project" means ~~a use consisting of any of the following:~~ *any development project that includes residential units.*

~~(1) Residential units only.~~

~~(2) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.~~

SEC. 3. Section 65940.2 is added to the Government Code, to read:

65940.2. (a) Each city and county shall annually submit a report to the Department of Housing and Community Development and any applicable metropolitan planning organization containing the following information:

(1) The number of housing development project applications that the city or county has deemed complete pursuant to Section 65943, but have not been issued a certificate of occupancy. ~~This report shall include all of the following information for each application:~~

~~(A) The name of the applicant.~~

~~(B) The location of the proposed project.~~

~~(C) The date the application was deemed complete.~~

~~(D) The nature of the additional permits needed to complete the housing development project.~~

(2) The number of discretionary permits granted by the legislative body or planning commission of the city or county, including conditional use permits and zoning variances.

(3) The number of building permits issued by the city or county.

(4) The number of certificates of occupancy issued by the city or county.

(5) Information regarding each housing development project for which the city or county has deemed an application to be complete pursuant to Section 65943 or issued a building permit or certificate of occupancy during the year covered by the report, including, but not limited to, all of the following:

(A) The name of the applicant.

(B) The location of the housing development project.

(C) The number of units in the housing development project.

(D) The date the application was deemed complete.

(E) The nature of any permits the housing development project has already received.

(F) The nature of any additional permits needed to complete the housing development project.

(b) The department shall post the information submitted pursuant to subdivision (a) on its internet website by January 1, ~~2021,~~ *2022*, and each year thereafter.

(c) The ~~Department of Housing and Community development~~ *department* may require the city or county to provide the information required to be submitted ~~to it~~ by subdivision (a) as part of the annual report required by paragraph (2) of subdivision (a) of Section 65400.

(d) For purposes of this section, "housing development project" means ~~a use consisting of any of the following:~~ *any development project that includes residential units.*

~~(1) Residential units only.~~

~~(2) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.~~

SEC. 4. Section 50452 of the Health and Safety Code is amended to read:

50452. (a) The department shall update and provide a revision of the California Statewide Housing Plan to the Legislature by January 1, 2006, by January 1, 2009, and every four years thereafter. The revisions shall contain all of the following segments:

(1) A comparison of the housing need for the preceding four years with the amount of building permits issued and mobilehome units sold in those fiscal years.

(2) A revision of the determination of the statewide need for housing development specified in subdivision (b) of Section 50451 for the current year and projected four additional years ahead.

(3) A revision of the housing assistance goals specified in subdivision (c) of Section 50451 for the current year and projected four additional years ahead.

(4) A revision of the evaluation required by subdivision (a) of Section 50451 as new census or other survey data become available. The revision shall contain an evaluation and summary of housing conditions throughout the state and may highlight data for multicounty or regional areas, as determined by the department. The revision shall include a discussion of the housing needs of various population groups, including, but not limited to, the elderly persons, disabled persons, large families, families where a female is the head of the household, and farmworker households.

(5) An updating of recommendations for actions by federal, state, and local governments and the private sector which will facilitate the attainment of housing goals established for California.

(6) For the next revision of the plan on or after January 1, 2020, and each subsequent revision thereafter, a 10-year housing data strategy that defines suitable data to inform modern state housing policymaking in support of safe, sustainable, and equitable housing that is sufficient to meet the housing needs of this state.

(b) The Legislature may review the plan and the updates of the plan and transmit its comments on the plan or updates of the plan to the Governor, the Secretary of Business, Consumer Services and Housing, and the Director of Housing and Community Development.

SEC. 5. Section 50457.5 is added to the Health and Safety Code, to read:

50457.5. The department shall establish a statewide, publicly accessible, geographic information system database of parcel boundaries, capable of linking to all parcel-level housing data available to the state.

SEC. 6. Section 50469 is added to the Health and Safety Code, to read:

50469. (a) (1) The department shall develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms and decision support tools related to housing data. No later than January 1, ~~2021,~~ *2022,* the department shall submit to the Legislature a report describing these protocols.

(2) The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(b) (1) The department shall coordinate and integrate existing housing data from local, state, and federal agencies.

(2) No later than January 1, ~~2022,~~ *2023,* the department shall develop, and shall thereafter operate and maintain, a single, publicly accessible, and machine-readable data portal for all nonpersonal housing data collected by the department.

(c) The department shall require, as a condition of providing funds through grants or contracts for research or projects relating to housing pursuant to this part, that fund recipients adhere to the protocols developed pursuant to subdivision (b) for data sharing, transparency, documentation, and quality control.

SEC. 7. Section 50515 is added to the Health and Safety Code, to read:

50515. Upon request of a local public entity required to submit an annual report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 of the Government Code, the department shall provide technical assistance to that local public entity in providing the information required pursuant to subdivision (b) of Section 65400 of the Government Code.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1483 (Grayson) – As Amended April 11, 2019

SUBJECT: Housing data: collection and reporting.

SUMMARY: Requires increased reporting of housing data from cities and counties. Specifically, **this bill**:

1) Requires each city and county to compile one or more lists that specify in detail all of the following information applicable to housing development projects in its jurisdiction:

   a) All fees imposed by the city or county and any other local agency on a housing development project under the Mitigation Fee Act, as specified; and,

   b) All special taxes and property assessments imposed on a development including charges by an assessment district, taxes for the payment of principal and interest on voter-approved bonds, and fees authorized by the Mello-Roos Community Facilities Act of 1982.

2) Requires a city or county to make both of the following available on its website:

   a) The list required above in 1a). Provides that the city or county shall also make the list available upon request; and,

   b) All zoning and planning standards. Requires the city or county to maintain and annually update a publicly accessible archive of its zoning and planning standards.

3) Requires each city or county to annually provide the lists of information above in 1), and 2), to the Department of Housing and Community Development (HCD) and any applicable metropolitan planning organization (MPO). Requires HCD to post the information on its internet website by January 1, 2022, and each year thereafter.

4) Allows HCD to require that the city or county provide these lists as part of the Annual Progress Report (APR).

5) Defines, for the provisions above, the term "housing development project" to mean any development project that includes residential units.

6) Requires each city or county to annually submit a report to HCD and any applicable MPO containing the following information:

   a) The number of housing development project applications that the city or county has deemed complete, but has not been issued a certificate of occupancy;

   b) The number of discretionary permits granted by the legislative body or planning commission of the city or county, including conditional use permits and zoning variances;

c) The number of building permits issued by the city or county;

d) The number of certificates of occupancy issued by the city or county;

e) Information regarding each housing development project for which the city or county has deemed an application to be complete or issued a building permit or certificate of occupancy during the year covered by the report, including, but not limited to, all of the following:

i) The name of the applicant;

ii) The location of the housing development project;

iii) The number of units in the housing development project;

iv) The date the application was deemed complete;

v) The nature of any permits the housing development has already received; and,

vi) The nature of any additional permits needed to complete the housing development project.

7) Requires HCD to post the information submitted pursuant to 6), above, on its internet website by January 1, 2022, and each year thereafter.

8) Allows HCD to require a city or county to provide the information contained in 6), above, as part of the APR.

9) Requires the next revision of the California Statewide Housing Plan on or after January 1, 2020, and each subsequent revision thereafter, to contain a 10-year housing data strategy that defines suitable data to inform modern state housing policymaking in support of safe, sustainable and equitable housing that is sufficient to meet the housing needs of the state.

10) Requires HCD to establish a statewide, publicly accessible, geographic information system database of parcel boundaries, capable of linking to all parcel-level housing data available to the state. Requires HCD to develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms and decision support tools related to housing data. Requires HCD, no later than January 1, 2022, to submit to the Legislature a report describing these protocols. Requires HCD to coordinate and integrate existing housing data from local, state and federal agencies. Requires HCD, no later than January 1, 2023, to develop, and operate and maintain, a single publicly accessible, and machine-readable data portal for all nonpersonal housing data collected.

11) Allows a local public entity required to submit an APR to request technical assistance, as specified.

12) Allows HCD to require the above information compiled by the city or county to be submitted as part of the APR, including any other information HCD deems necessary or convenient for purposes of assessing progress toward the state's housing goals.

13) Allows an MPO, by a majority vote of its governing board, to submit a request to HCD to require that a planning agency for a county or a city within the MPO's boundaries to provide data regarding housing production within the city or county. Requires an MPO that requests housing data to collaborate with the city or county from which the data is sought to establish the scope of the requested data. Allows HCD to grant a request for housing data, and to require the planning agency of that city or county to provide that data to the MPO, if it determines that all of the following apply:

    a) The request is justified on the basis of furthering the state's housing goals;

    b) The MPO has collaborated with the county or city to establish the scope of the data request;

    c) The scope of the request data does not create an undue burden on the staff of the county or city; and,

    d) The MPO has agreed to provide, or has proposed to enter into an agreement with HCD to provide technical assistance to the city or county to fulfill the request.

14) Allows HCD to assess the accuracy of the information submitted as part of the APR.

15) Provides that no reimbursement is required by this act because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

EXISTING LAW:

1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element.

2) Requires a housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

3) Requires local governments located within the territory of an MPO to revise their housing elements every eight years following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.

4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with HCD, prepare a regional housing needs assessment (RHNA) and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

5) Requires housing elements to include an inventory of land suitable for residential development that identifies enough sites that can be developed for housing within the planning period to accommodate the local government's entire share of the RHNA.

6) Requires all cites including charter cities to submit an annual general plan report that includes the following:

   a) The number of housing development applications received in the prior year;

   b) The number of units included in all development applications in the prior year;

   c) The number of units approved and disapproved in the prior year; and,

   d) A listing of sites rezoned to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory. This shall also include any additional sites that may have been required to be identified under No Net Loss Zoning law.

7) Requires HCD to update and provide a revision of the California Statewide Housing Plan to the Legislature every four years thereafter. The revisions must contain a comparison of the housing need for the preceding four years with the amount of building permits issued in those fiscal years, the determination of the statewide need for housing development for the current year and projected four additional years ahead, and a revision of the housing assistance goals for the current year and projected four additional years ahead.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

1) **Background.** In preparing its housing element, a local government must show how it plans to accommodate its share of the RHNA. The housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Included in this analysis is an assessment of both governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

   Existing law requires all local jurisdictions to annually provide housing information to HCD, including the following information from the prior year and/or for the current eight-year housing element cycle:

   a) The number of housing development applications received;

   b) The number of units included in all development applications;

   c) The number of units approved and disapproved;

   d) For each income category, the number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy;

   e) A unique site identifier (such as assessor’s parcel number) for each entitlement, building permit, or certificate of occupancy; and,

   f) The overall progress in meeting its share of regional housing needs.

2) **Bill Summary.** This bill would require local jurisdictions to provide the following information to the state:

   a) Information about the housing entitlement process, including all zoning and planning standards, fees, taxes, and property assessments; and,

   b) Information about applications received, including project-specific data and cumulative data on outcomes.

   This bill requires HCD to provide technical assistance upon request of a city or county. The bill enables MPOs to request additional information from local jurisdictions with HCD's permission. The bill does not require the state to reimburse local jurisdictions for the cost of fulfilling these requirements.

   This bill would help require that this data is accessible, standardized, and organized for public use by requiring that the following occur:

   a) By January 1, 2022, HCD must place on its internet website all data collected from local jurisdictions and develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms;

   b) By January 1, 2022, HCD must develop, and thereafter operate and maintain, a single, publicly accessible, and machine-readable data portal for all non-personal housing data collected by the department; and,

   c) That a 10-year housing data strategy to be included in each of HCD's subsequent California Statewide Housing Strategies.

   This bill is an author-sponsored measure.

3) **Author's Statement.** According to the author, "California needs robust data for evidence-based housing policymaking. The Legislature has committed significant financial resources and new authorities to tackle the housing crisis over the last several years; these resources should be targeted to the places, populations, and strategies that deliver real solutions.

   "Policymakers lack data needed to adequately understand housing programs and to make and track progress on housing solutions. Too much of the housing data that is currently collected is not accessible, standardized, or organized in a manner that leverages our current data investments. California has a rich community of housing researchers and advocates that support data-driven solutions – they could contribute far more if data were readily available.

   "Better information is needed to guide action by cities, metropolitan planning organizations, elected officials, developers, community groups, academic researchers, and voters. AB 1483 will make housing development pipeline data open and available, leveraging California's dedicated community of housing researchers and advocates to implement smart, effective solutions to our housing affordability crisis."

4) **CASA.** From the middle of 2017 to the end of 2018, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) convened a series of structured discussions with certain local government officials, developers, major

employers, labor interests, housing and policy experts, social equity advocates and non-profit housing providers. This group was deemed the Committee to House the Bay Area, and nicknamed CASA. CASA identified that, to make housing in the region more affordable, 35,000 new housing units would need to be built annually, including 14,000 new subsidized affordable housing units. Additionally, the region has 30,000 units at risk of losing their affordability, and 300,000 lower-income households who are paying more than 50% of their income in rent.

Increasing availability of housing data is one of the items mentioned in the CASA Compact.

5) **Policy Considerations.** The Committee may wish to consider the following:

   a) **Additional Information on Fees and Taxes Applicable to Housing Developments.** This bill, in Section 2, requires each city and county to compile lists that specify in detail all of the information applicable to housing development projects, including all fees imposed by the city or county and any other *local agency* on a housing development project imposed pursuant to the Mitigation Fee Act, and all special taxes, property assessments, voter-approved bonds, and Mello-Roos fees. This section also requires cities and counties to include information on zoning and planning standards, including an archive of such standards. According to the American Planning Association, California Chapter, "the zoning and planning standards alone would result in an enormous amount of information that would not necessarily be applicable to every project, and many of the special taxes and assessments are not within the planning department's jurisdiction."

   It is also unclear whether this section is intended to capture existing housing development projects or proposed housing development projects.

6) **Committee Amendments.** In order to address some of the issues raised above, and to take advantage of documents that most cities and counties already produce, the Committee may wish to consider amending the bill, as follows:

SEC. 2.

Section 65940.1 is added to the Government Code, to read:

65940.1.

~~*(a) Each city and county shall compile one or more lists that specify in detail all of the following information applicable to housing development projects in its jurisdiction:*~~

~~*(1) All fees imposed by the city or county and any other local agency on a housing development project under the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)).*~~

~~*(2) All special taxes and property assessments imposed on a development including charges by an assessment district, taxes for the payment of principal and interest on voter-approved bonds, and fees authorized by the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).*~~

(a) ~~*(b)*~~ *A city or county shall make both of the following available on its internet website:*

*(1) ~~The list required by subdivision (a).~~ **A current schedule of fees applicable to a proposed housing development project.** ~~The city or county shall also make the list be made available upon request.~~*
*(2) All zoning **ordinances** and ~~planning~~ **development** standards. The city or county shall also maintain and annually update a publicly accessible archive of its zoning and ~~planning~~ **development** standards.*
*~~(c)~~**(b)** (1) Each city and county shall annually provide the ~~lists of~~ information required by subdivision (a) ~~and the information required by paragraph (2) of subdivision (b)~~ to the Department of Housing and Community Development and any applicable metropolitan planning organization. The department shall post the information submitted pursuant to subdivision (a) on its internet website by January 1, 2022, and each year thereafter.*
(2) The Department of Housing and Community development may require that the city or county provide the ~~lists of~~ information required by subdivision (a) as part of the annual report required by paragraph (2) of subdivision (a) of Section 65400.
~~(d)~~ **(c)** *For purposes of this section, "housing development project" means any development project that includes residential units.*

7) **Arguments in Support.** Supporters argue that there is a lack of data to facilitate comprehensive housing policymaking, and that the state has a myriad of data that is ready to be collected, but lacks coordination, standardization, or accessibility to achieve full usefulness.

8) **Arguments in Opposition.** None on file.

9) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on April 10, 2019, and passed on an 8-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter (if amended)
Bay Area Council
Building Industry Association of the Bay Area
California Apartment Association
California Association of Realtors
California Building Industry Association
California Community Builders
Chan Zuckerberg Initiative
Eden Housing
Enterprise Community Partners, Inc.
Habitat for Humanity California
Habitat for Humanity East Bay/Silicon Valley
Hamilton Families
Leadingage California
Non-Profit Housing Association of Northern California
Oakland Metropolitan Chamber of Commerce
Related California

Support (continued)

San Francisco Foundation (if amended)
Silicon Valley at Home (Sv@Home)
Spur
TMG Partners
Transform
Urban Displacement Project, UC-Berkeley
Working Partnerships, USA (if amended)

Opposition

None on file

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Metropolitan Transportation Commission

Legislation Details (With Text)

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Sponsors:					
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Attachments:	Item 04C Text AB1485.pdf Item 04C Analysis AB1485_Assembly Local Government.pdf				

Date	Ver.	Action By	Action	Result

Streamlining “Missing Middle” Housing: AB 1485 (Wicks)

Rebecca Long

Information

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1485

Introduced by Assembly Member Wicks

February 22, 2019

An act to ~~add and repeal~~ *amend* Section ~~65913.3~~ *65913.4* of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, as amended, Wicks. Housing development: ~~incentives.~~ *streamlining.*

The Planning and Zoning Law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards. ~~Existing law requires the objective planning standards to include, among other things, that the development be located in a jurisdiction for which the department determines that the number of units that have been issued building permits is less than the local agency's share of the regional housing needs, by income category, for the applicable reporting period.~~ *Existing law requires, among other objective planning standards, that the development be subject to a requirement mandating a minimum percentage of below market rate housing based on one of 3 specified conditions. Existing law requires, among those conditions, a development to dedicate a minimum of 10% of the total number of units to housing affordable to households making*

below 80% of the area median income, if the project contains more than 10 units of housing and the locality did not timely submit its latest production report to the Department of Housing and Community Development, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period.

~~This bill would, until January 1, 2035, provide specified financial incentives that ensure financial feasibility to a development proponent of a residential housing development in the 9-county San Francisco Bay area region that dedicates at least 20% of the development's housing units to households making no more than 150% of the area median income. The incentives provided to those developments include an exemption from the California Environmental Quality Act, a cap on fees imposed under the Mitigation Fee Act, a density bonus of 35%, parking reductions, and a waiver of other locally imposed requirements.~~

~~The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.~~

~~This bill would require a development proponent to submit a request to the local agency on a project proforma that documents the necessity of the requested incentives to make the development financially feasible. The bill would require the Department of Housing and Community Development to develop a list of market conditions to be included in the project proforma to be considered by the local agency and a methodology for the local agency to evaluate and determine whether the requested financial incentives are necessary to ensure that the development is financially feasible. The bill would require the department to develop a process for a local agency to contract with a qualified development expert to review a project proforma. The bill would require local agencies to report all housing units created pursuant to these provisions to the department, and would require the department~~

~~to adopt guidelines for local agencies to increase the concessions and incentives as needed to assure the financial feasibility and accelerated production of housing units.~~

~~This bill would require a development subject to these provisions to be subject to a 12-month discretionary review period that may consist of no more than 2 public hearings. The bill would require a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for these incentives. The bill would allow a local agency to impose conditions of approval on a development if specified conditions are met.~~

~~This bill would apply only to a residential development project on a site that is zoned for residential development, located in an urban area, as defined, and not located within a historic district, coastal zone, very high fire hazard severity zone, or flood plain. The bill would not apply to developments that would require the demolition of specified types of affordable housing. The bill would require a development subject to these provisions to comply with specified prevailing wage and skilled and trained workforce requirements.~~

~~This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities within the San Francisco Bay area, including charter cities.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the San Francisco Bay area.~~

~~By requiring local agencies to provide specified financial incentives to eligible housing developments, this bill would impose a state-mandated local program.~~

~~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.~~

This bill would modify that condition to authorize a development to instead dedicate 20% of the total number of units to housing affordable to households making below 120% of the area median income with the average income of the units at or below 100% of the area median income, except as provided. The bill would require the rents charged for those units that are dedicated to housing affordable to households

between 80% and 120% of area median income be at least 20% below the fair market rent for the country.

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

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

SECTION 1. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies both of the following:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project ~~seeking approval dedicates~~ *either:*

(I) Dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income. ~~If~~ *However, if* the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(II) Dedicates 20 percent of the total number of units to housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 20 percent of the units be dedicated to housing affordable to households making below 120 percent of the area median income, that local ordinance applies. In order to comply with this subclause, the rent charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of

area median income shall be at least 20 percent below the fair market rent for the county at that time. For purposes of this subclause, "fair market rent" has the same meaning as defined in Section 53590 of the Health and Safety Code.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median ~~income, unless~~ *income. However, if* the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, ~~in which case~~ that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific

plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(C) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing

building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant

to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential

component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of

Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the

subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) (1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible

for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(f) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(g) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency or local government to lease, convey, or encumber land owned by the local government or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(i) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing cost" has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) "Affordable rent" has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(5) "Completed entitlements" means a housing development which has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(8) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(9) "Subsidized" means units that are price or rent restricted such that the units are permanently affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(10) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(11) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(j) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (b) is not a "project" as defined in Section 21065 of the Public Resources Code.

(*l*) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.

