

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*, 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:

1 SECTION 1. Section 11011.8 is added to the Government
2 Code, to read:
3 11011.8. (a) On or before December 31 of each year, the
4 Department of Housing and Community Development shall furnish
5 to the Department of General Services a list of lands suitable and
6 available for residential development that were identified by a
7 local government as part of the housing element of its general plan
8 pursuant to paragraph (3) of subdivision (a) of Section 65583 and
9 that were submitted to the Department of Housing and Community
10 Development pursuant to Section 65585.
11 (b) The Department of General Services shall create a database
12 of information that was furnished to it pursuant to subdivision (a)
13 and information regarding the state lands determined or declared
14 excess pursuant to Section 11011. The department shall make this

1 database available and searchable by the public by means of a link
2 on its internet website.

3 *SEC. 2. Section 65583 of the Government Code is amended to*
4 *read:*

5 65583. The housing element shall consist of an identification
6 and analysis of existing and projected housing needs and a
7 statement of goals, policies, quantified objectives, financial
8 resources, and scheduled programs for the preservation,
9 improvement, and development of housing. The housing element
10 shall identify adequate sites for housing, including rental housing,
11 factory-built housing, mobilehomes, and emergency shelters, and
12 shall make adequate provision for the existing and projected needs
13 of all economic segments of the community. The element shall
14 contain all of the following:

15 (a) An assessment of housing needs and an inventory of
16 resources and constraints relevant to the meeting of these needs.
17 The assessment and inventory shall include all of the following:

18 (1) An analysis of population and employment trends and
19 documentation of projections and a quantification of the locality's
20 existing and projected housing needs for all income levels,
21 including extremely low income households, as defined in
22 subdivision (b) of Section 50105 and Section 50106 of the Health
23 and Safety Code. These existing and projected needs shall include
24 the locality's share of the regional housing need in accordance
25 with Section 65584. Local agencies shall calculate the subset of
26 very low income households allotted under Section 65584 that
27 qualify as extremely low income households. The local agency
28 may either use available census data to calculate the percentage
29 of very low income households that qualify as extremely low
30 income households or presume that 50 percent of the very low
31 income households qualify as extremely low income households.
32 The number of extremely low income households and very low
33 income households shall equal the jurisdiction's allocation of very
34 low income households pursuant to Section 65584.

35 (2) An analysis and documentation of household characteristics,
36 including level of payment compared to ability to pay, housing
37 characteristics, including overcrowding, and housing stock
38 condition.

39 (3) (A) An inventory of land suitable and available for
40 residential development, including vacant sites and sites having

1 realistic and demonstrated potential for redevelopment during the
2 planning period to meet the locality's housing need for a designated
3 income level, and an analysis of the relationship of zoning and
4 public facilities and services to these sites.

5 *(B) Notwithstanding subdivision (a) of Section 65301, each*
6 *local government shall prepare the inventory required under this*
7 *paragraph using standards, forms, and definitions adopted by the*
8 *department. The department may review, adopt, amend, and repeal*
9 *the standards, forms, or definitions to implement this subdivision.*
10 *Any standards, forms, or definitions adopted to implement this*
11 *subdivision shall not be subject to Chapter 3.5 (commencing with*
12 *Section 11340) of Part 1 of Division 3 of Title 2.*

13 (4) (A) The identification of a zone or zones where emergency
14 shelters are allowed as a permitted use without a conditional use
15 or other discretionary permit. The identified zone or zones shall
16 include sufficient capacity to accommodate the need for emergency
17 shelter identified in paragraph (7), except that each local
18 government shall identify a zone or zones that can accommodate
19 at least one year-round emergency shelter. If the local government
20 cannot identify a zone or zones with sufficient capacity, the local
21 government shall include a program to amend its zoning ordinance
22 to meet the requirements of this paragraph within one year of the
23 adoption of the housing element. The local government may
24 identify additional zones where emergency shelters are permitted
25 with a conditional use permit. The local government shall also
26 demonstrate that existing or proposed permit processing,
27 development, and management standards are objective and
28 encourage and facilitate the development of, or conversion to,
29 emergency shelters. Emergency shelters may only be subject to
30 those development and management standards that apply to
31 residential or commercial development within the same zone except
32 that a local government may apply written, objective standards
33 that include all of the following:

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

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

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

3 (iv) The provision of onsite management.