(m) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

~~SECTION 1. Section 65913.3 is added to the Government Code, to read:~~

~~65913.3. (a) A development proponent that satisfies all of the following requirements may apply to the local agency for any of the incentives listed in subdivision (d) to offset the costs associated with providing deed-restricted affordable housing units and ensure the development is financially feasible:~~

~~(1) The development is a residential development project.~~

~~(2) The development complies with all existing zoning standards imposed by the local agency.~~

~~(3) The development is located in the nine-county San Francisco Bay area region.~~

~~(4) (A) The development proponent dedicates a percentage of the total number of for-sale and rental units to households making 150 percent of the area median income or less, with an average area median income of the affordable units not to exceed 120 percent of the area median income.~~

~~(B) The development applicant or proponent shall agree to, and the city or county shall ensure, the continued affordability of all~~

~~the units subject to this paragraph for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.~~

~~(C) The development proponent or applicant shall agree to, and the city or county shall ensure that, the initial occupant of all for-sale units under this paragraph are persons meeting the requirements of subparagraph (A). The local agency shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:~~

~~(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local agency shall recapture any initial subsidy and its proportionate share of appreciation the local agency shall use, within five years of the recapture, use any amounts recaptured for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families as defined in subdivision (e) of Section 33334.2 of the Health and Safety Code.~~

~~(ii) For purposes of this paragraph:~~

~~(I) "Initial subsidy" means the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.~~

~~(II) "Proportionate share of appreciation" means the ratio of the local agency's initial subsidy to the fair market value of the home at the time of initial sale.~~

~~(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section.~~

~~(6) The development is located on a site that satisfies all of the following:~~

~~(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.~~

~~(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.~~

~~(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.~~

~~(7) The development is not located on a site that is any of the following:~~

~~(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.~~

~~(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.~~

~~(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).~~

~~(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. A site is not ineligible within the meaning of this subparagraph if it is either of the following:~~

~~(i) A site excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179.~~

~~(ii) A site that has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.~~

~~(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.~~

~~(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.~~

~~(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local agency shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local agency that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:~~

~~(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local agency.~~

~~(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.~~

~~(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local agency shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local agency that is applicable to that site.~~

~~(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.~~

~~(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).~~

~~(K) Lands under conservation easement.~~

~~(8) The development is not located on a site where any of the following apply:~~

~~(A) The development would require the demolition of the following types of housing:~~

~~(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.~~

~~(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.~~

~~(iii) Housing that has been occupied by tenants within the past 10 years.~~

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(9) The development proponent has done both of the following, as applicable:

(A) Certified to the local agency that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant

~~to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.~~

~~(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months of the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.~~

~~(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.~~

~~(VI) Notwithstanding subdivision (e) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.~~

~~(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:~~

~~(I) On and after January 1, 2020, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of 225,000 or more.~~

~~(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of 225,000 or more.~~

~~(ii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:~~

~~(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.~~

~~(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.~~

~~(III) Except as provided in subclause (IV), the applicant shall provide to the local agency, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local agency pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.~~

~~(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject~~

~~to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.~~

~~(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:~~

~~(i) The development includes 10 or fewer units.~~

~~(ii) The development is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.~~

~~(10) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:~~

~~(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (9).~~

~~(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to subparagraph (A) of paragraph (9).~~

~~(11) The development shall not be upon an existing parcel of land or site that is governed under any of the following:~~

~~(A) The Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).~~

~~(B) The Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code).~~

~~(C) The Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code).~~

~~(D) The Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).~~

~~(b) (1) A development proponent that meets the requirements of subdivision (a) may submit a request with the local agency for any of the financial incentives listed in subdivision (d) to offset~~

~~the costs associated with providing deed-restricted affordable housing units and ensure the development is financial feasible. The local agency shall review the request for incentives pursuant to the procedure provided in paragraph (3) of subdivision (c).~~

~~(2) The development proponent shall document the need for each financial incentive requested on a standard project proforma that accounts for local market conditions that affect the financial feasability of the development, as provided in subdivision (c).~~

~~(c) (1) The Department of Housing and Community Development shall develop a list of market conditions to be included in the standard project proforma required in subdivision (b). That list shall include, but is not limited to, the following:~~

~~(A) Market rental rates.~~

~~(B) Standard capital returns.~~

~~(C) Costs for different types of housing that accounts for the prevailing wage and skilled and trained workforce requirements required by this section.~~

~~(2) The department shall develop a methodology for a local agency to evaluate a project proforma submitted by a development proponent to determine whether the requested financial incentives are necessary to ensure the development is financially feasible.~~

~~(3) The department shall develop a process for a local agency to contract with a qualified development expert to review an application submitted pursuant to this paragraph. The development proponent shall pay for costs associated with the review of an application reviewed pursuant to this subparagraph. The department shall determine the standards on whether a development expert is qualified pursuant to this paragraph.~~

~~(4) A local agency shall report all housing units produced pursuant to this section to the department by December 31 of each year.~~

~~(5) The department shall, by December 31, 2020, adopt guidelines and a standardized process for local agencies to increase the concessions, incentives, and combinations thereof, as needed to assure the financial feasibility and accelerated production of housing units produced under this section to produce middle-income ownership and rental housing without financial subsidy.~~

~~(d) A development proponent may request any of the following financial incentives from the local agency pursuant to the procedure described in subdivisions (b) and (c):~~

~~(1) The development, including all activities associated with the project, as defined in Section 21065 of the Public Resources Code, shall be exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(2) A cap on fees imposed by the local agency under the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7). A local agency may cap fees at a reasonable level to ensure the financial feasability of the development, which may include a complete waiver of fees on deed-restricted affordable units.~~

~~(3) A density bonus of 35 percent. The bonus shall be in addition to any density bonus received under the Density Bonus Law in Section 65915. The development shall not be required to provide any additional affordable housing units beyond those required in paragraph (4) of subdivision (a) as a result of the density bonus provided in this paragraph.~~

~~(4) A reduction of local parking requirements up to 50 percent.~~

~~(5) A waiver of requirements imposed on development by the local agency, including a waiver of green building standards.~~

~~(6) A waiver of deed-restricted affordability requirements with the payment of an in-lieu fee.~~

~~(e) A local agency in reviewing a development under this section shall be subject to a 12-month discretionary review and approval process, which may include up to two public hearings with an appointed or elected board, commission, or council, and shall include the resolution of any administrative appeals challenging a development approval. The local agency may require the development proponent to comply with conditions of approval, provided that:~~

~~(1) The required project application documentation shall be limited to confirmation of the development's eligibility under this section.~~

~~(2) Fees imposed by all public agencies under the Mitigation Fee Act on the development do not exceed twenty thousand dollars ($20,000) per unit, in the aggregate, except as provided in paragraph (3). If applicable fees exceed twenty thousand dollars ($20,000) per unit at the time the initial project application is filed, all fees shall be decreased pro rata by the amount required to limit per unit fees to twenty thousand dollars ($20,000).~~

~~(3) Other costs imposed by any discretionary condition of approval do not exceed five thousand dollars ($5,000) per unit in aggregate. The local agency shall bear the burden of proof in demonstrating, in its discretionary approval decision, that discretionary condition of approval costs do not exceed five thousand dollars ($5,000) per unit in aggregate. This cost constraint does not apply to development costs required to physically connect to existing infrastructure or development costs required to protect public safety from significant adverse public safety impacts that are specific to the development costs.~~

~~(4) If the local agency determines that a development submitted pursuant to this section is in conflict with any of the objective zoning, subdivision, and design review standards specified in paragraph (5) of subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:~~

~~(A) Within 60 days of submittal of the development to the local agency pursuant to this section if the development contains 150 or fewer housing units.~~

~~(B) Within 90 days of submittal of the development to the local agency pursuant to this section if the development contains more than 150 housing units.~~

~~(5) The 12-month period for the city or county to exercise its discretion under this subdivision shall commence upon the application being deemed complete by the local agency pursuant to Section 65943. If a local agency does not complete its review and discretionary approval within the 12-month period, the development shall be deemed approved without discretionary conditions of approval provided that it meets the requirements provided in subdivision (a).~~

~~(f) (1) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served. The local agency shall bear the cost of preparation of the record, unless the petitioner elects to prepare the record.~~

~~(2) A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the effective date of a decision of the local agency imposing conditions on, disapproving, or making any other final action on a housing development project.~~

~~(3) Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, do either of the following:~~

~~(A) File a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow.~~

~~(B) Appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure.~~

~~(4) If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the development proponent.~~

~~(g) (1) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (f) of this section, all or part of the record may be prepared under one of the following:~~

~~(A) The petitioner with the petition or petitioner's points and authorities.~~

~~(B) The respondent with respondent's points and authorities.~~

~~(C) After payment of costs by the petitioner.~~

~~(D) As otherwise directed by the court.~~

~~(2) If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.~~

~~(h) For purposes of this section:~~

~~(1) "Consistent with" means there is substantial evidence that would allow a reasonable person to conclude that the development~~

~~is consistent, based solely on the objective standards set forth in the objective zoning standards, objective subdivision standards, or objective design review standards.~~

~~(2) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.~~

~~(3) "Local agency" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.~~

~~(4) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:~~

~~(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum allowable residential density within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.~~

~~(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.~~

~~(5) "Project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.~~

~~(6) "Residential development project" means a use consisting of either of the following:~~

~~(A) Residential units for rent or for-sale units only.~~

~~(B) Mixed-use developments consisting of for-rent or for-sale residential and nonresidential units with at least two-thirds of the square footage designated for residential use.~~

~~(7) "Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.~~

~~(i) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.~~

~~SEC. 2. The Legislature finds and declares that providing an additional process for affordable housing development in the San Francisco Bay area is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act applies to all cities within the San Francisco Bay area, including charter cities.~~

~~SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe shortage of available affordable housing and the particularly acute nature of the housing crisis within the nine counties of the San Francisco Bay area region.~~

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

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Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1485 (Wicks) – As Amended April 11, 2019

SUBJECT: Housing development: streamlining.

SUMMARY: Requires ministerial approval of housing developments that limit 20% of the units to up to 120% of area median income (AMI) or less, in specified circumstances. Specifically, **this bill**:

1) Allows a development proponent that meets all of the following criteria to submit an application for streamlined, ministerial approval under SB 35 (Wiener), Chapter 366, Statutes of 2017:

   a) The development is located in a city or county where the last annual production report submitted to the Department of Housing and Community Development (HCD) shows that there were fewer units of above moderate income housing issued building permits than were required for the regional housing needs assessment (RHNA) cycle for that reporting period;

   b) The development dedicates 20% of the total units in a housing development to households making below 120% AMI with the average income of the units at or below 100% of AMI; and,

   c) Requires, for units dedicated to households between 80% and 120% of AMI, the rents charged to be 20% below the fair market rent for the county, as determined by the federal Department of Housing and Urban Development.

FISCAL EFFECT: None

COMMENTS:

1) **Background.** SB 35 (Wiener), Chapter 366, Statutes of 2017, created a streamlined, ministerial approval process for infill projects with two or more residential units in cities or counties that have failed to produce sufficient housing to meet their RHNA numbers. The ministerial process requires some level of affordable housing to be included in the housing development, and requires the developer to demonstrate that the development meets a number of requirements, including that the development is not in an environmentally sensitive site like a wetland, coastal zone, or very high fire hazard severity zone, among other prohibitions. Pursuant to SB 35, a city or county must provide written documentation within certain time constraints to the developer if the proposed development does not meet the qualifications, and if the city or county does not meet those deadlines, the development is deemed to satisfy the requirements and must be approved "by right."

   SB 35 also requires HCD to determine when a city or county is subject to the streamlined, ministerial approval process, based on the number of units issued building permits as reported in the annual production report submitted by local governments each year as part of the housing element. Streamlining starts at the beginning of the housing element, and can

stop half way through if a city or county is permitting enough units to meet a proportional share of the RHNA at all income levels. If a city or county is not permitting enough units to meet its above moderate and its lower income RHNA, then a development must dedicate 10% of the units to lower income to be eligible for the streamlined process. If the city or county is permitting its above moderate income and not the lower income RHNA then developments must dedicate 50% of the units for lower income to be eligible for streamlining. SB 35 applications have been submitted in Cupertino, Berkeley, and San Francisco, and all of these applications were submitted in jurisdictions meeting their above moderate income and not their lower income RHNA requiring that 50% of the units be restricted to lower income households to qualify.

2) **Bill Summary.** This below would allow developments that restrict 20% of the units in a development to 120% of AMI or less to be eligible for streamlined approval in jurisdictions that have not met their above-moderate income RHNA for the prior reporting period, in certain circumstances. The bill requires that if 20% are rented to households between 80% of AMI or 120% of AMI, the rents would be required to be 20% below market rate. This bill ties the streamlining of units that serve moderate income households to whether a city or county is meeting their above-moderate income RHNA.

   This bill is sponsored by the Bay Area Council.

3) **Author's Statement.** According to the author, "For decades, California has failed to create enough housing, at all income levels, for our growing population. According to the Legislative Analyst's Office, California needs to produce approximately 180,000 units of housing per year to keep up with population growth. Right now, our state produces less than half that amount. The extreme cost of housing is more than just a price; its cost is affecting our economy, environment, and quality of life for our residents.

   "The need for CEQA reform is well documented in California. In the Bay Area, where construction costs are so high as to prohibit new housing altogether, we must allow housing that meets our social and environmental goals to be approved in no more than one year."

4) **Arguments in Support.** Supporters argue that this bill will help address the Bay Area housing crisis by ensuring timely approval of unsubsidized, zoning compliant rental and ownership housing projects and that such a tool is critical to accelerate mixed income housing production.

5) **Arguments in Opposition.** None on file.

6) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 10, 2019, and passed with a 7-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council [SPONSOR]
American Planning Association (if amended)
Building Industry Association of The Bay Area
California Community Builders
Chan Zuckerberg Initiative
Enterprise Community Partners, Inc.
Habitat For Humanity East Bay/Silicon Valley
Hamilton Families
Oakland Metropolitan Chamber of Commerce
Related California
San Francisco Foundation (if amended)
Silicon Valley at Home (Sv@Home)
TMG Partners

Opposition

None on file

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Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0475	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
File created:	4/26/2019			**In control:**	Joint ABAG MTC Housing Legislative Working Group
On agenda:	5/1/2019			**Final action:**	
Title:	Public Lands: AB 1486 (Ting), SB 6 (Beall)				
Sponsors:					
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Code sections:					
Attachments:	Item 04D Text AB1486.pdf Item 04D Analysis AB1486_Assembly Housing And Community Development.pdf Item 04D Text SB6.pdf Item 04D Analysis SB6_Senate Governmental Organization.pdf				

Date	Ver.	Action By	Action	Result

Public Lands: AB 1486 (Ting), SB 6 (Beall)

Rebecca Long

Information

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1486

Introduced by Assembly Member Ting
(Coauthor: Assembly Member Wicks)
(Coauthor: Senator Skinner)

February 22, 2019

An act to amend Sections 11011, 11011.1, ~~50569,~~ 54220, 54221, 54222, 54222.3, 54223, 54225, 54226, 54227, *54230*, 54230.5, 54233, 65400, 65583.2, and 65585 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Ting. Local agencies: surplus land.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "local agency" for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines "surplus land" for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange. Existing law defines "exempt surplus land" to mean land that is less than 5,000 square feet in area, less than the applicable minimum legal residential building lot size, or has no record access and is less than 10,000 square feet in area, and that is not contiguous to land owned by a state or local agency and used for park, recreational, open-space, or affordable housing.

This bill would expand the definition of "local agency" to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would specify that the term "district" includes all districts within the state, and that this change is declaratory of existing law. The bill would revise the definition of "surplus land" to mean land owned by any local agency that is not necessary for the agency's governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and *would define "governmental operations" to mean land that is being used for the express purpose of agency work or operations, as specified. The bill* would provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it. The bill would provide that "surplus land" for these purposes includes land held in the Community Redevelopment Property Trust Fund and land that has been designated in the long-range property management plan, either for sale or for retention, for future development, as specified. The bill would also broaden the definition of "exempt surplus land" to include specified types of ~~lands or conveyances.~~ *lands.*

~~The bill would also define the term "dispose of" for these purposes as the sale, lease, transfer, or other conveyance of any interest in real property owned by a local agency.~~ The bill would recast various provisions referring to the sale or lease of surplus land to instead refer to the disposal of surplus land. The bill would also delete certain obsolete references and make related conforming changes.

(2) Existing law requires a local agency disposing of surplus land to send, prior to disposing of that property, a written offer to sell or lease the property to specified entities. Existing law requires that a local agency, upon a written request, send a written offer to sell or lease surplus land to a housing sponsor, as defined, for the purpose of developing low- and moderate-income housing. Existing law also requires the local agency to send a written offer to sell or lease surplus land for the purpose of developing property located within an infill opportunity zone, designated as provided, to, among others, a community redevelopment agency.

This bill would instead require the local agency disposing of surplus land to send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability. The bill would make various related conforming changes. With regards to a housing sponsor, the bill would require that the written notice of availability be sent if the housing sponsor has notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development of its interest in the land, rather than upon written request. With regards to surplus land to be used for the purpose of developing property located within an infill opportunity zone, as described above, the bill would instead require that the written notice of availability be sent to a successor agency to a former redevelopment agency.

(3) After the disposing agency has received a notice from an entity desiring to purchase or lease the land, existing law requires the disposing agency to enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

This bill would limit negotiations to sales price and lease terms, including the amount and timing of any payments.

(4) Existing law requires a local agency to give priority to the development of affordable housing for lower income elderly or disabled persons or households, and other lower income households when disposing of surplus land.

This bill would remove that priority.

(5) If the local agency receives offers from more than one entity that agrees to meet specified requirements related to the provision of affordable housing on the surplus land, existing law requires the local agency to give priority to the entity that proposes to provide the greatest number of units that meet those requirements. Notwithstanding that requirement, existing law requires the local agency to give first priority to an entity in specified circumstances.

This bill would define “priority” for these purposes as meaning that the local agency negotiates in good faith exclusively with the entity pursuant to specified requirements. In the event that more than one entity proposes the same number of units that meet the above-described affordable housing requirements, this bill would require that priority be given to the entity that proposes the deepest average level of affordability for the affordable units. The bill would authorize a local agency to negotiate concurrently with all entities that provide notice of

interest to purchase or lease land for the purpose of developing affordable housing.

(6) Under existing law, failure by a local agency to comply with these requirements for the disposal of surplus land does not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer of value.

~~The~~ *This* bill would invalidate that transfer or conveyance unless the local agency makes an alternative site available that can accommodate an equal or greater number of housing units as the original site whose transfer or conveyance was effected.

(7) If a local agency does not agree to price and terms with an entity to which notice and an opportunity to purchase or lease are given and disposes of the surplus land to an entity that uses the property for the development of 10 or more residential units, existing law requires the purchasing entity or a successor in interest to provide not less than 15% of the total number of units developed on the parcels at an affordable housing cost or affordable rent to lower income households.

This bill would revise this requirement to apply if the local agency does not agree to price and terms with an entity to which notice of availability of land was given, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property.

The bill would permit residential uses on ~~all~~ *certain types of* land that a local agency disposes of as surplus, if 100% of the residential units are sold or rented at an affordable housing cost, as ~~defined.~~ *specified.*

(8) Existing law requires each state agency to make a review of all proprietary state lands over which it has jurisdiction, except as specified, on or before December 31 of each year to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. Existing law requires the department to annually report to the Legislature the land declared excess and to request authorization to dispose of the land by sale or otherwise, as specified. Existing law requires the department to comply with specified requirements and procedures when disposing of surplus land that the department has received authorization to dispose of by the Legislature, including that the department may dispose of the land upon any terms and conditions that the department determines is in the best interest of the state.

This bill would, instead, require each state agency to review state lands over which it has jurisdiction to determine if any land is in excess

of its foreseeable needs for governmental operations. The bill would require the department to dispose of at least 10% of the land that the department has determined is not needed by any other state agency, as specified. The bill would require surplus land disposed of by the department be permitted for a residential use if 100% of the residential units are sold or rented at an affordable housing cost, as defined. The bill would delete the authority of the department to dispose of surplus land upon any terms and conditions that the department determines are in the best interest of the state.

(9) Existing law authorizes a board of supervisors of a county to establish a central inventory of all surplus governmental property located in the county.

This ~~bill~~ *bill, instead, would require a local agency to make a central inventory of specified surplus governmental property on or before December 31 of each year, and would require the local agency to make a description of each parcel and its present uses a matter of public record and to report this information to the Department of Housing and Community Development no later than April 1 of each year, beginning April 1, 2021. The bill would require a local agency, upon request, to provide a list of its surplus governmental properties to a citizen, limited dividend corporation, housing corporation, or nonprofit corporation without charge. The bill* would require, by September 30, 2021, the Department of Housing and Community Development to create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses.

~~(9)~~

(10) Existing law authorizes the Director of General Services to dispose of surplus state real property if that property is not needed by another state agency and the Legislature has authorized disposal of the property. Existing law also specifies the manner in which the department is to dispose of surplus state real property first to a local agency and then to nonprofit affordable housing sponsors.

This bill would revise the manner in which the department is to dispose of surplus state real property. The bill would require the department to provide notice of surplus property to specified entities including, among others, public entities and housing sponsors for the purpose of constructing low- and moderate income housing. The bill would require the department enter good faith negotiations with any entity that provides written notice of their desire to purchase the property. The bill would require that an entity that proposes to construct

affordable housing on the surplus property provide at least 25% of the total number of units developed at affordable housing cost. The bill would provide that if the department does not receive a written notice from any entity to purchase the property or negotiations are unsuccessful, and 10 or more residential units are constructed on the property, at least 15% of the total number of residential units developed on the parcels be sold or rented at affordable housing cost.

~~(10)~~

(11) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy thus far in the housing element cycle, as provided.

This bill would require a city or county to include as a part of that report a listing of sites owned or leased by the city or county that have been sold, leased, or otherwise disposed of in the prior year, and sites with leases that expired in the prior year.

The Planning and Zoning Law requires that the housing element include, among other things, an inventory of land suitable for residential development 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 determined pursuant to specified law.

This bill would require the housing element to provide a description of nonvacant sites owned by the ~~agency preparing the housing element,~~ *city or county* and provide whether there are any plans to dispose of the ~~property.~~ *property during the planning period and how the city or county will comply with specified provisions relating to the disposal of surplus land by a local agency.*

~~(11)~~

(12) Existing law requires the Department of Housing and Community Development to notify a city or county and authorize notice to the Attorney General when a city or county has taken an action that violates the Housing Accountability Act, specified provisions relating to local housing elements, and the Density Bonus Law.

This bill would also require the Department of Housing and Community Development to notify the city or county and authorizes notice to the Attorney General when the city or county has taken an action that violates these provisions relating to surplus property.

~~(12)~~

(13) Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose.

This bill would revise these findings.

This bill would express the intent of the Legislature to enact legislation that addresses the need for affordable housing by utilizing surplus land within the state, as specified.

~~(13)~~

(14) By adding to the duties of local officials with respect to the disposal of surplus land, and expanding the scope of local agencies subject to the bill's requirements, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 11011 of the Government Code is amended to read:

11011. (a) On or before December 31 of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs for governmental operations and report thereon

in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director of that department, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of this code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to Section 11011.1. The Department of General Services shall report to the Legislature

annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) (1) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant to subdivision (f) of Section 20 of Article XVI of the California Constitution, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

(2) For purposes of this subdivision, net proceeds means proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.

(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k) (1) The disposition of a parcel of surplus state real property, pursuant to Section 11011.1, made on an "as is" basis shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, except as provided in Section 11011.1.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section 11011.1, is not made on an "as is" basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local government with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(3) For the purposes of this subdivision, "disposition" means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

(*l*) For land that the Department of General Services has determined is not needed by any other state agency pursuant to subdivision (e), the department shall request authorization to dispose of no less than 10 percent of the land on an annual basis pursuant to Section 11011.1.

(m) Notwithstanding local zoning designations, surplus land that the department has disposed of shall be permitted for a residential use if 100 percent of the residential units, except for the units occupied by onsite management staff, are sold or rented at an affordable housing cost, as defined in Section 50052.5 of the

Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(n) The department shall make every effort to conclude the pending disposition of surplus land that it has received authorization to dispose of within 24 months of the date the sale, exchange, or transfer of land was approved by the department.

(o) As used in this section, "governmental operations" means land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, wastewater treatment plants.

SEC. 2. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Notwithstanding any other provision of law, except Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state real property by the Department of General Services shall be subject to the requirements of this section. For purposes of this section, "surplus state real property" means real property declared surplus by the Legislature and directed to be disposed of by the Department of General Services, including any real property previously declared surplus by the Legislature but not yet disposed of by the Department of General Services prior to the enactment of this section.

(b) (1) The department may dispose of surplus state real property by sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of property, as authorized by the Legislature, subject to this section.

(2) The Legislature finds and declares that the provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus state real property is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given, as specified in this section, to the disposal of surplus state real property to housing for persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community.

(3) The department shall send, before disposing of surplus property or participating in negotiations to dispose of surplus property, a written notice of availability of the property to all of the following entities:

(A) A written notice of availability for the purpose of developing low- and moderate-income housing, as defined in Section 50079 of the Health and Safety Code, to both of the following:

(i) Any local public entity within whose jurisdiction the surplus land is located.

(ii) A housing sponsor, as defined by Section 50074 of the Health and Safety Code, that has notified the department of its interest in surplus land for the purpose of developing low- and moderate-income housing.

(B) A written notice of availability for open-space purposes to all of the following:

(i) Any park or recreation department of any city within which the land may be situated.

(ii) Any park or recreation department of the county within which the land is situated.

(iii) Any regional park authority having jurisdiction within the area in which the land is situated.

(iv) The Natural Resources Agency or any agency that may succeed to its powers.

(C) A written notice of availability of land suitable for school facilities construction or use by a school district for open-space purposes to any school district in whose jurisdiction the land is located.

(D) A written notice of availability for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4 or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7) to any county, city, city and county, successor agency to a former redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

(4) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify the department in writing of its interest in purchasing

or leasing the land within 60 days after receipt of the notice of availability of the land pursuant to paragraph (3).

(5) The department shall send all notices of availability by first-class mail and, if possible, by electronic mail, and shall include in that notice the location and a description of the property.

(6) An entity proposing to use the surplus land for developing low- and moderate-income housing shall agree to make available not less than 25 percent of the total number of units developed on the parcels at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction recorded against the surplus land at the time of sale, which shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:

(A) The department.

(B) A resident of a unit subject to this subdivision.

(C) A resident association with members who reside in units subject to this subdivision.

(D) A former resident of a unit subject to this section who last resided in that unit.

(E) An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this subdivision, if the applicant conforms to all of the following:

(i) Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(ii) Is able and willing to occupy that particular unit.

(iii) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this subdivision.

(F) A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093 of the Health

and Safety Code, and who is able and willing to occupy a unit subject to this subdivision.

(7) After the department has received notice from the entity desiring to purchase or lease the land on terms that comply with this subdivision, the department and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this subdivision, except that paragraph (10) shall apply.

(8) Nothing in this subdivision shall preclude a local agency, housing authority, or redevelopment agency that purchases land from a disposing agency pursuant to this article from reconveying the land to a nonprofit or for-profit housing developer for development of low- and moderate-income housing as authorized under other provisions of law.

(9) (A) In the event that the department receives a notice of interest to purchase or lease of that land from more than one of the entities to which notice of available surplus land was given pursuant to this subdivision, the department shall give first priority to the entity that agrees to use the site for housing that meets the requirements of paragraph (6). If the department receives offers from more than one entity that agrees to meet the requirements of paragraph (6), then the department shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of paragraph (6). In the event that more than one entity proposes the same number of units that meet the requirements of paragraph (6), priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units. The department may negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing that meets the requirements of paragraph (6).

(B) Notwithstanding subparagraph (A), the department shall give first priority to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

(C) For purposes of this paragraph, "priority" means that the department shall negotiate in good faith exclusively with the entity in accordance with paragraph (7).

(10) If the department does not agree to price and terms with an entity to which notice of availability of land was given pursuant to this subdivision, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. The department shall include these requirements in a covenant or restriction recorded against the surplus land before land use entitlement of the project, and the covenant or restriction shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the entities described in subparagraphs (A) to (F), inclusive, of paragraph (4).

(c) Thirty days prior to executing a transaction for a sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of the surplus state real property for less than fair market value or for affordable housing, or as authorized by the Legislature, the Director of General Services shall report to the chairpersons of the fiscal committees of the Legislature all of the following:

(1) The financial terms of the transaction.

(2) A comparison of fair market value for the surplus state real property and the terms listed in paragraph (1).

(3) The basis for agreeing to terms and conditions other than fair market value.

(d) As to surplus state real property sold or exchanged pursuant to this section, the director shall except and reserve to the state all

mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(e) The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.

(f) For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.

~~SEC. 3. Section 50569 of the Government Code is amended to read:~~

~~50569. (a) On or before December 31 of each year, each local agency shall make an inventory of all lands held, owned, or controlled by it or any of its departments, agencies, or authorities to determine what land, including air rights, if any, is in excess of its foreseeable needs for its governmental operations. A description of each parcel owned or controlled and its present uses found to be in excess of needs shall be made a matter of public record and reported to the Department of Housing and Community Development no later than April 1 of each year, beginning 2021. Any citizen, limited dividend corporation, housing corporation or nonprofit corporation, shall upon request be provided with a list of said parcels without charge.~~

~~(b) The Department of Housing and Community Development shall create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses in the state on its internet website, which shall be updated on an annual basis. The inventory shall be available no later than September 30, 2021.~~

~~(c) For purposes of this section, "local agency" means a county, city, whether general law or chartered, city and county, town, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing~~

~~authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.~~

~~SEC. 4.~~

SEC. 3. Section 54220 of the Government Code is amended to read:

54220. (a) The Legislature reaffirms its declaration that housing is of vital statewide importance to the health, safety, and welfare of the residents of this state and that provision of a decent home and a suitable living environment for every Californian is a priority of the highest order. The Legislature further declares that a shortage of sites available for housing for persons and families of low and moderate income is a barrier to addressing urgent statewide housing needs and that surplus government land, prior to disposition, should be made available for that purpose.

(b) The Legislature reaffirms its belief that there is an identifiable deficiency in the amount of land available for recreational purposes and that surplus land, prior to disposition, should be made available for park and recreation purposes or for open-space purposes. This article shall not apply to surplus residential property as defined in Section 54236.

(c) The Legislature reaffirms its declaration of the importance of appropriate planning and development near transit stations, to encourage the clustering of housing and commercial development around such stations. Studies of transit ridership in California indicate that a higher percentage of persons who live or work within walking distance of major transit stations utilize the transit system more than those living elsewhere, and that lower income households are more likely to use transit when living near a major transit station than higher income households. The sale or lease of surplus land at less than fair market value to facilitate the creation of affordable housing near transit is consistent with goals and objectives to achieve optimal transportation use. The Legislature also notes that the Federal Transit Administration gives priority for funding of rail transit proposals to areas that are implementing ~~higher-density,~~ *higher density,* mixed-use, and affordable development near major transit stations.

~~SEC. 5.~~

SEC. 4. Section 54221 of the Government Code is amended to read:

54221. As used in this article, the following definitions shall apply:

(a) (1) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term "district" as used in paragraph (7) includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) "Surplus land" means land owned by any local agency that is not necessary for the agency's governmental operations. Land shall be presumed to be "surplus land" when a local agency initiates an action to dispose of it. "Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for retention, for future development and that was not subject to an exclusive negotiating agreement or legally binding agreement to dispose of the land. Exclusive negotiating agreements or other agreements or contracts for land held in the Community Redevelopment Property Trust Fund shall be subject to this article.

(c) "Governmental operations" means land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

(d) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(e) "Persons and families of low or moderate income" has the same meaning as provided in Section 50093 of the Health and Safety Code.

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4.

(B) Surplus land that is (i) less than 5,000 square feet in area, (ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (iii) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.

(C) Surplus land held by the local agency for the express purpose of exchange for another property necessary for its governmental operations.

(D) Surplus land held by the local agency for the express purpose of transfer to another local agency for its governmental operations.

~~(E) A lease of land expressly designated for a local agency's future governmental operations that is leased on an interim basis prior to development.~~

~~(F) An easement for utility, conservation, or governmental purposes.~~

~~(G) A lease of land with an existing structure and lease furthering an express governmental operation of the local agency, including, but not limited to, a concession lease on recreational property.~~

~~(H) A financing lease in furtherance of governmental operations, including, but not limited to, a lease and lease-back transaction.~~

~~(I) A lease of undeveloped land, provided that construction of any permanent structure is not permitted under the lease.~~

~~(J) A short-term lease of one year or less that may be renewed or extended on an annual basis for temporary or seasonal activities.~~

~~(K) A lease of more than one year, but less than 10 years, that is not eligible for renewal or extension.~~

~~(L) The renewal of an existing lease of one or more years for the same purpose, provided the lease was in effect as of January 1, 2018.~~

~~(M) Leases of existing agency-owned facilities for short-term use, such as park facilities, community rooms, and other uses where a facility is being rented on a temporary, short-term basis of days or months.~~

~~(N)~~

(E) Surplus land that is put out to open, competitive bid by a local agency, provided all entities identified in subdivision (a) of Section 54222 will be invited to participate in the competitive bid process, for either of the following purposes:

(i) A housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 or 50053 of the Health and Safety Code, for a minimum of 55 years, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) A mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years.

~~(O)~~

(F) Surplus land that is subject to legal restrictions that would make housing prohibited or incompatible on the site due to state or federal statutes, voter-approved measures, or other legal restrictions that are not imposed by the local agency. Existing zoning alone is not a legal restriction that would make housing prohibited or incompatible. Nothing in this article limits a local agency's jurisdiction or discretion regarding land use, zoning, or entitlement decisions in connection with surplus land.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 prior to disposing of the surplus land if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

~~(g) "Dispose of" shall mean sell, lease, transfer, or otherwise convey any interest in real property owned by a local agency.~~

~~SEC. 6.~~

SEC. 5. Section 54222 of the Government Code is amended to read:

54222. Any local agency disposing of surplus land shall send, prior to disposing of that property or participating in negotiations to dispose of that property, a written notice of availability of the property to all of the following entities:

(a) A written notice of availability for the purpose of developing low- and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, that have notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development, of their interest in surplus land shall be sent a written notice of availability of surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and, if possible, by electronic mail, and shall include the location and a description of the property.

(b) A written notice of availability for open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency that may succeed to its powers.

(c) A written notice of availability of land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district in whose jurisdiction the land is located.

(d) A written notice of availability for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4 or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any county, city, city and county, successor agency to a former redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

(e) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify in writing the disposing agency of its interest in purchasing or leasing the land within 60 days after receipt of the agency's notice of availability of the land.

~~SEC. 7.~~

SEC. 6. Section 54222.3 of the Government Code is amended to read:

54222.3. This article shall not apply to the disposal of exempt surplus land as defined in Section 54221 by an agency of the state or any local agency.

~~SEC. 8.~~

SEC. 7. Section 54223 of the Government Code is amended to read:

54223. After the disposing agency has received notice from the entity desiring to purchase or lease the land on terms that comply with this article, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this article, except that Section 54233 shall apply. Negotiations shall be limited to sales price and lease terms, including the amount and timing of any payments.

~~SEC. 9.~~

SEC. 8. Section 54225 of the Government Code is amended to read:

54225. (a) Any public agency disposing of surplus land to an entity described in Section 54222 for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate-income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for the land. The payment period for surplus land disposed of for housing for persons and families of low and moderate income may exceed 20 years, but the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.

(b) Notwithstanding local zoning designations, any surplus land disposed of by a public agency shall be permitted for residential use if 100 percent of the units, except for units occupied by onsite management staff, are sold or rented at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the ~~an~~ Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. This subdivision shall not apply to exempt surplus ~~land.~~ *land or surplus land that is ineligible for any public financing for affordable housing.*

~~SEC. 10.~~

SEC. 9. Section 54226 of the Government Code is amended to read:

54226. This article shall not be interpreted to limit the power of any local agency to dispose of surplus land at fair market value or at less than fair market value, and any disposal at or less than fair market value consistent with this article shall not be construed as inconsistent with an agency's purpose. No provision of this article shall be applied when it conflicts with any other provision of statutory law.

~~SEC. 11.~~

SEC. 10. Section 54227 of the Government Code is amended to read:

54227. (a) In the event that any local agency disposing of surplus land receives a notice of interest to purchase or lease of that land from more than one of the entities to which notice of available surplus land was given pursuant to this article, the local

agency shall give first priority to the entity that agrees to use the site for housing that meets the requirements of Section 54222.5. If the local agency receives offers from more than one entity that agrees to meet the requirements of Section 54222.5, then the local agency shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of Section 54222.5. In the event that more than one entity proposes the same number of units that meet the requirements of Section 54222.5, priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units. A local agency may negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing that meets the requirements of Section 54222.5.

(b) Notwithstanding subdivision (a), first priority shall be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

(c) For purposes of this section, "priority" means that the local agency shall negotiate in good faith exclusively with the entity in accordance with Section 54223.

SEC. 11. Section 54230 of the Government Code is amended to read:

54230. ~~The board of supervisors of any county may establish~~ *(a) (1) On or before December 31 of each year, each local agency shall make* a central inventory of all surplus governmental property located in ~~such county.~~ *the jurisdiction of the local agency that the local agency or any of its departments, agencies, or authorities owns or controls to determine what land, if any, is in excess of its foreseeable needs for its governmental operations.*

(2) A local agency shall make a description of each parcel found to be in excess of the needs and the present use of the parcel a matter of public record and shall report this information to the Department of Housing and Community Development no later than April 1 of each year, beginning April 1, 2021.

(3) A local agency, upon request, shall provide a list of its surplus governmental properties to a citizen, limited dividend

corporation, housing corporation, or nonprofit corporation without charge.

(b) The Department of Housing and Community Development shall create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses in the state on its internet website, which shall be updated on an annual basis. The inventory shall be available no later than September 30, 2021.

SEC. 12. Section 54230.5 of the Government Code is amended to read:

54230.5. The failure by a local agency to comply with this article shall invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value, unless the local agency makes an alternative site available subject to Section 54227 that can accommodate an equal or greater number of housing units as the original site whose transfer or conveyance was effected.

SEC. 13. Section 54233 of the Government Code is amended to read:

54233. If the local agency does not agree to price and terms with an entity to which notice of availability of land was given pursuant to this article, or if no entity to which a notice of availability was given pursuant to this article responds to that notice, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction recorded against the surplus land prior to land use entitlement of the project, and the covenant or restriction shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest

who continues the violation, by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5.

SEC. 14. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) A listing of sites owned or leased by the city or county that have been sold, leased, or otherwise disposed of in the prior year, and a listing of sites with leases that expired in the prior year. The list shall include the entity to whom each site was transferred and the intended use for the site.

(I) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier which must include the assessor's parcel number, but may include street address, or other identifiers.

(J) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(K) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 15. Section 65583.2 of the Government Code, as amended by Section 3 of Chapter 958 of the Statutes of 2018, is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, 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 pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

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

(3) Residentially zoned sites that are capable of being developed at a higher density, including the airspace above sites owned or leased by ~~any local agency as defined by Section 54221.~~ *a city, county, or city and county.*

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by ~~any local agency as defined by Section 54221.~~ *a city, county, or city and county.*

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

(1) A listing of properties by assessor parcel number.

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

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or ~~county preparing the housing element,~~ *county,* the description shall also include whether there are any plans to dispose of the property during the planning period and how the ~~agency~~ *city or county* will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

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

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer

service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

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

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

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. A city that is an unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees,

supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

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

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to

lower income households has been proposed and approved for development on the site.

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

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

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

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

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

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

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

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

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

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

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

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Transportation and Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

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

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past

experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are

affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

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

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

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

(*l*) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

SEC. 16. Section 65583.2 of the Government Code, as amended by Section 4 of Chapter 958 of the Statutes of 2018, is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, 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 pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

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

(3) Residentially zoned sites that are capable of being developed at a higher density, and sites owned or leased by ~~any local agency as defined by Section 54221.~~ *a city, county, or city and county.*

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the sites, as necessary, to permit residential use, including sites owned or leased by ~~any local agency as defined by Section 54221.~~ *a city, county, or city and county.*

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

(1) A listing of properties by assessor parcel number.

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

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or ~~county preparing the housing element,~~ *county,* the description shall also include whether there are any plans to dispose of the property during the planning period and how the ~~agency~~ *city or county* will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

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

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

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

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

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which

at least 20 percent of the units are affordable to lower income households. A city that is an unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

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

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or

unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

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

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

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

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

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

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

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

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

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

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

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

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have

residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed uses project.

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

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

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

(k) This section shall become operative on December 31, 2028.

SEC. 17. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it

determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the Office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5 of the Government Code).

(2) Section 65863 of the Government Code.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(4) Section 65008 of the Government Code.

(5) Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 18. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

REVISIONS:

Heading—Line 2.

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Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 1486 (Ting) – As Amended April 11, 2019

SUBJECT: Local agencies: surplus land

SUMMARY: Expands surplus property requirements for both the state and local agencies. Specifically, **this bill**:

1) Expands the provisions of the Surplus Lands Act for local agencies, as follows:

   a) Expands the definition of "local agency" in the Surplus Land Act to additionally include sewer, water, and utility districts, local and regional park districts, joint powers authority, successor agency to a former redevelopment agency (RDA), housing authority, or other political subdivision of this state and instrumentality thereof that is empowered to acquire and hold real property. Declares, for purposes of this definition, that the term "district" as defined, is declaratory of, and not a change in, existing law;

   b) Revises the definition of "surplus land" to mean land owned by any local agency that is not necessary for the agency's governmental operations. Defines "governmental operations" to mean land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

   c) Requires that land shall be presumed to be "surplus land" when a local agency initiates an action to dispose of it. Declares that "surplus land" includes land held in the Community Redevelopment Property Trust Fund, as specified, and land that has been designated in the long-range property management plan, as specified, either for sale or for retention for future development and that was not subject to an exclusive negotiating agreement or legally binding agreement to dispose of the land, as specified.

   d) Expands the definition of "exempt surplus land" to include:

      i) Surplus land held by the local agency for the express purpose of exchange for another property necessary for its governmental operations;

      ii) Surplus land held by the local agency for the express purpose of transfer to another local agency for its governmental operations;

      iii) Surplus land that is put out to open, competitive bid by a local agency, provided all entities, as specified, will be invited to participate in the bid process, for either of the following purposes:

         (1) A housing development, which may have ancillary commercial ground floor uses, that restricts 100% of the residential units to persons and families of low or moderate income, with at least 75% of the residential units restricted to lower income households, as defined, with an affordable sales price or an affordable

rent, as defined, for a minimum of 55 years, and in no event shall the maximum affordable sales price or rent level be higher than 20% below the median market rents or sales prices for the neighborhood in which the site is located; or,

(2) A mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25% of the residential units to lower income households, as defined, with an affordable sales price or an affordable rent, as defined, for a minimum of 55 years;

iv) Surplus land that is subject to legal restrictions that would make housing prohibited or incompatible on the site due to state or federal statutes, voter-approved measures, or other legal restrictions that are not imposed by the local agency. States that existing zoning alone is not a legal restriction that would make housing prohibited or incompatible;

e) Requires a written notice of availability to be sent to housing sponsors that have notified the applicable regional council of governments (COG), or in the case of a local agency without a COG, the Department of Housing and Community Development (HCD), of their interest in surplus land. Expands the notice to also include electronic mail (email), if possible;

f) Specifies that any surplus land disposed of by a public agency shall be permitted for residential use, notwithstanding local zoning designations, if 100% of the units, except for units occupied by onsite management staff, are sold or rented at an affordable housing costs, as defined, or an affordable rent, as defined, to lower income households. Provides that this provision shall not apply to exempt surplus land;

g) Specifies that negotiations between a disposing agency and an entity desiring to purchase or lease land, as specified, shall be limited to sales price and lease terms, including the amount and timing of any payments;

h) Requires, in the event that the disposing agency receives notices of interest from multiple entities that proposed the same number of housing units, that first priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units. Allows a local agency to negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing;

i) Provides that the failure by a local agency to comply with the provisions of the Surplus Land Act shall invalidate the transfer or conveyance of real property to a purchase or encumbrancer for value, unless the local agency makes an alternative site available, as specified, that can accommodate an equal or greater number of housing units as the original site; and,

j) Clarifies that the existing 15% minimum affordability requirement applies whenever surplus land is used for housing;

2) Modifies an existing requirement in law that requires each local agency to make an inventory of all lands held, owned, or controlled by it or any of its departments to determined what land is in excess of its foreseeable needs for its governmental operations, and requires this information to be reported to HCD no later than April 1 of each year, beginning 2021.

3) Requires HCD to create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses in the state on its internet website, which shall be updated on an annual basis. Requires the inventory to be available no later than September 30, 2021.

4) Requires a city or county, by April 1 of each year, in the Annual Progress Report submitted to HCD and the Governor's Office of Planning and Research (OPR), to additionally include a listing of sites owned or leased by the city or county that have been sold, leased or otherwise disposed of in the prior year, and a listing of sites with leases that expired in the prior year. Specifies that the list shall include the entity to whom each site was transferred and the intended use for the site.

5) Expands, in a city or county's identification of sites required pursuant to Housing Element law, the requirements for cities and counties to additionally include information about certain sites owned by a local agency (as defined by the Surplus Land Act), thereby requiring cities and counties to account for sites owned by a special district or school district, including the following:

   a) Residentially zoned zones that are capable of being developed at a higher density owned or leased by any local agency; and,

   b) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, includes sites owned or leased by a local agency.

6) Requires, in a city or county's identification of sites, if a piece of property is owned by the city or county preparing the housing element, the description of nonvacant sites to also include whether there are any plans to dispose of the property during the planning period, and how the agency will comply with the Surplus Land Act.

7) Adds the Surplus Land Act to provisions that allow HCD to notify the city or county and notify the Office of the Attorney General that that city or county is in violation of state law.

8) Modifies requirements for state surplus property, as follows:

   a) Clarifies the existing requirement that each state agency shall make a review of all proprietary state lands, as specified that that agency has jurisdiction to determine what, if any, land is in excess its foreseeable needs for governmental operations. Defines "governmental operations" to mean land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants*;*

   b) Requires DGS, when authority is granted for the sale or other disposition of lands declared excess, and DGS has determined that the use of land is not needed by any other state agency, to sell the land or otherwise dispose of it, as specified, and modifies this process;

c) Requires, for land that DGS has determined is not needed by any other state agency, DGS to request authorization to dispose of no less than 10% of the land on an annual basis pursuant to 8)b), above;

d) Requires that surplus land that DGS has disposed of to be permitted by right, regardless of local zoning designations, for a residential use if 100% of the residential units, except for the units occupied by onsite management staff, are sold or rented at an affordable housing cost, or affordable rent, as defined, to lower income households, as defined. Excludes land that is defined as exempt or that is ineligible for any public financing for affordable housing; and,

e) Requires DGS to make every effort to conclude the pending disposition of surplus land pursuant to 8)c), above, that is has received authorization to dispose of within 24 months of the date the sale, exchange, or transfer of land was approved by DGS.

9) Provides that reimbursement to local agencies and school districts shall be made, if the Commission on State Mandates determines that this act contains costs mandated by the state.

EXISTING LAW:

1) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands held, owned or controlled by it or any of its departments, agencies, or authorities, to determine what land, including air rights, if any, is in excess of its foreseeable needs. Requires a description of each parcel found to be in excess of needs to be made a matter of public record. Allows any citizen, limited dividend corporation, housing corporation or nonprofit corporation, upon request, to be provided with a list of said parcels without charge.

2) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange or property meeting other exemptions.

3) Requires that a local agency must provide a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located.

4) Provides that a local agency wishing to dispose of surplus land must also provide a written offer to additional entities, depending on the type of proposed usage, for park and recreational purposes, school facilities construction or use by a school district for open space purposes, enterprise purposes, and infill opportunity zones or transit village plans.

5) Allows a county to establish a central inventory of surplus property.

FISCAL EFFECT: Unknown.

COMMENTS:

Purpose of this bill: According to the author, "California is facing an affordable housing crisis and unused public land has the potential to promote affordable housing development throughout

the state. AB 1486 clarifies and strengthens provisions in the Surplus Lands Act that will promote the use of public land for affordable housing projects."

Surplus Lands Act: If land is no longer needed or is not being held for exchange, a local agency must follow certain procedures prior to disposal of this "surplus" land. The intent behind the disposal procedures is to promote the use of surplus land towards affordable housing, parks and recreation purposes, open-space purposes, and transit-oriented development. The disposal procedures provide a Right of First Refusal to entities agreeing to use the land for, amongst other things, affordable housing.

Prior to disposing of surplus land, local agencies must make a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located. A local agency wishing to dispose of surplus land must also provide a written offer to additional entities, depending on the type of proposed development, for park and recreational purposes, school facilities construction or use by a school district for open space purposes, enterprise purposes, and infill opportunity zones, or transit village plans.

If one of these entities is interested in buying or leasing the land, it must notify the local agency within 60 days of receipt of the offer. If a notified entity is interested but cannot agree with the agency upon the price or terms, the local agency must enter into good faith negotiations with the entity for at least 60 days. If 60 days have passed without an agreement, then the local agency may sell or lease the land without further regard to the Right of First Refusal requirements under the disposal procedures.

If the land is going to be used for residential development and a local agency receives multiple offers from notified entities, the local agency is required to give first priority to the entity that agrees to use the site for affordable housing for low- or moderate-income individuals and families. In the event that a local agency enters into a contract to sell or lease the land to a notified entity for park or recreation purposes, open-space purposes, school purposes, or for low- and moderate- income housing purposes, that contract may provide for a payment period of up to 20 years. While nothing in the disposal procedure limits the power of a local agency to sell or lease surplus land at fair market value or at less than fair market value, it also provides that nothing in the procedure shall be interpreted to empower any local agency to sell or lease surplus land at less than fair market value.

Governor's Executive Order: Surplus Land: Earlier this year, the Governor issued Executive Order N-06-19 directing DGS to create a digitized inventory of all state land in excess of state agencies foreseeable needs no later than April 30, 2019. DGS, Department of Housing and Community Development (HCD), and the California Housing Finance Agency (CalHFA) are directed to develop two new screening tools for prioritizing affordable housing development on excess state lands – where housing is most likely to be economically feasible and where underproduction is impacting housing affordably. This screening tool will be used to map areas in the state on excess surplus sites where housing development is feasible and will help address underproduction. State agencies are encouraged to exchange excess state land with local governments for affordable housing and preservation. DGS and HCD will issue requests to develop parcels that are suitable for affordable housing.

This bill makes various changes to the local and surplus lands act, including the following:

a) Specifies that the definition of "surplus" land is land not needed for the agency's own *governmental operations,* and then defines this term;

b) Allows any surplus land disposed of by a public agency to be permitted for residential use, regardless of local zoning designations, if 100% of the units are sold or rented at an affordable housing cost or affordable rent.

c) Lists out numerous exemptions on what is considered "exempt surplus land;"

d) Modifies procedures for notification of surplus lands, and how the local agency can negotiate with the interested party or parties on that land; and,

e) Allows any surplus land disposed of by a public agency to be permitted for residential use, regardless of local zoning designations, if 100% of the units are sold or rented at an affordable housing cost or affordable rent.

Required local inventory of surplus land: The bill also requires all local agencies, as the bill defines, to make an inventory of all lands held, owned, or controlled by it, in excess of its foreseeable needs for its governmental operations, and report this information to HCD each year. The bill also places additional requirements on cities and counties in the provisions of law that require a city or county to develop an inventory of land suitable for residential development to account for these surplus lands, and allows HCD to notify the Attorney General if a city or county is in violation of provisions of the Surplus Lands Act.

Oppose unless amended: Several organizations representing counties, special districts, water districts have expressed concerns and requested amendments to address the following issues:

- The definition of "governmental operations" does not take into consideration instances where a public agency owns land for a public purpose but does not use the land in its daily operations. These groups request that the bill be amended to define "surplus property" as land used for achieving the agency's public purpose rather than governmental operations, and that the bill establish a public process for agencies to declare land in their possession that is surplus.
- AB 1486 requires a local agency to notice the availability of a property before participating in any formal or informal negotiations to dispose of the land. Informal negotiations allow an agency to determine the viability of the land for the agency's public purpose, available alternatives, and potential market value. These groups request an amendment to limit notice to negotiations when a decision has been made to dispose of a surplus property.
- AB 1486 invalidates the transfer of surplus land if a public agency does not comply with the requirements of the SLA. This provision could make surplus land less marketable and penalize purchasers.