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

6 (vi) The length of stay.

7 (vii) Lighting.

8 (viii) Security during hours that the emergency shelter is in
9 operation.

10 (B) The permit processing, development, and management
11 standards applied under this paragraph shall not be deemed to be
12 discretionary acts within the meaning of the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000) of the Public Resources Code).

15 (C) A local government that can demonstrate to the satisfaction
16 of the department the existence of one or more emergency shelters
17 either within its jurisdiction or pursuant to a multijurisdictional
18 agreement that can accommodate that jurisdiction's need for
19 emergency shelter identified in paragraph (7) may comply with
20 the zoning requirements of subparagraph (A) by identifying a zone
21 or zones where new emergency shelters are allowed with a
22 conditional use permit.

23 (D) A local government with an existing ordinance or ordinances
24 that comply with this paragraph shall not be required to take
25 additional action to identify zones for emergency shelters. The
26 housing element must only describe how existing ordinances,
27 policies, and standards are consistent with the requirements of this
28 paragraph.

29 (5) An analysis of potential and actual governmental constraints
30 upon the maintenance, improvement, or development of housing
31 for all income levels, including the types of housing identified in
32 paragraph (1) of subdivision (c), and for persons with disabilities
33 as identified in the analysis pursuant to paragraph (7), including
34 land use controls, building codes and their enforcement, site
35 improvements, fees and other exactions required of developers,
36 local processing and permit procedures, and any locally adopted
37 ordinances that directly impact the cost and supply of residential
38 development. The analysis shall also demonstrate local efforts to
39 remove governmental constraints that hinder the locality from
40 meeting its share of the regional housing need in accordance with

1 Section 65584 and from meeting the need for housing for persons
2 with disabilities, supportive housing, transitional housing, and
3 emergency shelters identified pursuant to paragraph (7).

4 (6) An analysis of potential and actual nongovernmental
5 constraints upon the maintenance, improvement, or development
6 of housing for all income levels, including the availability of
7 financing, the price of land, the cost of construction, the requests
8 to develop housing at densities below those anticipated in the
9 analysis required by subdivision (c) of Section 65583.2, and the
10 length of time between receiving approval for a housing
11 development and submittal of an application for building permits
12 for that housing development that hinder the construction of a
13 locality's share of the regional housing need in accordance with
14 Section 65584. The analysis shall also demonstrate local efforts
15 to remove nongovernmental constraints that create a gap between
16 the locality's planning for the development of housing for all
17 income levels and the construction of that housing.

18 (7) An analysis of any special housing needs, such as those of
19 the elderly; persons with disabilities, including a developmental
20 disability, as defined in Section 4512 of the Welfare and
21 Institutions Code; large families; farmworkers; families with female
22 heads of households; and families and persons in need of
23 emergency shelter. The need for emergency shelter shall be
24 assessed based on annual and seasonal need. The need for
25 emergency shelter may be reduced by the number of supportive
26 housing units that are identified in an adopted 10-year plan to end
27 chronic homelessness and that are either vacant or for which
28 funding has been identified to allow construction during the
29 planning period. An analysis of special housing needs by a city or
30 county may include an analysis of the need for frequent user
31 coordinated care housing services.

32 (8) An analysis of opportunities for energy conservation with
33 respect to residential development. Cities and counties are
34 encouraged to include weatherization and energy efficiency
35 improvements as part of publicly subsidized housing rehabilitation
36 projects. This may include energy efficiency measures that
37 encompass the building envelope, its heating and cooling systems,
38 and its electrical system.