Technical amendment:

On page 25, amend lines 3 through 8 as follows:

(b) The Department of Housing and Community Development shall create and maintain a searchable and downloadable public inventory of all ~~publicly owned or controlled~~ **surplus** lands and their present uses in the state on its internet website, which shall be updated on an annual basis. The inventory shall be available no later than September 30, 2021.

Related legislation:

AB 1255 (R. Rivas) (2019) requires cities and counties to include an inventory of surplus sites that are infill, "high-density" sites in the housing element, and requires Department of General Services (DGS) to create a searchable database of surplus sites. This bill passed out of this committee 8-0.

Previous legislation:

AB 2135 (Ting), Chapter 644, Statues of 2014, amended the procedure for the disposal of surplus land by local agencies and expanded the provisions relating to the prioritization of affordable housing development if the surplus land will be used for residential development.

AB 2065 (Ting, 2018), would have amended the Surplus Lands Act expand the types of local agencies required to comply with the Act, require a "written notice of availability" of property to specified entities prior to disposal of property, require that notice to be sent to housing sponsors that have notified both HCD and the COG of their interest in surplus land, placed parameters on the negotiations to dispose of the property, and would have provided that the existing 15% affordability requirements applies whenever surplus public land is used for housing. AB 2065 was held in the Appropriations Committee. Most of the changes contained in 2065 are in also in AB 1486.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed out on a vote of 6-2 on April 10. 2019.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Housing Advocacy Coalition
California Apartment Association
Greenbelt Alliance
Habitat for Humanity California
Hamilton Families
Oakland Tenant Union
Southern California Association of NonProfit Housing
Tenderloin Neighborhood Development Corporation
Transform

Opposition

None on file

Oppose Unless Amended

Association of California Healthcare Districts
Association of California Water Agencies
California Association of Sanitation Agencies

California Land Title Association
California Municipal Utilities association
California Special Districts Association
California State Association of Counties
Desert Recreation Districts
Irvine Ranch Water District
Mesa Water District
Orange County Water District
Rural County Representatives of California
Santa Margarita Water District
Stege Sanitary District
Urban Counties of California

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085

AMENDED IN SENATE APRIL 23, 2019

AMENDED IN SENATE FEBRUARY 27, 2019

SENATE BILL No. 6

Introduced by Senators Beall and McGuire

December 3, 2018

An act to *amend Sections 65583 and 65585 of, and to* add Section 11011.8 ~~to~~ *to,* the Government Code, relating to residential development.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Beall. Residential development: available land.

Existing law requires each state agency to make a review of all proprietary state lands over which it has jurisdiction, subject to certain exceptions, and to report to the Department of General Services on those lands in excess of its foreseeable needs. Existing law requires the jurisdiction over lands reported excess to be transferred to the department upon request. Existing law requires the Department of General Services to report to the Legislature annually on the lands declared excess. Existing law requires a city or county to have a general plan for development with a housing element and to submit the housing element to the Department of Housing and Community Development prior to adoption or amendment. Existing law requires that the housing element include an inventory of land suitable and available to residential development, as specified.

This bill would require the Department of Housing and Community Development to furnish the Department of General Services with a list of local lands suitable and available for residential development as identified by a local government as part of the housing element of its general plan. The bill would require the Department of General Services to create a database of that information and information regarding state

lands determined or declared excess and to make this database available and searchable by the public by means of a link on its internet website. *The bill would require for any housing element adopted on or after January 1, 2021, that an electronic copy of the inventory of land suitable for residential development be submitted to the Department of Housing and Community Development. By requiring local governments to electronically submit the inventory of land suitable for residential development to the department, the bill would impose a state-mandated local program.*

This bill would authorize the Department of Housing and Community Development to review, adopt, amend, and repeal the standards, forms, or definitions to implement provisions regarding the inventory of land suitable and available to residential development. The bill would require a local government to prepare the inventory pursuant to those standards, forms, and definitions.

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: ~~no~~ *yes*.

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

SECTION 1. Section 11011.8 is added to the Government Code, to read:

11011.8. (a) On or before December 31 of each year, the Department of Housing and Community Development shall furnish to the Department of General Services a list of lands suitable and available for residential development that were identified by a local government as part of the housing element of its general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 and that were submitted to the Department of Housing and Community Development pursuant to Section 65585.

(b) The Department of General Services shall create a database of information that was furnished to it pursuant to subdivision (a) and information regarding the state lands determined or declared excess pursuant to Section 11011. The department shall make this

database available and searchable by the public by means of a link on its internet website.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

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

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

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

(3) *(A)* An inventory of land suitable and available for residential development, including vacant sites and sites having

realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites.

(B) Notwithstanding subdivision (a) of Section 65301, each local government shall prepare the inventory required under this paragraph using standards, forms, and definitions adopted by the department. The department may review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision. Any standards, forms, or definitions adopted to implement this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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

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

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

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

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

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

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

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

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with

Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

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

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

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the

next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

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

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

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

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify

the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.

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

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

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and

to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

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

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

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the

feasibility of the development of farmworker housing for low- and very low income households.

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

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).

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

(5) Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

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

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

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

(9) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.

(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register,

Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect prior to August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 3. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within

the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department. *For any element or amendment adopted on or after January 1, 2021, the planning agency shall submit to the department an electronic copy of its inventory of land suitable for residential development, pursuant to paragraph (3) of subdivision (a) of Section 65583.*

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the Office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5 of the Government Code).

(2) Section 65863 of the Government Code.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(4) Section 65008 of the Government Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

O

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
Senator Bill Dodd
Chair
2019 - 2020 Regular

Bill No:	SB 6	**Hearing Date:**	4/9/2019
Author:	Beall, et al.		
Version:	2/27/2019 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Brian Duke		

SUBJECT: Residential development: available land

DIGEST: This bill requires the Department of Housing and Community Development (HCD) to provide the Department of General Services (DGS) with a list of local lands suitable and available for residential development, and requires DGS to create a public and searchable database of that information as well as information regarding state surplus properties, as specified.

ANALYSIS:

Existing law:

1) Requires each state agency to make a review of all proprietary state lands over which it has jurisdiction and to report to DGS on those lands in excess of its foreseeable needs.

2) Requires the jurisdiction over lands reported surplus to be transferred to DGS upon request, and requires DGS to report to the Legislature annually on the lands declared surplus.

3) Requires DGS to maintain a list of surplus on its Internet Web site, and requires DGS to provide local agencies and, upon request, members of the public with electronic notification of updates to this list.

4) Requires DGS, when disposing of surplus state real property, to first offer it to local agencies, then to non-profit affordable housing sponsors, prior to offering it for sale to private entities or individuals.

5) Requires a city or county to have a general plan for development with a housing element and to submit the housing element to HCD prior to adopting or

amendment, and requires the housing element to include an inventory of land suitable and available to residential development, as specified.

This bill:

1) Requires HCD, on or before December 31 of each year, to provide DGS with a list of lands suitable and available for residential development as identified by local governments in their housing element, as specified.

2) Requires DGS to create a database of this information as well as information regarding the state surplus properties, and to make the database available and searchable by the public on its Internet Web site.

Background

Purpose of the bill. According to the author's office, "hard working individuals are struggling to find affordable housing. We must consider all options to eliminate obstacles for construction and increase our housing supply. Developers often do not know when sites are available to develop and which entities manage the land. By utilizing already reported information, SB 6 is a common sense solution that helps developers identify properties ready for acquisition and zoned for development."

California's housing affordability crisis. One of Governor Gavin Newsom's first actions as Governor was Executive Order N-06-19 which stated that California is "experiencing an acute affordable housing crisis that stifles economic growth, contributes to the homelessness epidemic, consumes an ever-growing share of the paychecks of working families, and holds millions of households back from realizing the California dream."

California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. Housing units affordable to low-income earners, if available, are often in series states of disrepair. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. HCD estimates that approximately 2.7 million lower-income households are rent-burdened (meaning they spend at least 30 percent of their income on rent), 1.7 million of which are severely rent-burdened (spending at least 50 percent of their income on rent). Not a single county in the state has an adequate supply of affordable homes. According to a 2015 study by the California Housing Partnership Corporation, California has a shortfall of 1.5 million affordable homes and 13 of the 14 least affordable metropolitan areas in the country.

Affordable housing gets right of first refusal on surplus lands. Existing law requires any local agency disposing of surplus land to first offer it for sale or lease for the purpose of developing low- and moderate-income housing. Similarly, existing law requires state surplus property to first be offered to a local agency, and then to a nonprofit affordable housing sponsor, prior to offering the property for sale to private entities or individuals. Existing law also requires DGS to maintain a list of state surplus lands on its website, which it does under the Statewide Property Inventory. There is no similar inventory for local surplus lands, however.

Executive Order N-06-19. The Governor's proposed budget notes that the state has identified many excess state properties that are suitable for housing development. On January 15, 2019, the Governor issued Executive Order N-06-19 which, among other things, does the following:

a. Directs DGS to create a digitized inventory of all state-owned surplus lands parcels by April 30, 2019.
b. Directs DGS, HCD, and the California Housing Finance Agency to develop screening tools for prioritizing affordable housing development on these parcels by March 29, 2019.
c. Directs DGS to create a comprehensive map of excess state parcels where development of affordable housing is feasible and will help address regional underproduction.
d. Directs state agencies, where appropriate, to consider exchanging excess state land with local governments for purposes of affordable housing development and preservation.
e. Directs DGS, in consultation with HCD, to begin issuing requests for affordable housing proposals on individual parcels by September 30, 2019.

It is the author's intent that this bill will align with the Governor's directive for DGS to create a more user-friendly inventory of state surplus lands. This bill further requires DGS to work with HCD to incorporate local surplus land data into the inventory.

This bill was previously heard in the Senate Committee on Housing which pointed out that moving forward, the author may wish to consider amendments to require localities to report their local surplus land data to HCD in a standard format. Additionally, the author may wish to explicitly require DGS to regularly update the database with both the data it receives each year from HCD and the state surplus land information.

Prior/Related Legislation

AB 891 (Burke, 2019) would require DGS and the Department of Transportation to identify surplus state properties that are suitable for safe parking programs that provide safe parking locations and options for individuals and families living in their vehicles. (Pending in the Assembly Local Government Committee)

AB 1255 (R. Rivas, 2019) would require DGS to create a public and searchable database of all surplus land, infill sites, and high-density sites as reported to DGS by cities and counties. (Pending in the Assembly Local Government Committee)

AB 1486 (Ting, 2019) would expand requirements on disposition of surplus lands and expands the entities to which these requirements apply. (Pending in the Assembly Local Government Committee)

SB 281 (Wiener, 2019) would require the property known as the Cow Palace to be transferred to a newly established Cow Palace Authority for the purpose of managing, developing, or disposing of the property. (Pending in the Senate Governmental Organization Committee)

SB 922 (Nguyen, 2018) among other things, would have authorized DGS to dispose of surplus state property located within two miles of a higher education campus by first offering the property to a local agency or a nonprofit organization for the development of affordable student housing. (Failed passage in the Senate Governmental Organization Committee)

AB 2135 (Ting, Chapter 677, Statutes of 2014) required surplus local government land sold under preference for affordable housing to provide at least 25 percent of the units for low-income households, and requires such land sold outside the preference system for residential use to provide at least 15 percent of the units for low-income households.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

American Planning Association, California Chapter
California Apartment Association
California Building Industry Association
California Contract Cities Association
California Housing Consortium
California YIMBY

Eden Housing
Irvine Community Land Trust
Northern California Carpenters Regional Council

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: The California Building Industry Association writes in support that SB 6 "will create a centralized database of state and locally owned surplus/vacant land and properties across the state. Having a centralized database can help the development process. As California continues to grapple with an unprecedented housing affordability crises, it is important to identify those legislative proposals that can help increase housing for Californians. Given the gravity of the current housing crises, the staggering shortage of homes available to Californians of diverse income levels, and the massive underproduction of homes needed to keep pace with demand, SB 6 will provide a useful tool."

DUAL REFERRAL: Senate Housing Committee (11-0) & Senate Governmental Organization Committee

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Metropolitan Transportation Commission

Legislation Details (With Text)

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Sponsors:					
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Date	Ver.	Action By	Action	Result

Redevelopment 2.0: AB 11 (Chiu)
Rebecca Long

Inforrmation

AMENDED IN ASSEMBLY APRIL 11, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 11

Introduced by Assembly Members Chiu, Aguiar-Curry, Bloom, Bonta, Daly, Eduardo Garcia, Gloria, Holden, Irwin, Mullin, *Robert Rivas,* Santiago, Ting, and Wicks

December 3, 2018

An act to *add Section 41202.7 to the Education Code, and to* amend Section 53993 of, and to add Title 23 (commencing with Section 100600) to, the Government Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 11, as amended, Chiu. Community Redevelopment Law of 2019.

~~The~~

(1) The California Constitution, with respect to any taxes levied on taxable property in a redevelopment project established under the Community Redevelopment Law, as it then read or may be amended, authorizes the Legislature to provide for the division of those taxes under a redevelopment plan between the taxing agencies and the redevelopment agency, as provided.

Existing law dissolved redevelopment agencies as of February 1, 2012, and designates successor agencies to act as successor entities to the dissolved redevelopment agencies.

This bill, the Community Redevelopment Law of 2019, would authorize a city or county, or two or more cities acting jointly, to propose the formation of an affordable housing and infrastructure agency by adoption of a resolution of intention that meets specified requirements, including that the resolution of intention include a passthrough provision and an override passthrough provision, as defined. The bill would require

the city or county to submit that resolution to each affected taxing entity and would authorize an entity that receives that resolution to elect to not receive a passthrough payment, as provided. The bill would require the city or county that adopted that resolution to hold a public hearing on the proposal to consider all written and oral objections to the formation, as well as any recommendations of the affected taxing entities, and would authorize that city or county to adopt a resolution of formation at the conclusion of that hearing. The bill would then require that city or county to submit the resolution of intention to the Strategic Growth Council for a determination as to whether the agency would promote statewide greenhouse gas reduction goals. The bill would require the council to approve formation of the agency if it determines that formation of the agency both (1) would not result in a state fiscal impact, determined as specified by the Controller, that exceeds a specified amount and (2) would promote statewide greenhouse gas reduction goals. The bill would deem an agency to be in existence as of the date of the council's approval. The bill would require the council to establish a program to provide technical assistance to a city or county desiring to form an agency pursuant to these provisions.

The bill would provide for a governing board of the agency consisting of one member appointed by the legislative body or the legislative bodies, as applicable, that adopted the resolution of intention, one member appointed by each affected taxing entity, and 2 public members. The bill would authorize an agency formed pursuant to these provisions to finance specified infrastructure and housing projects, and to carry out related powers, such as the power to purchase and lease property within the redevelopment project area, that are similar to the powers previously granted to redevelopment agencies. The bill would require an agency to adopt an annual budget and to maintain detailed records of every action taken by that agency for a specified period of time, and would provide that any person who violates this requirement be subject to a fine of $10,000 per violation.

The bill would require the agency to submit an annual report containing specified information, and a final report of any audit undertaken by any other local, state, or federal government entity, to its governing body within specified time periods. The bill would also require the agency to submit a copy of the annual report with the Controller and a copy of any audit report with the Department of Housing and Community Development. The bill would establish procedures under which the Controller would identify major audit

violations and the Attorney General would bring an action to compel compliance.

The bill would require the governing board of an agency to designate an appropriate official to prepare a proposed redevelopment project plan, in accordance with specified procedures. The bill would require the agency to hold a public hearing on the proposed redevelopment project plan, and would authorize the governing board to either adopt the redevelopment project plan or abandon proceedings, in which case the agency would cease to exist. The bill would authorize the redevelopment project plan to provide for the division of taxes levied upon taxable property, if any, between an affected taxing entity and the agency, as provided. The bill would declare that this authorization fulfills the intent of constitutional redevelopment provisions. The bill would also require that not less than 30% of all taxes allocated to the agency from an affected taxing entity be deposited into a separate fund, established by the agency, and used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at an affordable housing cost, as provided.

The bill would authorize the agency to issue bonds to finance redevelopment housing or infrastructure projects, in accordance with specified requirements and procedures, including that the resolution proposing the bonds include a description of the facilities or developments to be financed and the estimated cost of those facilities or developments, and that the resolution adopting the bonds provide for specified matters such as the principal amount of bonds. The bill would also authorize a city, county, or special district that contains territory within the boundaries of an agency to loan moneys to the agency to fund activities described in the redevelopment project plan. The bill would require the agency to contract for an independent financial and performance audit every 2 years after the issuance of debt.

(2) Section 8 of Article XVI of the California Constitution sets forth a formula for computing the minimum amount of revenues that the state is required to appropriate for the support of school districts and community college districts for each fiscal year.

This bill would require the Director of Finance to adjust the percentage of General Fund revenues appropriated for school districts and community college districts for these purposes in a manner that ensures that the division of taxes authorized by the Community Redevelopment Law of 2019 have no net fiscal impact upon the total

amount of the General Fund revenue and local property tax revenue allocated to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution, as specified.

~~By~~

(3) By imposing additional duties on the county auditor with respect to the allocation of tax increment revenues, and the review of information submitted to the county auditor by an agency pursuant to these provisions, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 41202.7 is added to the Education Code, to read:

41202.7. (a) It is the intent of the Legislature to ensure that enactment of the Community Redevelopment Law of 2019 (Title 23 (commencing with Section 100600) of the Government Code), and the authorization for the division of taxes upon taxable property pursuant to that law, does not affect the amount of funding required to be applied for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution.

(b) (1) The Director of Finance shall adjust "the percentage of General Fund revenues appropriated for school districts and community college districts" for the purpose of applying paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution in a manner that ensures that the division of taxes authorized by Section 100660 of the Government Code shall have no net fiscal impact upon the total amount of General Fund revenue and local property tax revenue allocated to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution. The Director of Finance shall make

this adjustment effective with the 2020–21 fiscal year, consistent with the effective date of the Community Redevelopment Law of 2019 (Title 23 (commencing with Section 100600) of the Government Code).

(2) The Director of Finance shall update the adjustment required by paragraph (1) to account for either of the following:

(A) Subsequent enactment of a redevelopment project plan that, pursuant to Section 100660 of the Government Code, includes a provision for the division of taxes upon taxable property within the area included within an affordable housing and infrastructure agency.

(B) The end of the division of taxes resulting from an affordable housing and infrastructure agency ceasing to exist pursuant to its redevelopment project plan and the payment of moneys received from taxes upon taxable property to school districts and community college districts pursuant to paragraph (2) of subdivision (a) of Section 100660 of the Government Code.

~~SECTION 1.~~

SEC. 2. Section 53993 of the Government Code is amended to read:

53993. (a) Notwithstanding any other law, except as provided in subdivision (b), for the purpose of any law authorizing the division of taxes levied upon taxable property, including, but not limited to, Sections 53369.30, 53396, 53398.30, 53398.75, and 62005, no revenues derived from the imposition of a property tax rate approved by the voters pursuant to subdivision (b) of Section 1 of Article XIII A of the California Constitution and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be divided.

(b) Subdivision (a) shall not apply to either of the following:

(1) The allocation of property taxes pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

(2) The division of taxes authorized by Section 100660.

~~SEC. 2.~~

SEC. 3. Title 23 (commencing with Section 100600) is added to the Government Code, to read:

TITLE 23. COMMUNITY REDEVELOPMENT LAW OF 2019

PART 1. GENERAL PROVISIONS

100600. This title shall be known, and may be cited, as the Community Redevelopment Law of 2019.

100601. For purposes of this title:

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf ~~a~~ *an ad valorem* property tax on all or a portion of the property located in the proposed agency in the fiscal year before the designation of the agency district.

(b) "Affected taxing entity equity amount" means the amount of ad valorem property tax revenue that the affected taxing entity would have received from property located within the redevelopment project area in the absence of the ~~redevelopment and~~ *affordable* housing and infrastructure agency, calculated pursuant to subdivision ~~(d)~~ *(e)* of Section 100661.

(c) "Agency" means an affordable housing and infrastructure agency created by this title.

(d) "County" means a county or a city and county.

(e) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(f) "Designated official" means the appropriate official, such as an engineer of a city or county that is an affected taxing entity, designated pursuant to Section 100650.

(g) "Governing board" means the governing body of an agency established pursuant to this title.

(h) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the governing board. The governing board has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this ~~chapter.~~ *title.* A public agency is not a landowner or owner of land

for purposes of this ~~chapter,~~ *title*, unless the public agency owns all of the land to be included within the proposed agency.

(i) "Legislative body" means the city council of the city or board of supervisors of the county.

(j) "Redevelopment project" means any undertaking of an agency pursuant to this title.

(k) "Special district" means an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries.

100602. (a) The Legislature declares that this title constitutes the Community Redevelopment Law within the meaning of Article XVI of Section 16 of the California Constitution, and that an affordable housing and infrastructure agency formed pursuant to this title shall have all powers granted to a redevelopment agency pursuant to that section.

(b) Unless the context clearly indicates otherwise, *or there is a conflict with any provision of this title*, whenever the term "redevelopment agency" or "Community Redevelopment Law" appears in this code or any other code, except those laws described in the following sentence, it shall be deemed to refer to an "affordable housing and infrastructure agency" formed pursuant to this part or the "Community Redevelopment Law of 2019," as applicable. The previous sentence does not apply to any of the following laws:

(1) Part 1 (commencing with Section 33300) of Division 24 of the Health and Safety Code.

(2) Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(3) Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code.

(4) Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

(5) Part 1.9 (commencing with Section 34192) of Division 24 of the Health and Safety Code.

PART 2. FORMATION OF AN AFFORDABLE HOUSING AND INFRASTRUCTURE AGENCY

100610. (a) The legislative body of a city or county, subject to the conditions as may apply under Section 100633, may propose

to form an agency pursuant to this title by adopting a resolution of intention to establish the agency. The resolution of intention shall contain all the following:

(1) A statement that an affordable housing and infrastructure agency is proposed to be established in accordance with the terms of this title.

(2) A statement of the need for the proposed agency and the goals that the proposed agency seeks to achieve.

(3) A preliminary project plan prepared by the legislative body. The preliminary project plan shall, at a minimum, include the following:

(A) A description of the proposed boundaries of the project area. This may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.

(B) A general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.

(C) Evidence that redevelopment will achieve the purposes of this title.

(D) Evidence that the proposed redevelopment is consistent with the general plan of each applicable city or county in which the projects are proposed to be located.

(E) A general description of the impact of the project upon the area's residents and upon the surrounding neighborhood.

(F) A description of the affordable housing or infrastructure projects that are proposed to be financed by the agency.

(4) A financing section that shall contain all of the following information:

(A) A projection of the amount of tax revenues expected to be received by the agency in each year during which the agency will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(B) A plan for financing the affordable housing or infrastructure projects to be assisted by the agency, including a detailed description of any intention to incur debt.

(C) A statement of the total number of dollars of taxes that may be allocated to the agency pursuant to the plan.

(D) The date on which the agency will cease to exist, by which time all tax allocation to the agency will end. The date shall not

be more than 45 years from the date on which the issuance of bonds is *first* approved pursuant to Section 100684, or the issuance of a loan is *first* approved by the legislative body of a city, county, or special district pursuant to Section 100689.

(E) An analysis of the costs to the city or county of providing facilities and services to the area of the agency while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the agency.

(F) An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity.

(G) A passthrough provision that provides that the agency will, except as otherwise provided in this subparagraph, pay to each affected taxing entity an amount equivalent to the affected taxing entity equity amount. A passthrough provision shall not provide payment to the city or county that proposes to form the agency, or to any school entity, as defined pursuant to subdivision (f) of Section 95 of the Revenue and Taxation Code.

(H) An override passthrough provision that provides that the agency will pay to each affected taxing entity that imposed an override property tax on property located within the proposed redevelopment project area an amount that is equivalent to the amount the affected taxing entity would have received from the override property tax imposed on that property in the absence of the affordable housing and infrastructure agency. For purposes of this subparagraph, "imposed an override property tax" means that an ad valorem property tax was imposed on property by, on or behalf of, the affected taxing entity within the meaning of subdivision (b) of Section 1 of Article XIII A of the California Constitution and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution. An override passthrough provision shall not provide payment to the city or county that proposes to form the agency, or to any school entity, as defined pursuant to subdivision (f) of Section 95 of the Revenue and Taxation Code.

(5) A statement that the city or county adopting the resolution thereby elects to not receiving, whether by pass through or otherwise, a portion of those ad valorem property tax revenues that are in excess of the base year amount as described in paragraph

(2) of subdivision (a) of Section 100660 that the city or county would have otherwise been entitled to from property in the redevelopment project area in the absence of the affordable housing and infrastructure agency. This statement is irrevocable unless and until the agency ceases to exist pursuant to the redevelopment project plan.

(6) A statement that a public hearing shall be held on the proposal, and a statement of the time and place of that hearing.

(b) The legislative body shall direct the city clerk or county recorder, as applicable, to mail a copy of the resolution of intention to each affected taxing entity.

100610.5. (a) The legislative body of two or more cities may propose to jointly form an agency pursuant to this title, subject to the conditions as may apply under Section 100633, by adoption of a resolution of intention by each city proposing to jointly form the agency.

(b) In order to jointly form an agency pursuant to this section, each city shall do both of the following:

(1) Include all of the elements required by subdivision (a) of Section 100610 in its resolution of intention adopted pursuant to this section.

(2) Comply with all other applicable requirements of this part with respect to the formation of an agency.

(c) The proposed boundaries of the project area of an agency proposed to be jointly formed pursuant to this section may include any or all of the territory within each city proposing to jointly form the agency.

100611. (a) The city or county that adopted the resolution of intention pursuant to Section 100610, or each of the cities that adopted a resolution of intention pursuant to Section 100610.5, as applicable, shall consult with each affected taxing entity. Any affected taxing entity may suggest revisions to be included in the resolution of formation.

(b) Any affected taxing entity entitled to receive a passthrough may submit a written election *to the city or county that adopted the resolution of intention and the county auditor* to not receive an amount that the entity otherwise would have received under a passthrough provision described in subparagraphs (G) or (H) of paragraph (4) of subdivision (a) of Section 100610. The affected taxing entity shall include in that written election a statement that

the affected taxing entity consents to not receive any amount that would have been received under a passthrough provision, and that the entity is aware that statement is irrevocable unless and until the agency ceases to exist pursuant to the redevelopment project plan.

100612. (a) The legislative body shall, no sooner than 60 days after the resolution of intention was provided to each affected taxing entity pursuant to subdivision (b) of Section 100610, hold a public hearing on the proposal.

(b) The legislative body shall provide notice of the public hearing by publication not less than once a week for four successive weeks in a newspaper of general circulation published in each city or county in which the proposed agency is located. The notice shall state that the agency will be used to finance affordable housing or infrastructure projects, briefly describe the proposed affordable housing or infrastructure projects, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed agency and state the day, hour, and place when and where any persons having any objections to the proposed agency or the regularity of any of the prior proceedings, may appear before the legislative body and object to the formation of the agency.

(c) At the public hearing, the legislative body shall proceed to hear and pass upon all written and oral objections to the formation of the agency. The hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the formation of the agency.

(d) At the conclusion of the public hearing, the legislative body may adopt a resolution proposing the formation of the agency. The resolution of formation shall contain all the information described in subdivision (a) of Section 100610, and shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The legislative body shall direct the city clerk or county recorder, as applicable, to mail the resolution of formation to each affected taxing entity.

100613. (a) For purposes of this section, “state fiscal impact” means the impact on the amount that the state is required to

apportion to local educational entities, in accordance with existing requirements, with respect to all agencies within the state.

(b) (1) For the 2020–21 fiscal year, and each fiscal year thereafter, the Controller shall determine the state fiscal impact with respect to all agencies within the state, based on the latest annual report for each agency filed pursuant to paragraph (1) of subdivision (c) of Section 100640. The Controller's determination of the state fiscal impact shall remain in effect for one year.

(2) If the state fiscal impact exceeds ____ dollars ($____) in any fiscal year, an agency shall not be ~~formed~~ *formed, and an existing agency shall not incur any additional indebtedness,* until the next fiscal year in which the Controller determines that the state fiscal impact is below the limit specified in this paragraph.

(3) The Controller shall publish on ~~his or her Internet Web~~ *the Controller's internet website* site a notice that includes ~~his or her~~ *the Controller's* determination of the state fiscal impact of all agencies within the state for the prior fiscal year and stating whether or not any additional agencies may be formed pursuant to this title based on that determination.

100614. (a) The legislative body that adopted the resolution of formation pursuant to subdivision (d) of Section 100612 shall submit that resolution, along with all supporting documents, to the Strategic Growth Council for review.

(b) (1) The Strategic Growth Council shall determine whether the establishment of an agency pursuant to this title, as provided in the resolution of intention, would promote statewide greenhouse gas reduction goals. In making the determination required by this paragraph, the Strategic Growth Council shall ensure that the projects proposed in the resolution of intention equitably represent rural, suburban, and urban communities, and that establishing the agency would not result in an inequitable geographic distribution of agencies throughout the state.

(2) The Strategic Growth Council shall approve the resolution of formation of an agency if it determines both of the following:

(A) Formation of the agency would not result in a state fiscal impact that exceeds the limit specified in Section 100613.

(B) Formation of the agency would promote statewide greenhouse gas reduction goals, as specified in paragraph (1).

(3) (A) If the Strategic Growth Council approves the resolution of formation, the agency shall be deemed to be in existence as of the date of that approval.

(B) If the Strategic Growth Council determines that either or both of the criteria specified in paragraph (2) are not met, it shall disapprove the formation of the agency and provide a written explanation of its disapproval to the legislative body and to each affected taxing agency.

(c) The Strategic Growth Council shall adopt policies and procedures for the receipt and evaluation of resolutions of intention pursuant to this section.

(d) The Strategic Growth Council shall establish a program to provide technical assistance to a city or county that desires to form an affordable housing and infrastructure agency. The Strategic Growth Council shall provide that technical assistance by entering into a contract with that city or county, and may include a provision in that contract to recover the reasonable cost of the council in providing the technical assistance. In providing technical assistance, the council shall encourage that the proposed agency promote statewide greenhouse gas reduction goals as described in subdivision (b).

PART 3. GOVERNING BOARD OF AN AFFORDABLE HOUSING AND INFRASTRUCTURE AGENCY

100620. (a) The governing board of the agency shall consist of the following:

(1) (A) Except as otherwise provided in subparagraph (B), one member appointed by the legislative body that adopted the resolution of intention pursuant to Section 100610.

(B) In the case of an agency jointly formed by two or more cities pursuant to Section 100610.5, one member appointed by the legislative body of each city that adopted the resolution of intention pursuant to Section 100610.5.

(2) One member appointed by each affected taxing entity.

(3) Two public members initially appointed by the members appointed by the board composed of the members described in paragraphs (1) and (2) appointed, and then thereafter appointed by the board as a whole. The public members shall not be an elective officer or employee of any affected taxing entity.

(b) A majority of the membership of the board constitutes a quorum for the transaction of any business, the performance of any duty, or the exercise of any power of the board. If a vacancy in the board occurs, then a majority of the remaining members of the board constitutes a quorum.

100621. Members of the governing board established pursuant to this chapter shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5.

100623. (a) Members of the governing board are subject to Article 2.4 (commencing with Section 53234) of Chapter 2 of Part 1 of Division 2 of Title 5.

(b) An agency created pursuant to this title shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

PART 4. AFFORDABLE HOUSING AND INFRASTRUCTURE AGENCY POWERS AND DUTIES

Chapter 1. Agency Powers

100630. (a) (1) An agency may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that constitutes affordable housing or infrastructure projects as described in subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in ~~Sections 100635 and 100636.~~ *Section 100635*.

(2) Facilities financed pursuant to this title are not required to be physically located within the boundaries of the agency. However, any facilities financed outside of an agency's boundaries shall have a tangible connection to the work of the agency, as

detailed in the redevelopment project plan adopted pursuant to Part 5 (commencing with Section 100650).

(3) An agency shall not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

(b) An agency shall only finance redevelopment projects that the agency finds are appropriate or necessary in the interests of the general welfare. For purposes of this title, redevelopment projects shall only include the following *affordable* housing or infrastructure projects:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as those terms are defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase. The agency may finance mixed-income housing developments, but may finance only those units in a mixed-income development that are restricted to occupancy by persons of very low, low, or moderate incomes, as those terms are defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(11) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a

contaminated site within a transit priority project area. An agency may reimburse a developer of a project that is located entirely within the boundaries of that agency for any permit expenses incurred and to offset additional expenses incurred by the developer in constructing affordable housing units pursuant to the Transit Priority Project Program established in Section 65470.

(12) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(13) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(c) An agency shall not finance any project that is not described in subdivision (b).

(d) The agency shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(e) An agency may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

100630.5. (a) Except as provided in subdivision (b), an agency shall not, directly or indirectly, allocate or transfer any funds received by the agency pursuant to Chapter 1 (commencing with Section 100660) of Part 6 to any city, county, or special district.

(b) Notwithstanding subdivision (a), an agency shall make any payment required by a passthrough provision that was included in the financing section of its resolution of formation and included within the redevelopment project plan, as required by paragraphs (8) and (9) of subdivision (d) of Section 100651. In making payments required by this subdivision, the agency shall comply with the requirements of subparagraphs (G) and (H) of paragraph

(4) of subdivision (a) of Section 100610. An agency shall not, directly or indirectly, make passthrough payments to any affected taxing entity, including by entering into a passthrough agreement, unless that passthrough provision was included in the resolution of formation of the agency.

100631. An agency may, within the area established in an approved redevelopment project plan, do either of the following:

(a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, including repurchase of developed property previously owned by the agency, to be used in a redevelopment project. An agency shall obtain an appraisal from a qualified independent appraiser to determine the fair market value of property before the agency acquires or purchases real property.

(b) Acquire real property by eminent domain to be used in a redevelopment project. Property already devoted to a public use may be acquired by the agency through eminent domain, but the agency shall not acquire property of a public body without the consent of that public body.

100632. An agency may rent, maintain, manage, operate, repair, and clear real property owned by the agency within the area established in an approved redevelopment project plan for the purpose of providing affordable housing.

100633. A city or county that created a former redevelopment agency, as defined in Section 33003 of the Health and Safety Code shall neither initiate the creation of an agency, either on its own pursuant to Section 100610 or jointly pursuant to Section 100610.5, nor participate in the governance or financing of an agency, until each of the following has occurred:

(a) The successor agency for the former redevelopment agency created by the city or county has received a finding of completion, as specified in Section 34179.7 of the Health and Safety Code.

(b) The city or county certifies to the Department of Finance and to the agency that no former redevelopment agency assets that are the subject of litigation involving the state, where the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an agency formed under this title, unless the litigation and all possible appeals have been resolved in a court of law. The city or

county shall provide this certification to the Department of Finance within 10 days of its legislative body's action to participate or initiate the formation of an agency under this title.

(c) The Controller has completed its review as specified in Section 34167.5 of the Health and Safety Code.

(d) The successor agency and the entity that created the former redevelopment agency have complied with all of the Controller's findings and orders stemming from the reviews as specified in subdivision (c).

100634. (a) An agency may include any portion of a former redevelopment project area that was previously created pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, provided that the city or county that created the former redevelopment agency has met the requirements of Section 100633.

(b) An agency may finance only the facilities authorized in this title to the extent that the facilities are in addition to those provided in the territory of the agency before the agency was created. The additional facilities may not supplant facilities already available within that territory when the agency was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities.

(c) An agency may include areas which are not contiguous.

100635. It is the intent of the Legislature that the creation of an agency should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of public works construction within the area of the agency or private development within the area of the agency that is subject to a written agreement with the agency or that is financed in whole or in part by the agency then the redevelopment project plan adopted pursuant to Part 5 (commencing with Section 100650) shall contain provisions to do all of the following:

(a) If the dwelling units to be removed or destroyed are or were inhabited by persons or families of very low, low, or moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, at any time within five years before establishment of the agency, cause or require the construction or rehabilitation of an equal number of replacement dwelling units, within one-half mile of the location of the units to be removed or destroyed, that

have an equal or greater number of bedrooms as those removed or destroyed units, within two years of the removal or destruction of the dwelling units. The replacement dwelling units shall be available for rent or sale to persons or families of very low, low, or moderate income, at affordable rent, as defined in Section 50053 of the Health and Safety Code, or at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to persons in the same or a lower income category (extremely low, very low, low, or moderate), as the persons displaced from, or who last occupied, the removed or destroyed dwelling units.

(b) If the dwelling units to be removed or destroyed were not inhabited by persons of low or moderate income within the period of time specified in subdivision (a), cause or require the construction or rehabilitation within one-half mile of the location of the units to be removed or destroyed of at least one unit but not less than 25 percent of the total dwelling units removed or destroyed, within two years of the removal or destruction of the dwelling units. The units constructed or rehabilitated pursuant to this subdivision shall be of equivalent size and type to the units to be removed or destroyed. An equal percentage of the replacement dwelling units constructed or rehabilitated pursuant to this subdivision shall be available for rent or sale at affordable rent, as defined in Section 50053 of the Health and Safety Code, or affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to extremely low and very low income persons or families, as defined in Sections 50105 and 50106 of the Health and Safety Code.

(c) Comply with all relocation assistance requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, for persons displaced from dwelling units by any public works construction within the area of the agency or private development within the area of the agency that is subject to a written agreement with the agency or that is financed in whole or in part by the agency as a result of the redevelopment project plan adopted pursuant to Part 5 (commencing with Section 100650). The displacement of any persons from a dwelling unit as a result of the plan shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there has been full compliance with the

relocation assistance requirements of this section, Section 100651, and Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(e) (1) The agency shall require, by recorded covenants or restrictions, that all dwelling units constructed or rehabilitated pursuant to this section shall remain available at affordable rent or housing cost to, and occupied by, persons and families of the same income categories as required by subdivision (a) or (b), as applicable, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(2) The agency may permit sales of owner-occupied units before the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the agency's investment of moneys in the unit or units, including, but not limited to, an equity sharing program, that is not in conflict with another public funding source or law, and that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. For purposes of this paragraph, the terms of the equity sharing program shall be consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915, provided, however, that the program shall require any amounts recaptured by the agency to be used within five years for any of the affordable housing purposes described in Section 34176.1 of the Health and Safety Code.

100636. Any action or proceeding to attack, review, set aside, void, or annul the creation of an agency, adoption of redevelopment project plan, including a division of taxes thereunder, shall be commenced within 30 days after the formation of the ~~agency.~~ *agency or adoption of the redevelopment project plan, as applicable.* Consistent with the time limitations of this section, action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

100637. An action to determine the validity of the issuance of bonds pursuant to this title may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution

pursuant to Section 100684 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

100638. (a) An agency shall maintain detailed records of every action taken by that agency, including, but not limited to, all the following:

(1) Original copies of any agreement, memorandum of understanding, or contact entered into by the agency.

(2) A record of any payment made by the agency.

(3) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(A) The date the loan, advance, or indebtedness was incurred or entered into.

(B) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(C) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(D) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(b) The agency shall maintain any record described in this section for a period of 15 years after the later of the following:

(1) The date the record was originally created.

(2) The date that the agreement, memorandum of understanding, or contract expired or concluded.

(3) The date that the loan was fully paid off.

(c) Any person who violates this section is subject to a civil penalty of ten thousand dollars ($10,000) per violation. All moneys collected as penalties pursuant to this subdivision shall be deposited in the Housing Rehabilitation Loan Fund, and, notwithstanding Section 50661 of the Health and Safety Code, those funds shall be available, upon appropriation by the Legislature, for support of the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code).

100639. (a) An agency shall adopt an annual budget containing all of the following specific information:

(1) The proposed expenditures of the agency.

(2) The proposed indebtedness to be incurred by the agency.

(3) The anticipated revenues of the agency.

(4) The work program planned by the agency with respect to projects approved for the coming year, including goals.

(5) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.

(b) An agency may amend the annual budget from time to time. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

Chapter 2. Reporting Requirement

100640. (a) An agency shall submit an annual report to its governing board within six months of the end of the agency's fiscal year. The agency shall also submit the final report of any audit undertaken by any other local, state, or federal government entity to its governing board within 30 days of receipt of that audit report.

(b) The annual report required by subdivision (a) shall contain all of the following:

(1) (A) An independent financial audit report for the previous fiscal year. For purposes of this section, "audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency, including all financial activities with moneys required to be held in a separate fund established pursuant to subdivision (a) of Section 100670. This audit shall be conducted by a certified public accountant or public accountant, licensed by the State of California, in accordance with Government Auditing Standards adopted by the Comptroller General of the United States. The audit report shall meet, at a minimum, the audit guidelines prescribed by the Controller's office pursuant to Section 100642, and also include a report on the agency's compliance with laws, regulations, and administrative requirements governing activities of the agency, and a calculation of the excess surplus, as that term is defined in subdivision (g) of Section 100674, in the separate fund established pursuant to subdivision (a) of Section 100670.

(B) However, the governing board may elect to omit from inclusion in the audit report prepared pursuant to subparagraph (A) any distinct activity of the agency that is funded exclusively

by the federal government and that is subject to audit by the federal government.

(2) A fiscal statement for the previous fiscal year that contains the information required pursuant to Section 100644.

(3) A description of the agency's activities in the previous fiscal year affecting housing and displacement that contains the information required by Section 100643.

(4) A description of the agency's progress, including specific actions and expenditures, in accomplishing the agency's purpose in the previous fiscal year.

(5) A list of, and status report on, all loans made by the agency that are fifty thousand dollars ($50,000) or more, that in the previous fiscal year were in default, or not in compliance with the terms of the loan approved by the agency.

(6) A description of the total number and nature of the properties that the agency owns and those properties the agency has acquired in the previous fiscal year.

(7) A list of the fiscal years that the agency expects each of the following time limits to expire:

(A) The time limit for the commencement for eminent domain proceedings to acquire property within the project area.

(B) The time limit for the establishment of loans, advances, and indebtedness to finance the redevelopment project.

(C) The time limit for the effectiveness of the redevelopment plan.

(D) The time limit to repay indebtedness with the proceeds of property taxes.

(8) Any other information that the agency believes useful to explain its programs, including, but not limited to, the number of jobs created and lost in the previous fiscal year as a result of its activities.

(c) (1) The agency shall file with the Controller within six months of the end of the agency's fiscal year a copy of the annual report required by subdivision (a). In addition, the agency shall file with the Department of Housing and Community Development a copy of an audit report as required by subdivision (a). The reports shall be made in the time, format, and manner prescribed by the Controller after consultation with the Department of Housing and Community Development.

(2) The agency shall provide a copy of the annual report required by subdivision (a), upon the written request of any person or any affected taxing entity. If the report does not include detailed information regarding administrative costs, professional services, or other expenditures, the person or affected taxing entity may request, and the agency shall provide, that ~~information. The person or affected taxing entity shall reimburse the agency for all actual and reasonable costs incurred in connection with the provision of the requested information.~~ *information consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).*

100641. (a) When the agency presents the annual report to the governing board pursuant to Section 100640, the agency shall inform the governing board of any major audit violations of this title based on the independent financial audit report. The agency shall inform the governing board that the failure to correct a major audit violation of this part may result in the filing of an action by the Attorney General pursuant to Section 100646.

(b) The governing board shall review any report submitted pursuant to Section 100640 and take any action it deems appropriate on that report no later than the first meeting of the governing board occurring more than 21 days from the receipt of the report.

100642. The Controller shall develop and periodically revise the guidelines for the content of the report required by Section 100640. The Controller shall appoint an advisory committee to advise in the development of the guidelines. The advisory committee shall include representatives from among those persons nominated by the Department of Housing and Community Development, the Legislative Analyst, the California Society of Certified Public Accountants, and any other authorities in the field that the Controller deems necessary and appropriate.

100643. (a) For the purposes of compliance with paragraph (3) of subdivision (b) of Section 100640, the description of the agency's activities shall contain the following information, regardless of whether each activity is funded exclusively by the state or federal government, for each project area and for the agency overall:

(1) The total number of nonelderly and elderly households, including separate subtotals of the numbers of very low income

households, other lower income households, and persons and families of moderate income, that were displaced or moved from their dwelling units as part of a redevelopment project of the agency during the previous fiscal year.

(2) The total number of nonelderly and elderly households, including separate subtotals of the numbers of very low income households, other lower income households, and persons and families of moderate income, that the agency estimates will be displaced or will move from their dwellings as part of a redevelopment project of the agency during the present fiscal year and the date of adoption of a replacement housing portion of the redevelopment project plan required by Section 100635.

(3) The total number of dwelling units housing very low income households, other lower income households, and persons and families of moderate income, respectively, which have been destroyed or removed from the low- or moderate-income housing market during the previous fiscal year as part of a redevelopment project of the agency, specifying the number of those units that are not subject to the replacement requirements of Section 100635.

(4) The total numbers of agency-assisted dwelling units which were constructed, rehabilitated, acquired, or subsidized during the previous fiscal year for occupancy at an affordable housing cost by elderly persons and families, but only if the units are restricted by agreement or ordinance for occupancy by the elderly, and by very low income households, other lower income households, and persons and families of moderate income, respectively, specifying those units that are not currently so occupied, those units which have replaced units destroyed or removed pursuant to Section 100635, and the length of time any agency-assisted units are required to remain available at affordable costs.

(5) The total numbers of new or rehabilitated units subject to Section 100635, including separate subtotals of the number originally affordable to and currently occupied by, elderly persons and families, but only if the units are restricted by agreement or ordinance for occupancy by the elderly, and by very low income households, other lower income households, and persons and families of moderate income, respectively, and the length of time these units are required to remain available at affordable costs.

(6) The status and use of the separate fund established pursuant to subdivision (a) of Section 100670, including information on the

use of this fund for very low income households, other lower income households, and persons and families of moderate income, respectively. If the separate fund is used to subsidize the cost of onsite or offsite improvements, then the description of the agency's activities shall include the number of housing units affordable to persons and families of low or moderate income which have been directly benefited by the onsite or offsite improvements.

(7) The amount of excess surplus, as defined in Section 100673.5, that has accumulated in the agency's separate fund established pursuant to subdivision (a) of Section 100670. Of the total excess surplus, the description shall also identify the amount that has accrued to the separate fund during each fiscal year. This component of the annual report shall also include any plan required to be reported by subdivision (c) of Section 100673.5.

(8) The total amount of funds expended for planning and general administrative costs.

(9) Any other information which the agency believes useful to explain its housing programs, including, but not limited to, housing for persons and families of other than low and moderate income.

(10) The total number of dwelling units for very low income households, other lower income households, and persons and families of moderate income to be constructed under the terms of an executed agreement or contract and the name and execution date of the agreement or contract. These units may only be reported for a period of two years from the execution date of the agreement or contract.

(11) The date and amount of all deposits and withdrawals of moneys deposited to and withdrawn from the separate fund established pursuant to subdivision (a) of Section 100670.

(b) As used in this section:

(1) "Elderly," has the same meaning as specified in Section 50067 of the Health and Safety Code.

(2) "Persons and families of moderate income," has the same meaning as specified in subdivision (b) of Section 50093 of the Health and Safety Code.

(3) "Other lower income households," has the same meaning as "lower income households" as specified in Section 50079.5 of the Health and Safety Code, exclusive of very low income households.

(4) "Persons and families of low or moderate income," has the same meaning as specified in Section 50093 of the Health and Safety Code.

(5) "Very low income households," has the same meaning as specified in Section 50105 of the Health and Safety Code.

(c) Notwithstanding any other law, costs associated with preparing the report required by this section may be paid with moneys from the separate fund established pursuant to subdivision (a) of Section 100670.

100644. For the purposes of compliance with paragraph (2) of subdivision (b) of Section 100640, the fiscal statement shall contain the following information:

(a) The amount of outstanding indebtedness of the agency and each project area.

(b) The amount of tax increment property tax revenues generated in the agency and in each project area.

(c) The financial transactions report required pursuant to Section 53891.

(d) The amount of outstanding debt and the total amount of payments required to be paid on that debt for that fiscal year.

(e) The amount owed under any passthrough provision that was approved at the time of the creation of the agency, and calculated pursuant to subdivision ~~(d) or (e)~~ *(e) or (f)* of Section 100661.

(f) Any other fiscal information which the agency believes useful to describe its programs.

100645. (a) On or before May 1 of each year, the Department of Housing and Community Development shall compile and publish reports of the activities of each agency for the previous fiscal year, based on the information reported pursuant to paragraph (3) of subdivision (b) of Section 100640 and reporting the types of findings made by agencies pursuant to subdivision (a) of Section 100670, including the date of the findings. The department shall publish this information for each redevelopment project of each agency. These reports may also contain the biennial review of relocation assistance required by Section 50460 of the Health and Safety Code. The report shall contain a list of those project areas that are not subject to the requirements of Section 100635.

(b) The department shall send a copy of the executive summary of its report to each agency for which information was reported pursuant to Section 100640 for the fiscal year covered by the report.

The department shall send a copy of its report to each agency that requests a copy.

100646. (a) On or before April 1 of each year, the Controller shall compile a list of agencies that appear to have major audit violations as defined in this section, based on the independent financial audit reports filed with the Controller pursuant to Section 100640.

(b) On or before June 1 of each year, for each major audit violation of each agency identified pursuant to subdivision (a), the Controller shall determine if the agency has corrected the major audit violation. Before making this determination, the Controller shall consult with each affected agency that is the subject of the report. In making this determination, the Controller may request and shall receive the prompt assistance of public officials and public agencies, including, but not limited to, the affected agency subject to the report, counties, and cities. If the Controller determines that an agency has not corrected the major audit violation, the Controller shall send a list of that agency, its major violations, all relevant documents, and the affidavits required pursuant to subdivision (d) to the Attorney General for action pursuant to this section.

(c) For each agency that the Controller refers to the Attorney General pursuant to subdivision (b), the Controller shall notify the agency and the governing board that the agency was on the list sent to the Attorney General. The Controller's notice shall inform the agency and the governing board of the duties imposed by Section 100641.

(d) Within 45 days of receiving the referral from the Controller pursuant to subdivision (b), the Attorney General shall determine whether to file an action to compel the agency's compliance with this title. Any action filed pursuant to this section shall be commenced in the County of Sacramento. The time limit for the Attorney General to make this determination is directory and not mandatory. Any action shall be accompanied by an affidavit or affidavits, to be provided by the Controller with the referral, setting forth facts that demonstrate a likelihood of success on the merits of the claim that the agency has a major audit violation. The affidavit shall also certify that the agency and the governing board were informed not less than 10 days before the date on which the action was filed. The agency shall file a response to any action

filed by the Attorney General pursuant to this section within 15 days of service.

(e) (1) On the earliest day that the business of the court will permit, but not later than 45 days after the filing of an action pursuant to this section, the court shall conduct a hearing to determine if good cause exists for believing that the agency has a major audit violation and has not corrected that violation.

(2) If the court determines that no good cause exists or that the agency had a major audit violation but corrected the major audit violation, the court shall dismiss the action.

(3) If the court determines that there is good cause for believing that the agency has a major audit violation and has not corrected that major audit violation, the court shall immediately issue an order that prohibits the agency from doing any of the following:

(A) Encumbering any funds or expending any money derived from any source except to pay the obligations designated in paragraph (1) of subdivision (e) of Section 100674.

(B) Adopting a redevelopment project plan.

(C) Amending a redevelopment project plan, except to correct the major audit violation that is the subject of the action.

(D) Issuing, selling, offering for sale, or delivering any bonds or any other evidence of indebtedness.

(E) Incurring any indebtedness.

(f) In a case that is subject to paragraph (3) of subdivision (e), the court shall also set a hearing on the matter within 60 days.

(g) If, on the basis of that subsequent hearing, the court determines that the agency has a major audit violation and has not corrected that violation, the court shall order the agency to comply with this part within 30 days, and order the agency to forfeit to the state no more than:

(1) Two thousand dollars ($2,000) in the case of an agency with a total revenue, in the prior year, of less than one hundred thousand dollars ($100,000) as reported in the Controller's annual financial reports.

(2) Five thousand dollars ($5,000) in the case of an agency with a total revenue, in the prior year, of at least one hundred thousand dollars ($100,000) but less than two hundred fifty thousand dollars ($250,000) as reported in the Controller's annual financial reports.

(3) Ten thousand dollars ($10,000) in the case of an agency with a total revenue, in the prior year, of at least two hundred fifty

thousand dollars ($250,000) as reported in the Controller's annual financial reports.

(h) The order issued by the court pursuant to paragraph (3) of subdivision (e) shall continue in effect until the court determines that the agency has corrected the major audit violation. If the court determines that the agency has corrected the major audit violation, the court may dissolve its order issued pursuant to paragraph (3) of subdivision (e) at any time.

(i) An action filed pursuant to this section to compel an agency to comply with this part is in addition to any other remedy, and is not an exclusive means to compel compliance.

(j) As used in this section, "major audit violation" means that, for the fiscal year in question, an agency did not:

(1) File an independent financial audit report that substantially conforms to the requirements of paragraph (1) of subdivision (b) of Section 100640.

(2) File a fiscal statement that includes substantially all of the information required by Section 100644.

(3) Deposit all required tax increment revenues directly into the separate fund established pursuant to subdivision (a) of Section 100670 upon receipt, as required under Chapter 2 (commencing with Section 100670) of Part 6.

(4) Establish a separate fund as required by subdivision (a) of Section 100670.

(5) Accrue interest earned by the separate fund established pursuant to subdivision (a) of Section 100670 to that fund, as required by subdivision (b) of Section 100670.

(6) Determine that the planning and administrative costs charged to the separate fund established pursuant to subdivision (a) Section 100670 are necessary for the production, improvement, or preservation of low- and moderate-income housing, as required by subdivision (d) of Section 100670.5.

(7) Initiate development of housing on real property acquired using moneys from the separate fund established pursuant to subdivision (a) of Section 100670 or sell the property, as required by Section 100676.

PART 5. PREPARATION OF REDEVELOPMENT PROJECT PLANS

100650. (a) After the agency is formed, the governing board of the agency shall designate an appropriate official, such as an engineer of a city or county that is an affected taxing entity, to prepare a redevelopment project plan pursuant to Section 100651.

(b) In the case of an agency proposed for port or harbor infrastructure, the governing board shall designate and direct the harbor agency, except as provided in Section 1719 of the Harbors and Navigation Code, to prepare a redevelopment project plan pursuant to Section 100651.

100651. The official designated pursuant to Section 100650 shall prepare a proposed redevelopment project plan. The redevelopment project plan shall be consistent with the general plan of each city or county within the agency's boundaries, or, if the proposed project is located outside those boundaries, with the general plan of the city or county that the project is located. The plan shall include all of the following:

(a) A map and legal description of the proposed agency, which may include all or a portion of the agency designated in the resolution of formation.

(b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the agency, including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed agency, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the development and financial assistance.

(c) If tax increment funding is incorporated into the financing plan, a finding that the development and financial assistance further the purposes of this title and are for redevelopment purposes.

(d) A financing section that shall contain all of the following information:

(1) A projection of the amount of tax increment revenues expected to be received by the agency in each year during which the agency will receive tax increment revenues, including an

estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(2) A plan for financing the public facilities to be assisted by the agency, including a detailed description of any intention to incur debt.

(3) A statement of the total number of dollars of taxes that may be allocated to the agency pursuant to the plan.

(4) A date on which the agency will cease to exist, by which time all tax allocation to the agency will end. The date shall not be more than 45 years from the date on which the issuance of bonds is *first* approved pursuant to Section 100684, or the issuance of a loan is *first* approved by the legislative body of a city, county, or special district pursuant to Section 100689.

(5) An analysis of the costs to the city or county of providing facilities and services to the area of the agency while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the agency.

(6) An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity.

(7) A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that agency and qualifies for the Transit Priority Project Program, pursuant to Section 65470, including any permit and affordable housing expenses related to the project.

(8) A passthrough provision that is consistent with the requirements of subparagraph (G) of paragraph (4) of subdivision (a) of Section ~~100610.~~ *100610, including any modifications necessary as a result of an affected taxing entity electing to waive receipt of its passthrough pursuant to subdivision (b) of Section 100610.*

(9) An override passthrough provision that is consistent with the requirements of subparagraph (H) of paragraph (4) of subdivision (a) of Section ~~100610.~~ *100610, including any modifications necessary as a result of an affected taxing entity electing to waive receipt of its passthrough pursuant to subdivision (b) of Section 100610.*

(e) A housing program that describes how the agency will comply with Chapter 2 (commencing with Section 100670) of Part 6. The program shall include the following information:

(1) The amount available in the separate fund established pursuant to subdivision (a) of Section 100670 and the estimated amounts that will be deposited in the fund during each of the next five years.

(2) Estimates of the number of new, rehabilitated, or price restricted residential units to be assisted during each of the five years and estimates of the expenditures of moneys from the fund during each of the five years.

(3) Estimates of the number of units, if any, developed by the agency for very low, low-, and moderate-income households during the next five years.

(f) Those components required to be included pursuant to Section 100671.5.

(g) The goals the agency proposes to achieve for each project financed pursuant to Section 100630.

(h) When preparing the plan, the designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

100652. The designated official shall mail the redevelopment project plan to each owner of land within the agency's boundaries and to each affected taxing entity together with any report required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report shall also be sent to the governing board.

100653. (a) The ~~agency~~ *governing board* shall, no sooner than 60 days after the redevelopment project plan was submitted to each affected taxing entity pursuant to Section 100652, hold a public hearing on the proposal.

(b) The ~~agency body~~ *governing board* shall provide notice of the public hearing by publication not less than once a week for four successive weeks in a newspaper of general circulation published in each city or county in which the agency is located.

The notice shall briefly describe the proposed affordable housing or infrastructure projects, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, and state the day, hour, and place when and where any persons having any objections to the proposed ~~agency~~ *plan* or the regularity of any of the prior proceedings, may appear before the governing board and object to the proposed redevelopment project plan.

(c) At the public hearing, the governing board shall proceed to hear and pass upon all written and oral objections to the proposed redevelopment project plan. The hearing may be continued from time to time. The governing board shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the proposed redevelopment project plan. The governing board may modify the plan by eliminating or reducing the size and cost of the proposed facilities or development or by reducing the amount of proposed debt or by making other necessary changes.

100654. (a) At the conclusion of the hearing pursuant to Section 100653, the governing board may adopt a resolution proposing the adoption of the redevelopment project plan, as modified, or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, then the agency shall cease to exist by operation of this section with no further action required of the legislative body that initially proposed to form the agency and the ~~governing board~~ *legislative body* may not enact a resolution of intention to ~~adopt a plan~~ *form an agency* that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

(b) The redevelopment project plan shall take effect upon the adoption of the resolution. The redevelopment project plan shall specify if the agency shall be funded solely through the agency's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the agency shall not issue bonds or levy assessments or fees that may be included in the redevelopment project plan before one or more of the following:

(1) Approval pursuant to Section 100673, if applicable, to issue bonds to finance the redevelopment project plan.

(2) Compliance with the procedures required in subdivision (e) of Section 100660, to levy assessments or fees to finance the redevelopment project plan.

(c) In addition, the agency may expend up to 10 percent of any accrued tax increment in the first two years of the effective date of the formation of the agency on planning and dissemination of information to the residents within the agency's boundaries about the redevelopment project plan and planned activities to be funded by the agency.

PART 6. DIVISION OF TAXES

Chapter 1. General Provisions

100660. (a) Any redevelopment project plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the agency each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ~~ordinance~~ *resolution* approving the redevelopment project plan, shall be divided as follows:

(1) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the agency as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the formation of the agency, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid. For the purpose of allocating taxes levied by or for any affected taxing entity or entities that did not include the territory in a redevelopment project on the effective date of the ~~ordinance~~ *resolution* but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the ~~ordinance~~ *resolution* shall be used in determining the assessed valuation of the taxable property in the project on the effective date.

(2) That portion of the levied taxes each year in excess of the amount specified in paragraph (1) shall be allocated to and when collected shall be paid into a special fund of the agency to pay the

principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the last equalized assessment roll referred to in paragraph (1), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the affected taxing entities. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the affected taxing entities as taxes on all other property are paid. When the agency ceases to exist pursuant to the adopted redevelopment project plan, all moneys thereafter received from taxes upon the taxable property in the agency shall be paid to the respective affected taxing entities as taxes on all other property are paid.

(3) That portion of the taxes in excess of the amount identified in paragraph (1) which are attributable to a tax rate levied by an affected taxing entity for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that affected taxing entity. This subdivision shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the affected taxing entity on or after January 1, 1989.

(b) Notwithstanding subdivision (a), where an agency's boundaries overlap with the boundaries of any former redevelopment project area that is subject to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code, any debt or obligation of the agency shall be subordinate to any and all enforceable obligations of the former redevelopment agency, as approved by the Oversight Board and the Department of Finance. For the purposes of this part, the division of taxes allocated to the agency pursuant to subdivision (a) shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund created pursuant

to subdivision (b) of Section 34170.5 of the Health and Safety Code.

(c) (1) The legislative body of the city or county forming the agency, or of each city that jointly formed the agency, as applicable, may choose to dedicate any portion of its net available revenue to the agency through the redevelopment project plan.

(2) For the purposes of this subdivision, "net available revenue" means periodic distributions to the city or county from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and Safety Code, that are available to the city or county after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. "Net available revenue" shall not include any funds deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund or funds remaining in the Redevelopment Property Tax Trust Fund before distribution.

(d) (1) That portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to Section 97.70 of the Revenue and Taxation Code that is specified in the redevelopment project plan adopted pursuant to Part 5 (Commencing with Section 100650), and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and, when collected, shall be apportioned to, a special fund of the agency for redevelopment purposes.

(2) When the agency ceases to exist pursuant to the adopted redevelopment project plan, the revenues described in this subdivision shall be allocated to, and, when collected, shall be apportioned to, the respective city or county.

(e) This section shall not be construed to prevent an agency from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the redevelopment project plan has been approved:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(3) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(4) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(5) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code).

(6) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code).

(7) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code).

(8) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title).

(9) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title).

(10) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

100661. (a) The portion of taxes required to be allocated pursuant to paragraph (2) of subdivision (a) of Section 100660 shall be allocated and paid ~~to~~ *into a special fund held in trust for* the agency by the county auditor or officer responsible for the payment of taxes into the funds of the affected taxing entities pursuant to the procedure contained in this section.

(b) Not later than October 1 of each year, for each redevelopment project for which the redevelopment project plan provides for the division of taxes pursuant to Section 100660, the agency shall file, with the county auditor or officer described in subdivision (a), a statement of indebtedness consistent with subdivision (c), a reconciliation statement consistent with subdivision (d), ~~and~~ a passthrough statement consistent with subdivision ~~(e).~~ *(e), and an override passthrough statement consistent with subdivision (f).* All statements required to be filed

by this subdivision shall be certified by the chief financial officer of the agency.

(c) (1) For each redevelopment project for which a statement of indebtedness is required to be filed, the statement of indebtedness shall contain all of the following:

(A) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(i) The date the loan, advance, or indebtedness was incurred or entered into.

(ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(B) The sum of the amounts determined under clause (iii) of subparagraph (A).

(C) The sum of the amounts determined under clause (iv) of subparagraph (A).

(D) The available revenues as of the end of the previous year, as determined pursuant to paragraph (10) of subdivision (d).

(2) The agency may estimate the amount of principal or interest, the interest rate, or term of any loan, advance, or indebtedness if the nature of the loan, advance, or indebtedness is such that the amount of principal or interest, the interest rate or term cannot be precisely determined. The agency may list on a statement of indebtedness any loan, advance, or indebtedness incurred or entered into on or before the date the statement is filed.

(d) For each redevelopment project for which a reconciliation statement is required to be filed, the reconciliation statement shall contain all of the following:

(1) A list of all loans, advances, and indebtedness listed on the previous year's statement of indebtedness.

(2) A list of all loans, advances, and indebtedness, not listed on the previous year's statement of indebtedness, but incurred or entered into in the previous year and paid in whole or in part from revenue received by the agency pursuant to Section ~~100650.~~ *100660*. This listing may aggregate loans, advances, and indebtedness incurred or entered into in the previous year for a

particular purpose, including relocation expenses, administrative expenses, consultant expenses, or property management expenses, into a single item in the listing.

(3) For each loan, advance, or indebtedness described in paragraph (1) or (2), all of the following information:

(A) The total amount of principal and interest remaining to be paid as of the later of the beginning of the previous year or the date the loan, advance, or indebtedness was incurred or entered into.

(B) Any increases or additions to the loan, advance, or indebtedness occurring during the previous year.

(C) The amount paid on the loan, advance, or indebtedness in the previous year from revenue received by the agency pursuant to Section 100660.

(D) The amount paid on the loan, advance, or indebtedness in the previous year from revenue other than revenue received by the agency pursuant to Section 100660.

(E) The total amount of principal and interest remaining to be paid as of the end of the previous fiscal year.

(4) The available revenues of the agency as of the beginning of the previous fiscal year.

(5) The amount of revenue received by the agency in the previous fiscal year pursuant to Section 100660.

(6) The amount of available revenue received by the agency in the previous fiscal year from any source other than pursuant to Section 100660.

(7) The sum of the amounts specified in subparagraph (D) of paragraph (3), to the extent that the amounts are not included as available revenues pursuant to paragraph (6).

(8) The sum of the amounts specified in paragraphs (4), (5), (6), and (7).

(9) The sum of the amounts specified in subparagraphs (C) and (D) of paragraph (3).

(10) The amount determined by subtracting the amount determined under paragraph (9) from the amount determined under paragraph (8). The amount determined pursuant to this paragraph shall be the available revenues as of the end of the previous fiscal year.

(e) An agency shall prepare a passthrough statement that includes all of the following information:

(1) The projected amount of revenue that the agency expects to be allocated as provided in paragraph (2) of subdivision (a) of Section 100660.

(2) For each affected taxing entity that is entitled to a passthrough, the agency shall subtract from the amount described in paragraph (1) *the amount calculated by the county auditor as provided in this paragraph. The county auditor shall calculate* the proportional amount that the affected taxing entity would have received from property located in the redevelopment project ~~area.~~ *area during the relevant fiscal year, inclusive of amounts the affected taxing entity would receive, if any, pursuant to Section 97.70 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code.* However, in no instance shall the amount calculated under this paragraph result in the affected taxing entity receiving an amount of ad valorem property tax revenue that is greater or lesser than the amount of ad valorem tax revenue received by the agency that is attributable to that affected taxing ~~entity.~~ *entity, inclusive of the amounts the affected taxing entity would receive from any of the sources described in the preceding sentence.*

(3) A statement of the total amount of passthrough payments that the agency is required to make as calculated pursuant to paragraph (2).

(f) For each agency that has an override passthrough provision in the financing section of its resolution of intention, in accordance with subparagraph (H) of paragraph (4) of subdivision (a) of Section 160010, at the time of creation of that agency, the agency shall prepare an override passthrough statement that includes all of the following information:

(1) The projected amount of revenue that the agency expects to be allocated as provided in paragraph (2) of subdivision (a) of Section 100660.

(2) For each affected taxing entity that imposed an override property tax with respect to property located with the redevelopment project area, the agency shall subtract from the amount described in paragraph (1) the amount *calculated by the county auditor* that is equivalent to the amount the affected taxing

entity would have received from the override property tax imposed on that property in the absence of the affordable housing and infrastructure ~~agency.~~ *agency during the relevant fiscal year.* The agency shall include in the override passthrough statement ~~a~~ *the following information, to be provided to the county auditor:*

(A) A description of the applicable override property tax that was ~~imposed, the~~ *imposed.*

(B) The purpose *for which* it was ~~imposed for, and the~~ *imposed.*

(C) The entity that is entitled to receive revenue under that override property tax.

(3) A statement of the total amount of *override* passthrough payments that the agency is required to make as calculated pursuant to paragraph (2).

(g) For the purposes of this section, available revenues shall include all cash or cash equivalents held by the agency that were received by the agency pursuant to Section 100660 and all cash or cash equivalents held by the agency that are irrevocably pledged or restricted to payment of a loan, advance, or indebtedness that the agency has listed on a statement of indebtedness. However, available revenue, for purposes of this section, shall not include the amount of any payment that the agency is required to make under a passthrough provision as described in the passthrough statements prepared pursuant to subdivisions (e) and (f).

(h) The county auditor or officer shall, at the same time or times as the payment of taxes into the funds of the affected taxing entities of the county, allocate and pay the portion of taxes provided by paragraph (2) of subdivision (a) of Section 100660 to *a special trust fund established for* each agency. The amount allocated and paid shall not exceed the amount determined pursuant to subparagraph (C) of paragraph (1) of subdivision (c) plus the amount owed under any passthrough provision under subdivision ~~(d) or (e),~~ *(e) or (f),* minus the amount determined pursuant to subparagraph (D) of paragraph (1) of subdivision (c).

(i) (1) The statement of indebtedness constitutes prima facie evidence of the loans, advances, or indebtedness of the agency.

(2) (A) If the county auditor or other officer disputes the amount of loans, advances, or indebtedness as shown on the statement of indebtedness, the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof.

(B) The agency shall, within 30 days after receipt of notice pursuant to subparagraph (A), submit any further information it deems appropriate to substantiate the amount of any loans, advances, or indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of loans, advances, or indebtedness, final written notice of that dispute shall be given to the agency, and the amount disputed may be withheld from allocation and payment to the agency as otherwise required by subdivision (h). In that event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice.

(3) In any court action brought pursuant to this section, the issue shall involve only the amount of loans, advances, or indebtedness, and not the validity of any contract or debt instrument or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture of any kind or payments to a public agency in connection with payments by that public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. The matter shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character. Unless an action is brought within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (h).

(j) This section does not permit a challenge to or attack on matters precluded from challenge or attack by reason of Section 100636 or 100637. However, this section does not deny a remedy against the agency otherwise provided by law.

(k) The Controller shall prescribe a uniform form for a statement of indebtedness, reconciliation, passthrough, and override passthrough. These forms shall be consistent with this section. In preparing these forms, the Controller shall obtain the input of county auditors, ~~redevelopment~~ agencies, and organizations of county auditors and ~~redevelopment~~ agencies.

(*l*) For the purposes of this section, a fiscal year shall be a year that begins on July 1 and ends the following June 30.

100662. (a) Section 100660 fulfills the intent of Section 16 of Article XVI of the California Constitution. To further carry out the intent of Section 16 of Article XVI of the Constitution,

whenever that provision requires the allocation of money between agencies such allocation shall be consistent with the intent of the people when they approved Section 16 of Article XVI of the California Constitution. Whenever money is allocated between agencies by means of a comparison of assessed values for different years, that comparison shall be based on the same assessment ratio. When there are different assessment ratios for the years compared, the assessed value shall be changed so that it is based on the same assessment ratio for the years so compared.

(b) As used in this part, the word "taxes" shall include, but without limitation, all levies on an ad valorem basis upon land or real property. However, "taxes" shall not include amounts of money deposited in a Sales and Use Tax Compensation Fund pursuant to Section 97.68 of the Revenue and Taxation Code or a Vehicle License Fee Property Tax Compensation Fund pursuant to Section 97.70 of the Revenue and Taxation Code.

100663. (a) This section implements and fulfills the intent of this article and of Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in paragraph (2) of subdivision (a) of Section 100660 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred for redevelopment activity, as defined in subdivision (b) of this section, shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B. The allocation and payment to an agency of this portion of taxes shall not be deemed the appropriation by an agency of proceeds of taxes levied by or on behalf of an agency within the meaning or for purposes of Article XIII B of the California Constitution.

(b) As used in this section, "redevelopment activity" means redevelopment meeting all the following criteria:

(1) Is redevelopment as prescribed in Section 100630.

(2) Primarily benefits the project area.

(3) None of the funds are used for the purpose of paying for employee or contractual services of any local governmental agency unless these services are directly related to a redevelopment project, as described in subdivision (b) of Section 100630.

(c) Should any law hereafter enacted, without a vote of the electorate, confer taxing power upon an agency, the exercise of that power by the agency in any fiscal year shall be deemed a transfer of financial responsibility from the ~~community~~ *sponsoring city or county* to the agency for that fiscal year within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution.

100664. ~~An agency that is allocated a portion of taxes pursuant to paragraph (2) of subdivision (a) of Section 100660 and~~ *The county auditor shall, after deducting its administrative costs for activities performed pursuant to this chapter and Section 95.3 of the Revenue and Taxation Code, allocate the funds deposited in a special trust fund established for a district pursuant to* subdivision (h) of Section 100661 ~~in a fiscal year~~ *and* shall distribute those taxes ~~according to the following schedule:~~ *in the same manner and at the same time or times as the payment of taxes into the funds of the affected taxing entities of the county, as follows:*

(a) First, to satisfy any passthrough provisions described in subparagraph (G) or (H) of paragraph (4) of subdivision (a) Section 100610 that was approved at the time of the formation of the agency, and calculated pursuant to subdivision ~~(d) or (e)~~ *(e) or (f)* of Section 100661. *The amount transferred to each affected taxing agency pursuant to this subdivision shall be based on the amount calculated pursuant to subdivision (e) or (f) of Section 10661.*

(b) Second, 30 percent of the amount remaining after making the allocations pursuant to subdivision (a) shall be ~~deposited~~ *transferred from the special trust fund to the agency. The agency shall deposit the amount transferred pursuant to this subdivision* into the separate fund established pursuant to Section 100670.

(c) Third, any amount remaining *in the special trust fund after making the allocations pursuant to subdivisions (a) and (b)* shall be *transferred to the agency and* available to the agency for any valid redevelopment purpose.

CHAPTER 2. HOUSING FOR PERSONS OF LOW AND MODERATE INCOME

100670. (a) Not less than 30 percent of all taxes that are allocated to the agency from any affected taxing entity pursuant to Section ~~100660~~ *100664* shall be deposited into a separate fund, which the agency shall establish pursuant to Section 100670.5, and the agency shall use all moneys in that fund for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by the following sections of the Health and Safety Code: Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families unless the agency makes a finding that combining funding received under this program with other funding for the same purpose shall reduce administrative costs or expedite the construction of affordable housing. If the agency makes the finding described in the previous sentence, then (1) an agency may transfer funding from the program adopted pursuant to subdivision (e) of Section 100651 to the housing authority within the territorial jurisdiction of the local jurisdiction that created the agency or to the entity that received the housing assets of the former redevelopment agency pursuant to Section 34176 of the Health and Safety Code or to a private nonprofit housing developer, and (2) Section 34176.1 of the Health and Safety Code shall not apply to funds transferred. The agency shall spend all funds described in this subdivision within the plan area in which the funds were generated. Any person who receives funds transferred pursuant to this subdivision shall comply with all applicable provisions of this part.

(b) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families, including the following:

(1) (A) Improve real property or building sites with onsite or offsite improvements, but only if both of the following are met:

(i) The improvements are part of the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly benefited by the improvements, and are a reasonable and fundamental component of the housing units.

(ii) The agency requires that the units remain available at affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate income for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 100670.5.

(B) If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite improvement. The maximum percentage of the total cost of the improvement paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

(2) Donate real property to private or public persons or entities.

(3) Finance insurance premiums necessary for the provision of insurance during the construction or rehabilitation of properties that are administered by governmental entities or nonprofit organizations to provide housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, including rental properties, emergency shelters, transitional housing, or special residential care facilities.

(4) Construct buildings or structures.

(5) Acquire buildings or structures.

(6) Rehabilitate buildings or structures.

(7) Provide subsidies to, or for the benefit of, extremely low income households, as defined by Section 50106 of the Health and Safety Code, very low income households, as defined by Section 50105 of the Health and Safety Code, lower income households, as defined by Section 50079.5 of the Health and Safety Code, or persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, to the extent those households cannot obtain housing at affordable costs on the open

market. Housing units available on the open market are those units developed without direct government subsidies.

(8) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(9) Maintain the community's supply of mobilehomes.

(10) Preserve the availability to lower income households of affordable housing units in housing developments that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates.

(c) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 100635. However, this section shall not be construed as limiting in any way the requirements of that section.

(d) The agency shall use these funds inside the plan area.

(e) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the plan area.

(f) (1) (A) An action to compel compliance with the requirement of this section to deposit not less than ~~25~~ *30* percent of all taxes that are allocated to the agency pursuant to Section ~~100660~~ *100664* in the separate fund established pursuant to subdivision (a) shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the last day of the fiscal year in which the funds were required to be deposited in that separate fund.

(B) An action to compel compliance with the requirement of this section that money deposited in the separate fund established pursuant to subdivision (a) be used by the agency for purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the date of the actual expenditure of the funds.

(C) An agency found to have deposited less into the separate fund established pursuant to subdivision (a) than mandated by Section 100670.5 or to have spent money from that fund for purposes other than increasing, improving, and preserving the community's supply of low- and moderate-income housing, as mandated by this section, shall repay the funds with interest in one

lump sum pursuant to Section 970.4 or 970.5 or may do either of the following:

(i) Petition the court under Section 970.6 for repayment in installments.

(ii) Repay the portion of the judgment due to the separate fund in equal installments over a period of five years following the judgment.

(2) Repayment shall not be made from the funds required to be set aside or used for low- and moderate-income housing pursuant to this section.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) of paragraph (1), all costs, including reasonable attorney's fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) This subdivision applies to actions filed on and after January 1, 2019.

(6) The limitations period specified in subparagraphs (A) and (B) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

100670.5. (a) The funds that are required by Section 100670 or 100671.5 to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing shall be held in a separate fund, established pursuant to subdivision (a) of Section 100670, until used.

(b) Any interest earned by the separate fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from that fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the separate fund.

(c) The moneys in the separate fund established pursuant to subdivision (a) of Section 100670 shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the separate fund established pursuant to subdivision (a) of Section 100670 be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The agency shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(e) (1) Planning and general administrative costs that may be paid with moneys from the separate fund established pursuant to subdivision (a) of Section 100670 are those expenses incurred by the agency that are directly related to the programs and activities authorized under subdivision (e) of Section 100670 and are limited to the following:

(A) Costs incurred for salaries, wages, and related costs of the agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto.

(B) Costs incurred by a nonprofit corporation which are not directly attributable to a specific project.

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project that are authorized under subdivision (e) of Section 100670 and that are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the separate fund established pursuant to subdivision (a) of Section 100670. Except to the extent that a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for

the longest feasible time, but for not less than the following periods of time:

(A) Fifty-five years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if both of the following are met:

(i) The replacement units are available for occupancy before the displacement of any persons and families of low or moderate income residing in the units to be replaced.

(ii) The comparable replacement units are not developed with moneys from the separate fund.

(B) Forty-five years for owner-occupied units. However, the agency may permit sales of owner-occupied units before the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the separate fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the separate fund. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 100671.

(C) Fifteen years for mutual self-help housing units that are occupied by and affordable to very low and low-income households. However, the agency may permit sales of mutual self-help housing units before expiration of the 15-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that (i) protects the agency's investment of moneys from the separate fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy, and (ii) ensures through a recorded regulatory agreement, deed of trust, or similar recorded instrument that if a mutual self-help housing unit is sold at any time after expiration of the 15-year period and before 45 years after the date of recording of the covenants or restrictions required pursuant to paragraph (2), the agency recovers, at a minimum, its original principal from the separate fund from

the proceeds of the sale and deposits those funds into that fund. The remainder of the excess proceeds of the sale not retained by the seller shall be allocated to the agency and deposited in the separate fund. For the purposes of this subparagraph, "mutual self-help housing unit" means an owner-occupied housing unit for which persons and families of very low and low income contribute no fewer than 500 hours of their own labor in individual or group efforts to provide a decent, safe, and sanitary ownership housing unit for themselves, their families, and others authorized to occupy that unit. This subparagraph does not preclude the agency and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.

(2) If land on which those dwelling units are located is deleted from the plan area, the agency shall continue to require that those units remain affordable as specified in this subdivision.

(3) The agency shall require the recording in the office of the county recorder of the following documents:

(A) The covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. The agency shall obtain and maintain a copy of the recorded covenants or restrictions for not less than the life of the covenant or restriction.

(B) For all new or substantially rehabilitated units developed or otherwise assisted with moneys from the separate fund established pursuant to subdivision (a) of Section 100670, a separate document called "Notice of Affordability Restrictions on Transfer of Property," set forth in 14-point type or larger. This document shall contain all of the following information:

(i) A recitation of the affordability covenants or restrictions. The document recorded under this subparagraph shall be recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the concurrently recorded document.

(ii) The date the covenants or restrictions expire.

(iii) The street address of the property, including, if applicable, the unit number, unless the property is used to confidentially house victims of domestic violence.

(iv) The assessor's parcel number for the property.

(v) The legal description of the property.

(4) The agency shall require the recording of the document required under subparagraph (B) of paragraph (3) not more than 30 days after the date of recordation of the covenants or restrictions required under subparagraph (A) of paragraph (3).

(5) The county recorder shall index the documents required to be recorded under paragraph (3) by the agency and current owner.

(6) Notwithstanding Section 27383, a county recorder may charge all authorized recording fees to any party, including a public agency, for recording the document specified in subparagraph (B) of paragraph (3).

(7) Notwithstanding any other law, the covenants or restrictions implementing this subdivision shall run with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:

(A) The agency.

(B) Any affected taxing entity.

(C) A resident of a unit subject to this subdivision.

(D) A residents' association with members who reside in units subject to this subdivision.

(E) A former resident of a unit subject to this subdivision who last resided in that unit.

(F) An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this subdivision, if the applicant conforms to all of the following:

(i) Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(ii) Is able and willing to occupy that particular unit.

(iii) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this subdivision.

(G) A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and who is able and willing to occupy a unit subject to this subdivision.

(8) A dwelling unit shall not be counted as satisfying the affordable housing requirements of this title, unless covenants for that dwelling unit are recorded in compliance with subparagraph (A) of paragraph (3).

(9) Failure to comply with the requirements of subparagraph (B) of paragraph (3) shall not invalidate any covenants or restrictions recorded pursuant to subparagraph (A) of paragraph (3).

(g) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912 of the Health and Safety Code. The definitions of "lower income households," "very low income households," and "extremely low income households" in Sections 50079.5, 50105, and 50106 of the Health and Safety Code shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this section and in Section 100670, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to, and occupied by, low- and moderate-income households, including extremely low and very low income households, for the longest feasible time, but not less than 55 years, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require that the units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for the longest feasible time, but not less than 55 years.

(i) Funds from the separate fund established pursuant to subdivision (a) of Section 100670 shall not be used to the extent that other reasonable means of private or commercial financing of the new or substantially rehabilitated units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Before the expenditure of funds from the separate fund for new or substantially rehabilitated housing units, where those funds will exceed 50 percent of the cost of producing the units, the agency shall find, based on substantial evidence, that the use of the funds is necessary because the agency or owner of the units has made a good faith attempt but has been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity.

100671. (a) Except as specified in subdivision (d), each agency shall expend over each 10-year period of the redevelopment project

plan the moneys in the separate fund established pursuant to subdivision (a) of Section 100670 to assist housing for persons of low income and housing for persons of very low income in at least the same proportion as the total number of housing units needed that each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community, as those needs have been determined for the community pursuant to Section 65584. In determining compliance with this obligation, the agency may adjust the proportion by subtracting from the need identified for each income category, the number of units for persons of that income category that are newly constructed over the duration of the implementation plan with other locally controlled government assistance and without agency assistance and that are required to be affordable to, and occupied by, persons of the income category for at least 55 years for rental housing and 45 years for ownership housing, except that in making an adjustment the agency may not subtract units developed pursuant to a replacement housing obligation under state or federal law.

(b) Each agency shall expend over the duration of each plan, the moneys in the separate fund established pursuant to subdivision (a) of Section 100670 to assist housing that is available to all persons regardless of age in at least the same proportion as the number of low-income households with a member under 65 years of age bears to the total number of low-income households of the community as reported in the most recent census of the United States Census Bureau.

(c) An agency that has deposited in the separate fund established pursuant to subdivision (a) of Section 100670 over the first five years of the period of a plan an aggregate that is less than two million dollars ($2,000,000) shall have an extra five years to meet the requirements of this section.

(d) For the purposes of this section, “locally controlled” means government assistance if the city or county that proposed formation of the agency pursuant to Section 100610, one or more of the cities that jointly proposed formation of the agency pursuant to Section 100610.5, or other local government entity has the discretion and the authority to determine the recipient and the amount of the assistance, whether or not the source of the funds or other assistance is from the state or federal government. Examples of

locally controlled government assistance include, but are not limited to, the Community Development Block Grant Program (42 U.S.C. Sec. 5301 et seq.) funds allocated to a city or county, the Home Investment Partnership Program (42 U.S.C. Sec. 12721 et seq.) funds allocated to a city or county, fees or funds received by a city or county pursuant to a city or county authorized program, and the waiver or deferral of city or other charges.

100671.5. Every redevelopment project plan shall contain both of the following:

(a) A provision that requires, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a revitalization project, the agency to, within two years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable housing costs, as defined by Section 50052.5 of the Health and Safety Code, within the territorial jurisdiction of the agency, in accordance with all of the provisions of Section 100635.

(b) A provision that prohibits the number of housing units occupied by extremely low, very low-, and low-income households, including the number of bedrooms in those units, at the time the plan is adopted, from being reduced in the plan area during the effective period of the plan.

100672. Programs to assist or develop low- and moderate-income housing pursuant to this title shall be entitled to priority consideration after a program implemented by a housing successor pursuant to Section 34176.1 of the Health and Safety Code for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.

100672.5. The same notice requirements as specified in Section 65863.10 shall apply to multifamily rental housing that receives financial assistance pursuant to Sections 100670 and 100670.5.

100673. Notwithstanding Sections 100670 and 100670.5, assistance provided by an agency to preserve the availability to

lower income households of affordable housing units within the plan area which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates may be credited and offset against an agency's obligations under Section 100670.

100673.5. (a) Except as otherwise provided in this subdivision, not later than six months following the close of any fiscal year of an agency in which excess surplus accumulates in the agency's separate fund established pursuant to subdivision (a) of Section 100670, the agency may adopt a plan pursuant to this section for expenditure of all moneys in the separate fund within five years from the end of that fiscal year. The plan may be general and need not be site-specific, but shall include objectives respecting the number and type of housing to be assisted, identification of the entities that will administer the plan, alternative means of ensuring the affordability of housing units for the longest feasible time, as specified in subdivision (f) of Section 100670.5, the income groups to be assisted, and a schedule by fiscal year for expenditure of the excess surplus.

(b) The agency shall separately account for any excess surplus accumulated each year either as part of or in addition to the separate fund established pursuant to subdivision (a) of Section 100670.

(c) If the agency develops a plan for expenditure of excess surplus or other moneys in the separate fund established pursuant to subdivision (a) of Section 100670, a copy of that plan and any amendments to that plan shall be included in the agency's annual report pursuant to Section 100640.

100674. (a) (1) Upon failure of the agency to expend or encumber excess surplus in the separate fund established pursuant to subdivision (a) of Section 100670, within one year from the date the moneys become excess surplus, as defined in paragraph (1) of subdivision (g), the agency shall do either of the following:

(A) Disburse voluntarily its excess surplus to the county housing authority, a private nonprofit housing developer, or to another public agency exercising housing development powers within the territorial jurisdiction of the agency in accordance with subdivision (b).

(B) Expend or encumber its excess surplus within two additional years.

(2) If an agency, after three years has elapsed from the date that the moneys become excess surplus, has not expended or encumbered its excess surplus, the agency shall be subject to sanctions pursuant to subdivision (e), until the agency has expended or encumbered its excess surplus plus an additional amount, equal to 50 percent of the amount of the excess surplus that remains at the end of the three-year period. The additional expenditure shall not be from the agency's separate fund established pursuant to subdivision (a) of Section 100670, but shall be used in a manner that meets all requirements for expenditures from that fund.

(b) The housing authority or other public agency to which the money is transferred shall utilize the moneys for the purposes of, and subject to the same restrictions that are applicable to, the agency under this part, and for that purpose may exercise all of the powers of a housing authority under Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code to an extent not inconsistent with these limitations.

(c) Notwithstanding Section 34209 of the Health and Safety Code or any other law, for the purpose of accepting a transfer of, and using, moneys pursuant to this section, the housing authority of a county or other public agency may exercise its powers within the territorial jurisdiction of an agency located in that county.

(d) The amount of excess surplus that shall be transferred to the housing authority or other public agency because of a failure of the agency to expend or encumber excess surplus within one year shall be the amount of the excess surplus that is not so expended or encumbered. The housing authority or other public agency to which the moneys are transferred shall expend or encumber these moneys for authorized purposes not later than three years after the date these moneys were transferred from the separate fund established pursuant to subdivision (a).

(e) (1) Until a time when the agency has expended or encumbered excess surplus moneys pursuant to subdivision (a), the agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend moneys to pay the following obligations, if any, that were incurred by the agency before three years from the date the moneys became excess surplus:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency, whether funded, refunded,

assumed, or otherwise, pursuant to Part 7 (commencing with Section 100680).

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) Contractual obligations which, if breached, could subject the agency to damages or other liabilities or remedies.

(D) Indebtedness incurred pursuant to Section 100670 or 100672.

(E) An amount, to be expended for the operation and administration of the agency, that may not exceed 75 percent of the amount spent for those purposes in the preceding fiscal year.

(2) This subdivision shall not be construed to prohibit the expenditure of excess surplus funds or other funds to meet the requirement in paragraph (2) of subdivision (a) that the agency spend or encumber excess surplus funds, plus an amount equal to 50 percent of excess surplus, before spending or encumbering funds for any other purpose.

(f) This section shall not be construed to limit any authority that an agency may have under other provisions of this title to contract with a housing authority, private nonprofit housing developer, or other public agency exercising housing developer powers, for increasing or improving the community's supply of low- and moderate-income housing.

(g) For purposes of this section:

(1) "Excess surplus" means any unexpended and unencumbered amount in an agency's separate fund established pursuant to subdivision (a) of Section 100670 that exceeds the greater of one million dollars ($1,000,000) or the aggregate amount deposited into the separate fund pursuant to Sections 100670 and 100672 during the agency's preceding four fiscal years. The first fiscal year to be included in this computation is the 2019–20 fiscal year, and the first date on which an excess surplus may exist is July 1, 2024.

(2) Moneys shall be deemed encumbered if committed pursuant to a legally enforceable contract or agreement for expenditure for purposes specified in Sections 100670 and 100670.5.

(3) (A) For purposes of determining whether an excess surplus exists, it is the intent of the Legislature to give credit to agencies which convey land for less than fair market value, on which low-

and moderate-income housing is built or is to be built if at least 49 percent of the units developed on the land are available at an affordable housing cost to lower income households for at least the time specified in subdivision (f) of Section 100670.5, and otherwise comply with all of the provisions of this division applicable to expenditures of moneys from a low- and moderate-income housing fund established pursuant to Section 100670.5. Therefore, for the sole purpose of determining the amount, if any, of an excess surplus, an agency may make the following calculation: if an agency sells, leases, or grants land acquired with moneys from the separate fund established pursuant to subdivision (a) of Section 100670 for an amount which is below fair market value, and if at least 49 percent of the units constructed or rehabilitated on the land are affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, the difference between the fair market value of the land and the amount the agency receives may be subtracted from the amount of moneys in an agency's separate fund.

(B) If taxes that are deposited in the separate fund are used as security for bonds or other indebtedness, the proceeds of the bonds or other indebtedness, and income and expenditures related to those proceeds, shall not be counted in determining whether an excess surplus exists. The unspent portion of the proceeds of bonds or other indebtedness, and income related thereto, shall be excluded from the calculation of the unexpended and unencumbered amount in the separate fund when determining whether an excess surplus exists.

(C) This subdivision shall not be construed to restrict the authority of an agency provided in any other provision of this title to expend funds from the separate fund established pursuant to subdivision (a) of Section 100670.

(D) The Department of Housing and Community Development shall develop and periodically revise the methodology to be used in the calculation of excess surplus as required by this section. The Director of Housing and Community Development shall appoint an advisory committee to advise in the development of this methodology. The advisory committee shall include department staff, affordable housing advocates, and representatives of the housing successors of former redevelopment agencies, the League of California Cities, the California Society of Certified Public

Accountants, the Controller, and any other authorities or persons interested in the field that the director deems necessary and appropriate.

(h) Communities in which an agency has disbursed excess surplus funds pursuant to this section shall not disapprove a low- or moderate-income housing project funded in whole or in part by the excess surplus funds if the project is consistent with applicable building codes and the land use designation specified in any element of the general plan as it existed on the date the application was deemed complete. A local agency may require compliance with local development standards and policies appropriate to and consistent with meeting the quantified objectives relative to the development of housing, as required in housing elements of the community pursuant to subdivision (b) of Section 65583.

100674.5. (a) Notwithstanding Sections 50079.5, 50093, and 50105 of the Health and Safety Code, for purposes of an agency providing assistance to mortgagors participating in a homeownership residential mortgage revenue bond program pursuant to Section 33750 of the Health and Safety Code, or a home financing program pursuant to Section 52020 of the Health and Safety Code, or a California Housing Finance Agency home financing program, "area median income" means the highest of the following:

(1) Statewide median household income.

(2) Countywide median household income.

(3) Median family income for the area, as determined by the United States Department of Housing and Urban Development with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(b) To the extent that any portion of the separate fund established pursuant to subdivision (a) of Section 100670 is expended by an agency to provide assistance to mortgagors participating in programs whose income exceeds that of persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the agency shall, within two years, expend or enter into a legally enforceable agreement to expend twice that sum exclusively to increase and improve the community's supply of housing available at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety

Code, of which at least 50 percent shall be very low income households, as defined in Section 50105 of the Health and Safety Code.

(c) In addition to the requirements of subdivision (c) of Section 33413 of the Health and Safety Code, the agency shall require that the lower and very low income dwelling units developed pursuant to this subdivision remain available at an affordable housing cost to lower and very low income households for at least 45 years, except as to dwelling units developed with the assistance of federal or state subsidy programs which terminate in a shorter period and cannot be extended or renewed.

(d) The agency shall include within the report required by Section 100640 information with respect to compliance by the agency with the requirements of this section.

100675. The covenants or restrictions imposed by the agency pursuant to subdivision (f) of Section 100670.5 may be subordinated under any of the following alternatives:

(a) To a lien, encumbrance, or regulatory agreement under a federal or state program when a federal or state agency is providing financing, refinancing, or other assistance to the housing units or parcels, if the federal or state agency refuses to consent to the seniority of the agency's covenant or restriction on the basis that it is required to maintain its lien, encumbrance, or regulatory agreement or restrictions due to statutory or regulatory requirements, adopted or approved policies, or other guidelines pertaining to the financing, refinancing, or other assistance of the housing units or parcels.

(b) To a lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of owner-occupied units or parcels, provided that the agency makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available.

(c) To an existing lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of rental units, where the agency's funds are utilized for rehabilitation of the rental units.

(d) To a lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing,

refinancing, or other assistance of rental units or parcels, provided that the agency makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available, and the agency obtains written commitments reasonably designed to protect the agency's investment in the event of default, including, but not limited to, any of the following:

(1) A right of the agency to cure a default on the loan.

(2) A right of the agency to negotiate with the lender after notice of default from the lender.

(3) An agreement that if before foreclosure of the loan, the agency takes title to the property and cures the default on the loan, the lender will not exercise any right it may have to accelerate the loan by reason of the transfer of title to the agency.

(4) A right of the agency to purchase property from the owner at any time after a default on the loan.

100675.5. Subsidies provided pursuant to paragraph (8) of subdivision (b) of Section 100670 may include payment of a portion of the principal and interest on bonds issued by a public agency to finance housing for persons and families specified in that paragraph if the agency ensures by contract that the benefit of the subsidy will be passed on to those persons and families in the form of lower housing costs.

100676. For each interest in real property acquired using moneys from the separate fund established pursuant to subdivision (a) of Section 100670, the agency shall, within five years from the date it first acquires the property interest for the development of housing affordable to persons and families of low and moderate income, initiate activities consistent with the development of the property for that purpose. These activities may include, but are not limited to, zoning changes or agreements entered into for the development and disposition of the property. If these activities have not been initiated within this period, the agency may, by resolution, extend the period during which the agency may retain the property for one additional period not to exceed five years. The resolution of extension shall affirm the intention of the governing board that the property be used for the development of housing affordable to persons and families of low and moderate income. In the event that physical development of the property for

this purpose has not begun by the end of the extended period, or if the agency does not comply with this requirement, the property shall be sold and the moneys from the sale, less reimbursement to the agency for the cost of the sale, shall be deposited in the agency's separate fund established pursuant to subdivision (a) of Section 100670.

PART 7. TAX INCREMENT BONDS

100680. The agency may, by majority ~~vote,~~ *vote of its governing board*, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds.

100681. The resolution adopted pursuant to Section 100680 shall contain all of the following information:

(a) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue.

(b) The estimated cost of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

(c) The maximum interest rate and discount on the proposed bond issuance.

(d) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

(e) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to subdivision ~~(e).~~ *(d)*.

100682. (a) (1) Except as otherwise provided in subdivision (b), the clerk of the agency shall publish the resolution adopted pursuant to Section 100681 once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.

(2) In the case of an agency jointly formed by two or more cities pursuant to Section 100610.5, the clerk shall publish the resolution in a newspaper in each city in which the agency is located.

(b) If there are no newspapers that meet the criteria specified in subdivision (a), the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.

100683. (a) If the agency adopts a resolution proposing initiation of proceedings to issue bonds pursuant to Section 100680 for port or harbor infrastructure, it shall submit the proposal, together with the information specified in Section 100681, to the affected harbor agency pursuant to Section 1713 of the Harbors and Navigation Code for its preliminary approval.

(b) If the harbor agency grants preliminary approval, the proposal shall be considered by the State Lands Commission for final approval pursuant to Section 1714 of the Harbors and Navigation Code.

(c) If the State Lands Commission votes in favor of the issuance of the bonds as provided in Section 1714 of the Harbors and Navigation Code, the agency may proceed with the issuance of bonds pursuant to this part.

100684. The agency shall issue bonds by adopting a resolution providing for all of the following:

(a) The issuance of the bonds in one or more series.

(b) The principal amount of the bonds that shall be consistent with the amount specified in subdivision (b) of Section 100681.

(c) The date the bonds will bear.

(d) The date of maturity of the bonds.

(e) The denomination of the bonds.

(f) The form of the bonds.

(g) The manner of execution of the bonds.

(h) The medium of payment in which the bonds are payable.

(i) The place or manner of payment and any requirements for registration of the bonds.

(j) The terms of call or redemption, with or without premium.

100685. The agency may provide for refunding of bonds issued pursuant to this chapter. However, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded. The agency shall not extend the time to maturity of the bonds.

100686. The agency or any person executing the bonds shall not be personally liable on the bonds by reason of their issuance. The bonds and other obligations of an agency issued pursuant to

this part are not a debt of the city, county, or state or of any of its political subdivisions, other than the agency, and none of those entities, other than the agency, shall be liable on the bonds and the bonds or obligations shall be payable exclusively from funds or properties of the agency. The bonds shall contain a statement to this effect on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

100687. The bonds may be sold at discount not to exceed 5 percent of par at public sale. At least five days before the sale, notice shall be published, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. The bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

100688. If any member of the agency whose signature appears on bonds ceases to be a member of the agency before delivery of the bonds, ~~his or her~~ *that member's* signature is as effective as if ~~he or she~~ *the member* had remained in office. Bonds issued pursuant to this part are fully negotiable.

100689. Upon the approval of its legislative body, a city, county, or special district that contains territory within the boundaries of an agency may loan moneys to the agency to fund those activities described in the redevelopment project plan approved and adopted pursuant to Part 5 (commencing with Section 100650). Moneys loaned pursuant to this provision may be repaid at an interest rate that does not exceed the Local Agency Investment Fund rate that is in effect on the date that the loan is approved by the governing board. Notwithstanding any other provision of law, it is the intent of the Legislature that any loan issued to an agency by a governmental entity shall be repaid fully unless agreed to otherwise between the agency and the governmental entity.

100690. (a) Every two years after the issuance of debt pursuant to Section 100684, the agency shall contract for an independent financial and performance audit. The audit shall be conducted according to guidelines established by the Controller. A copy of the completed audit shall be provided to the Controller, the Director of Finance, and to the Joint Legislative Budget Committee.

(b) Upon the request of the Governor or of the Legislature, the Bureau of State Audits may conduct financial and performance

audits of districts. The results of the audits shall be provided to the agency, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.

~~SEC. 3.~~

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 11 (Chiu, et al.) – As Amended April 11, 2019

SUBJECT: Community Redevelopment Law of 2019.

SUMMARY: Authorizes a city or county to create affordable housing and infrastructure agency (agency) subject to approval by the Strategic Growth Council (SGC). Specifically, **this bill**:

1) Establishes the Community Redevelopment Law of 2019, and defines the following terms:

   a) "Affected taxing entity" to mean any governmental taxing agency which levied or had levied on its behalf an ad valorem property tax on all or a portion of the property located in the proposed agency in the fiscal year before the designation of the agency district;

   b) "Affected taxing entity equity amount" to mean the amount of ad valorem property tax revenue that the affected taxing entity would have received from property located within the redevelopment project area in the absence of the affordable housing and infrastructure agency, calculated as specified;

   c) "Agency" to mean an affordable housing and infrastructure agency created by this title;

   d) "County" to mean a county or a city and county;

   e) "Debt" to mean any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals;

   f) "Designated official" to mean the appropriate official, such as an engineer of a city or county that is an affected taxing entity, as designated;

   g) "Governing board" to mean the governing body of an agency;

   h) "Landowner" or "owner of land" to mean any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the governing board. Specifies that the governing board has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive. Specifies that a public agency is not a landowner or owner of land, unless the public agency owns all of the land to be included within the proposed agency;

   i) "Legislative body" to mean the city council of the city or board of supervisors of the county;

   j) "Redevelopment project" to mean any undertaking of an agency, as specified; and,

   k) "Special district" to mean an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries.

2) States that the Legislature declares that this title constitutes the Community Redevelopment Law within the meaning of Article XVI of Section 16 of the California Constitution, and that an agency formed pursuant to this title shall have all powers granted to a redevelopment agency pursuant to that section.

3) Allows the legislative body of a city or county to propose to form an agency by adopting a resolution of intention, which shall contain: a statement that an agency is proposed to be established; a statement of the need for the proposed agency and the goals that that proposed agency seeks to achieve; a preliminary project plan prepared by the legislative body; a financing section; a statement that the city or county adopting the resolution thereby elects to not receiving, whether by pass through or otherwise, a portion of those ad valorem property tax revenues that are in excess of the base year amount that the city or county would have otherwise been entitled to in absence of the agency; and, a statement that a public hearing will be held on the proposal, and a statement of the time and place of that hearing.

4) Requires the preliminary project plan, at a minimum, to include the following:

   a) A description of the proposed boundaries of the project area, as specified;

   b) A general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area;

   c) Evidence that redevelopment will achieve the purposes of this title;

   d) Evidence that the proposed redevelopment is consistent with the general plan of each applicable city or county in which the projects are proposed to be located;

   e) A general description of the impact of the project upon the area's residents and upon the surrounding neighborhood; and,

   f) A description of the affordable housing or infrastructure projects that are proposed to be financed by the agency.

5) Requires the financing section to contain all of the following information:

   a) A projection of the amount of tax revenues expected to be received by the agency in each year during which the agency will received tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year;

   b) A plan for financing the projects to be assisted by the agency, including a detailed description of any intention to incur debt;

   c) A statement of the total number of dollars of taxes that may be allocated to the agency pursuant to the plan;

   d) The date on which the agency will cease to exist, by which time all tax allocation to the agency will end, as specified;

e) An analysis of the costs to the city or county of providing facilities and services to the area of the agency while the area is being developed and after the area is developed, as specified;

f) An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity;

g) A passthrough provision that provides that the agency will, except as otherwise provided, pay to each affected taxing entity an amount equivalent to the affecting taxing entity equity amount. Specifies that a passthrough provision shall not provide payment to the city or county proposing to form the agency, or to any school entity; and,

h) An override passthrough provision that provides that the agency will pay to each affected taxing entity that imposed an override property tax on propertied located within the project area an amount that is equivalent to the amount that affected taxing entity would have received, as specified.

6) Requires the legislative body to direct the city clerk or county recorder to mail a copy of the resolution of intention to each affected taxing entity.

7) Allows the legislative body of two or more cities to propose to jointly form an agency, subject to certain conditions, by adoption of a resolution of intention by each city proposing to jointly form the agency, and specifies the process for jointly forming an agency.

8) Requires the city or county that adopted the resolution of intention, or the cities that jointly adopted a resolution of intention, to consult with each affected taxing entity. Allows any affected taxing entity to suggest revisions to be included in the resolution of formation.

9) Allows an affected taxing entity to consent to not receive any amount that would have been received under a passthrough provision, as specified.

10) Requires the legislative body to hold a public hearing on the proposal, no sooner than 60 days after the resolution of intention was provided to each affected taxing entity. Requires the legislative body to provide notice of the public hearing, as specified.

11) Requires the legislative body, at the public hearing, to proceed to hear and pass upon all written and oral objections to the formation of the agency, and to consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the formation of the agency. Allows the hearing to be continued. Allows the legislative body to adopt a resolution proposing the formation of the agency, at the conclusion of the public hearing. Requires the resolution of formation to be sent to each affected taxing entity.

12) Requires the legislative body that adopted the resolution of formation to submit that resolution, along with supporting documents, to SGC for review. Requires SGC to determine whether the establishment of an agency would promote statewide greenhouse gas reduction goals. Requires SGC to ensure that the proposed projects equitably represent rural, suburban, and urban communities, and that establishing the agency would not result in an equitable geographic distribution of agencies throughout the state. Requires SGC to approve the resolution of formation of an agency if it determines both of the following:

a) Formation of the agency would not result in a state fiscal impact that exceeds the limits specified in ___ below; and,

b) Formation of the agency would promote statewide greenhouse gas reduction goals.

13) Provides that the agency is deemed to be in existence as of the date of that approval.

14) Requires SGC to adopt policies and procedures for the receipt and evaluation of resolutions of intention. Requires SGC to establish a program to provide technical assistance to a city or county that desires to form an agency.

15) Provides for the governing body of the agency, as follows:

a) One member appointed by the legislative body, or in the case of agency jointly formed by two or more cities, one member appointed by the legislative body of each city;

b) One member appointed by each affected taxing entity; and,

c) Two public members initially appointed by the members appointed by the board composed of the members specified above, and then thereafter appointed by the board as a whole. Prohibits the public members from being an elective officer or employee of any affected taxing entity;

16) Provides that a majority of the membership of the board constitutes a quorum. A majority of the remaining members of the board shall constitute a quorum, if there is a vacancy.

17) Prohibits members of the board from receiving compensation, but may receive reimbursement for actual and necessary expenses. Provides that members of the governing board are subject to ethics training, and that the agency is subject to the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

18) Allows an agency to finance:

a) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that constitutes affordable housing or infrastructure projects;

b) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property; and,

c) Costs described in 25), below;

19) Provides that financed facilities are not required to be physically located within the boundaries of the agency if there is a tangible connection to the work of the agency. Prohibits an agency from financing routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind. Provides that an agency can only finance redevelopment projects that the agency finds are appropriate or necessary in the interests of the general welfare. States that redevelopment projects shall only include the following affordable housing or infrastructure projects:

a) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities;

b) Sewage treatment and water reclamation plants and interception pipes;

c) Facilities for the collection and treatment of water for urban uses;

d) Flood control levees and dams, retention basins, and drainage channels;

e) Childcare facilities;

f) Libraries;

g) Parks, recreational facilities, and open space;

h) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles;

i) Brownfield restoration and other environmental mitigation;

j) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as specified, for rent or purchase. Allows the agency to finance very low, low, or moderate income units in mixed-income housing developments, as specified;

k) Transit priority projects, as specified;

l) Projects that implement a sustainable communities strategy, as specified; and,

m) Port or harbor infrastructure, as specified;

20) Requires the agency to require, by recorded covenant or restrictions, that housing units built by the agency shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income households, not less than 55 years for rental units and 45 years for owner-occupied units.

21) Prohibits an agency from allocating or transferring any funds to any city, county, or special district unless it is a payment required by the passthrough provision included in the financing section.

22) Allows an agency to, within the area established in an approved redevelopment project plan, do either of the following:

a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, as specified; or,

b) Acquire real property by eminent domain to be used in a redevelopment project, as specified.

23) Allows an agency to rent, maintain, manage, operate, repair, and clear real property owned by the agency in an area established in an approved project plan for the purpose of providing affordable housing.

24) Prohibits a city or county that created a former redevelopment agency from forming an agency, or participating in the governance of financing of an agency, until specified conditions have been met. Allows an agency to include a portion of a former redevelopment project area, in specified circumstances.

25) States the intent of the Legislature that the creation of an agency should not ordinarily lead to the removal of existing dwelling units. Requires replacement dwelling units to be identified, if dwelling units to be removed or destroyed are or were inhabited by persons or families of very low, low, or moderate income at any time within five years before the establishment of the agency, as specified. Provides for other replacement dwelling and relocation assistance requirements, as specified.

26) Requires any action or proceeding to attack, review, set aside, void, or annul the creation of an agency, adoption of a redevelopment plan, including the division of taxes thereunder, to be commenced within 30 days after the formation of the agency or adoption of the project plan, as applicable. Specifies that an action or proceeding with respect to a division of taxes or an action to determine the validity of the issuance of bonds may be brought pursuant to Chapter 9 of Title 10 of Part 2 of the Code of Civil Procedure.

27) Requires an agency to maintain detailed records of every action taken by that agency, as specified.

28) Requires an agency to adopt an annual budget, as specified.

29) Requires an agency to submit an annual report to its governing board within six months of the end of the agency's fiscal year, and to submit any audit undertaken by any other local, state, or federal government entity within 30 days of receipt of that audit report. Specifies the contents of the annual report. Requires the agency to file the annual report with the Controller and the Department of Housing and Community Development (HCD) within six months of the end of the agency's fiscal year. Requires the agency to provide a copy, upon written request, to any persons or any affected taxing entity.

30) Requires the agency to inform the governing board of any major audit violations at the time the agency presents the annual report to the governing board.

31) Requires the Controller to develop and periodically revise the guidelines for the content of the report, and appoint an advisory committee to advise in the development of those guidelines, as specified.

32) Requires HCD to compile and publish reports of the activities of each agency for the previous fiscal year, as specified.

33) Requires the Controller to compile a list of agencies that appear to have major audit violations, and determine if the agency has corrected the major audit violation, as specified. Requires the Controller to send an agency's major violations and relevant documents to the Attorney General, if the Controller determines that an agency has not corrected the major

audit violation. Requires notice to the agency if the Controller refers audit violations to the Attorney General. Requires the Attorney General to determine whether to file an action to compel the agency's compliance, as specified, and provides for court procedures, as specified. Provides for a sliding scale of fines based on the agency's total revenue, if the court determines that the major audit violation has not been corrected.

34) Requires, after the agency is formed, the governing board to designate an appropriate official, such as an engineer of a city or county that is an affected taxing entity, to prepare a redevelopment project plan. Requires the official to prepare a proposed redevelopment project plan, as specified. Requires the designated official to mail the plan to each owner of land within the agency's boundaries and to each affected taxing entity together with any report required by the California Environmental Quality Act (CEQA), as specified, and make the plan available for public inspection. Requires the report to be sent to the governing board. Requires the governing board, no sooner than 60 days after the plan was submitted, to hold a public hearing on the proposal, and provide notice of the public hearing, as specified. Requires the governing board to hear and pass upon all written and oral objections to the plan, and to consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the proposed plan. Allows the board to modify the plan. Allows the governing board to adopt a resolution proposing the adoption of the plan, at the conclusion of the hearing. Specifies that the plan shall take effect upon the adoption of the resolution, unless the proceedings are abandoned.

35) Allows a redevelopment project plan to contain a provision that taxes, if any, levied upon taxable property in the area included within the agency each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to the bill's provisions to create the agency, shall be divided as follows:

    a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the agency as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted to create the agency, to be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid;

    b) That portion of the levied taxes each year specified in the financing plan for the city or county and each affected taxing entity that has agreed to participate in excess of the amount, as specified, shall be allocated to, and when collected shall be paid into a special fund of the agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness incurred by the agency to finance or refinance, in whole or in part, the project. Unless and until the total assessed valuation of the taxable property in an agency exceeds the total assessed value of the taxable property in the agency as shown by the last equalized assessment roll referred to in a), above, all of the taxes levied and collected upon the taxable property in the agency shall be paid to the respective affected taxing entities. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the project shall be paid to the affected taxing entities as taxes on all other property are paid. When the agency ceases to exist, all moneys thereafter received from taxes upon the

taxable property in the agency shall be paid to the respective affected taxing entities as taxes on all other property are paid; and,

c) That portion of the taxes in excess of the amount identified in a), above, which are attributable to a tax rate levied by an affected taxing entity for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that affected taxing entity. This shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the affected taxing entity on or after January 1, 1989.

36) Specifies, where any agency boundaries overlap with the boundaries of any former redevelopment agency (RDA) project area, any debt or obligation of an agency shall be subordinate to any and all enforceable obligations of the former RDA, as approved by the Oversight Board and Department of Finance (DOF), as specified. Specifies that the division of taxes allocated to the agency, as specified, shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund.

37) Allows the legislative body of the city or county forming the agency to choose to dedicate any portion of its net available revenue to the agency through the redevelopment project plan.

38) Requires, that portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to existing law related to the Educational Revenue Augmentation Fund (ERAF) that is specified in the adopted infrastructure financing plan for the city or county that has agreed to participate in the division of taxes, and that corresponds to the increase in the assessed valuation of taxable property, to be allocated to, and when collected to be apportioned to a special fund of the agency for all lawful purposes of the agency.

39) Provides that when the agency ceases to exist pursuant to the adopted infrastructure financing plan, the revenues described in the division of taxes section of the bill shall be allocated to, and when collected, shall be apportioned to the respective city or county.

40) Provides that the bill's provisions shall not be construed to prevent an agency from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the infrastructure financing plan has been approved: the Improvement Act of 1911; the Municipal Improvement Act of 1913; the Improvement Bond Act of 1915; the Landscaping and Lighting Act of 1972; the Vehicle Parking District Law of 1943; the Parking District Law of 1951; the Park and Playground Act of 1909; the Mello-Roos Community Facilities Act of 1982; the Benefit Assessment Act of 1982; and, the so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

41) Provides that all costs incurred by a county in connection with the division of taxes for an agency shall be paid by that agency.

42) Requires, for each redevelopment project for which a statement of indebtedness is required to be filed, the statement to contain all of the following:

a) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

i) The date the loan, advance, or indebtedness was incurred or entered into;

ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness;

iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness; and,

iv) The total amount of principal and interesting remaining to be paid;

b) The sum of the amounts in iii), above;

c) The sum of the amounts in iv) above; and,

d) The available revenues as of the end of the previous year, as specified.

43) Requires certain information to be included in a reconciliation statement, as specified, for each redevelopment project where it is required.

44) Contains provisions for county auditors to allocate funds deposited in a special trust fund, after deducting administrative costs, as specified.

45) Requires not less than 30% of all taxes allocated to the agency from any affected taxing entity, as specified, to be deposited into a separate fund, which shall be used for the purposes of increasing, improving, and preserving the community's supply of low and moderate income housing available at affordable housing cost, as specified. Provides for the powers the agency may exercise in carrying out the purposes of this section, and limits what the agency can use the money for. Requires each agency to expend over each 10-year period of the project plan the moneys in the separate fund, unless otherwise specified.

46) Requires every redevelopment project plan to contain both of the following:

a) A provision that requires, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed as part of a project, the agency to, within two years, rehabilitate, develop or construct an equal number of replacement dwelling units, as specified; and,

b) A provision that prohibits the number of housing units occupied by extremely low, very low, and low income households, including the number of bedrooms in those units, at the time the plan is adopted, from being reduced in the plan area during the effective period of the plan.

47) Allows an agency to adopt a plan for expenditure of all moneys in the separate fund, in the event that an excess surplus accumulates, as specified.

48) Contains procedures specifying what happens if the agency fails to expend or encumber excess surplus in the separate fund, as specified.

49) Allows the agency, by majority vote of its governing board, to initiate proceedings to issue bonds by adopting a resolution stating its intent to issue bonds, and shall require the following information:

b) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue;

c) The estimated cost of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance;

d) The maximum interest rate and discount on the proposed bond issuance;

e) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds; and,

f) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to e), above.

43) Requires the clerk of the agency to publish the resolution once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week. Requires, in the case of an agency jointly formed by two or more cities, the clerk to publish the resolution in a newspaper in each city. If no newspapers meet the criteria, the resolution must be posted in three public places within the territory of the district for two succeeding weeks.

44) Requires the agency to issue bonds by adopting a resolution providing for all of the following:

a) The issuance of the bonds in one or more series;

b) The principal amount of the bonds that shall be consistent with the amount specified above;

c) The date the bonds will bear;

d) The date of maturity of the bonds;

e) The denomination of the bonds;

f) The form of the bonds;

g) The manner of execution of the bonds;

h) The medium of payment in which the bonds are payable;

i) The place or manner of payment and any requirements for registration of the bonds; and,

j) The terms of call or redemption, with or without premium.

45) Allows the agency to provide for the refunding of bonds, as specified.

46) Prohibits the agency or any person executing the bonds from being personally liable on the bonds by reason of their issuance, and provides that the bonds and other obligations of an agency are not a debt of the city, county, or state or any of its political subdivisions, other than the agency, and none of those entities, other than the agency, shall be liable on the bonds. Requires the bond obligations to be payable exclusively from funds or properties of the agency. Requires the bonds to contain a statement to this effect on their face. States that the bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

47) Allows the bonds to be sold at a discount not to exceed 5% of par at public sale. Requires, at least five days prior to the sale, notice to be published, as specified, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. Prohibits bonds from being sold at not less than par to the federal government at a private sale without any public advertisement.

48) Provides that if any member of the agency whose signature appears on bonds ceases to be a member of the public financing authority before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Provides that bonds issued pursuant to the bill's provisions are fully negotiable.

49) Requires the agency to contract for an independent financial and performance audit every two years after the issuance of debt, conducted according to guidelines established by the Controller.

50) Defines "state fiscal impact" to mean the impact on the amount that the state is required to apportion to local educational entities, in accordance with existing requirements, with respect to agencies within the state.

51) Requires, for the 2020-21 fiscal year, and each fiscal year thereafter, the Controller to determine the state fiscal impact with respect to all agencies within the state. Requires, if the state fiscal impact exceeds an unspecified dollar amount in any fiscal year, that an agency shall not be formed, and an existing agency shall not incur any additional indebtedness, until the next fiscal year in which the Controller determines that the state fiscal impact is below a specified limit.

52) Requires the Controller to publish on the Controller's website a notice that includes the Controller's determination of the state fiscal impact of all agencies within the state for the prior fiscal year and stating whether or not any additional agencies may be formed.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

1) **Background.** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing.

   At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over $5.6 billion yearly. In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

2) **Bill Summary and Author's Statement.** This bill would allow cities and counties to create affordable housing and infrastructure agencies to fund infrastructure and would require that 30% of funding generated be set-aside for affordable housing activities. To establish an agency all taxing entities would be required to participate; however, the local agency that establishes the agency would be required to passthrough property tax sufficient to keep the other taxing entities whole, excluding the schools' portion. Agencies are also required to get state approval. Agencies would provide the SGC with a copy of the resolution to create the agency and their plan to fund infrastructure, affordable housing, and finance their activities. Agencies that the state approves will receive the school's portion of tax increment in addition to the city's portion that created the agency. Schools would be kept whole because the state would contribute to agencies by backfilling schools to meet the Proposition 98 obligations. Each year, the Controller would determine the "state fiscal impact" or the amount that the state needs to contribute to schools to meet the Proposition 98 guarantee. This amount would be capped and would limit the amount of agencies that could be formed. This bill is sponsored by the author.

   According to the author, "Redevelopment agencies were a major source of funding for affordable housing and infrastructure. At the time of dissolution, the Controller estimated that the amount required to be spent on affordable housing was approximately $1 billion. AB 11 would authorize the creation of a new tax increment financing tool, affordable housing and infrastructure agencies, to fund infrastructure and affordable housing, but only with state approval.

"Cities and counties would need to pass a resolution creating an agency that includes a description of the project area, the intended activities, and local funding commitments. All taxing entities would be required to participate, however, cities could pass property taxes back to counties and special districts in an amount equivalent to what they would have received if the agency did not exist. The state would approve the creation of an agency and would backfill the schools' portion of property taxes to keep them whole under Proposition 98. The bill would cap the amount that the state provides in backfill each year and consequently the general fund cost. If we are going to address our housing affordability crisis, we need to give local governments the tools to fund affordable housing and infrastructure. AB 11 reinvigorates tax increment financing in a reasonable and fiscally prudent manner."

3) **Arguments in Support.** Supporters highlight the deficit that the dissolution of RDAs created in affordable housing funding statewide and the need to create a more robust tax increment financing tool than what has been authorized since redevelopment dissolution. RDAs generated $1 billion in funding a year for affordable housing and the loss of that funding has contributed to the affordable housing and homelessness crisis. New tools created after dissolution do not require the other taxing entities to participate and so far only cities have contributed tax increment. AB 11 would contribute the schools share but in a responsible manner by capping the total contribution statewide and requiring the state to backfill schools so they continue to receive adequate funding.

4) **Arguments in Opposition.** Howard Jarvis Taxpayers Association is concerned about the "unlimited ability to use eminent domain within a project area….while we see purpose in using eminent domain to improve property that may be creating a public nuisance, or threatens the health and safety of citizens, the current definition of blight in California law is far too broad to accomplish these objectives. Another concern is lack of voter involvement regarding issuing long-term debt. Any long-term bond that is on the property tax roll for 30-40 years will be in place long after the local politicians that approved it are out of office. Voters should have a say regarding how their tax dollars are allocated, and what projects they are spent on."

5) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 10, 2019, and passed with a 6-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Transportation Commission
Bay Area Housing Advocacy Coalition
California Apartment Association
California Association of Realtors
Leadingage California
San Francisco Housing Action Coalition

Opposition

California Teachers Association
Fieldstead And Company, Inc.
Howard Jarvis Taxpayers Association
Institute for Justice
Pacific Legal Foundation

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