39 (9) An analysis of existing assisted housing developments that
40 are eligible to change from low-income housing uses during the

1 next 10 years due to termination of subsidy contracts, mortgage
2 prepayment, or expiration of restrictions on use. “Assisted housing
3 developments,” for the purpose of this section, shall mean
4 multifamily rental housing that receives governmental assistance
5 under federal programs listed in subdivision (a) of Section
6 65863.10, state and local multifamily revenue bond programs,
7 local redevelopment programs, the federal Community
8 Development Block Grant Program, or local in-lieu fees. “Assisted
9 housing developments” shall also include multifamily rental units
10 that were developed pursuant to a local inclusionary housing
11 program or used to qualify for a density bonus pursuant to Section
12 65916.

13 (A) The analysis shall include a listing of each development by
14 project name and address, the type of governmental assistance
15 received, the earliest possible date of change from low-income
16 use, and the total number of elderly and nonelderly units that could
17 be lost from the locality’s low-income housing stock in each year
18 during the 10-year period. For purposes of state and federally
19 funded projects, the analysis required by this subparagraph need
20 only contain information available on a statewide basis.

21 (B) The analysis shall estimate the total cost of producing new
22 rental housing that is comparable in size and rent levels, to replace
23 the units that could change from low-income use, and an estimated
24 cost of preserving the assisted housing developments. This cost
25 analysis for replacement housing may be done aggregately for
26 each five-year period and does not have to contain a
27 project-by-project cost estimate.

28 (C) The analysis shall identify public and private nonprofit
29 corporations known to the local government that have legal and
30 managerial capacity to acquire and manage these housing
31 developments.

32 (D) The analysis shall identify and consider the use of all federal,
33 state, and local financing and subsidy programs that can be used
34 to preserve, for lower income households, the assisted housing
35 developments, identified in this paragraph, including, but not
36 limited to, federal Community Development Block Grant Program
37 funds, tax increment funds received by a redevelopment agency
38 of the community, and administrative fees received by a housing
39 authority operating within the community. In considering the use
40 of these financing and subsidy programs, the analysis shall identify

1 the amounts of funds under each available program that have not
2 been legally obligated for other purposes and that could be
3 available for use in preserving assisted housing developments.

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

7 (2) It is recognized that the total housing needs identified
8 pursuant to subdivision (a) may exceed available resources and
9 the community's ability to satisfy this need within the content of
10 the general plan requirements outlined in Article 5 (commencing
11 with Section 65300). Under these circumstances, the quantified
12 objectives need not be identical to the total housing needs. The
13 quantified objectives shall establish the maximum number of
14 housing units by income category, including extremely low income,
15 that can be constructed, rehabilitated, and conserved over a
16 five-year time period.

17 (c) A program that sets forth a schedule of actions during the
18 planning period, each with a timeline for implementation, that may
19 recognize that certain programs are ongoing, such that there will
20 be beneficial impacts of the programs within the planning period,
21 that the local government is undertaking or intends to undertake
22 to implement the policies and achieve the goals and objectives of
23 the housing element through the administration of land use and
24 development controls, the provision of regulatory concessions and
25 incentives, the utilization of appropriate federal and state financing
26 and subsidy programs when available, and the utilization of moneys
27 in a low- and moderate-income housing fund of an agency if the
28 locality has established a redevelopment project area pursuant to
29 the Community Redevelopment Law (Division 24 (commencing
30 with Section 33000) of the Health and Safety Code). In order to
31 make adequate provision for the housing needs of all economic
32 segments of the community, the program shall do all of the
33 following:

34 (1) Identify actions that will be taken to make sites available
35 during the planning period with appropriate zoning and
36 development standards and with services and facilities to
37 accommodate that portion of the city's or county's share of the
38 regional housing need for each income level that could not be
39 accommodated on sites identified in the inventory completed
40 pursuant to paragraph (3) of subdivision (a) without rezoning, and

1 to comply with the requirements of Section 65584.09. Sites shall
2 be identified as needed to facilitate and encourage the development
3 of a variety of types of housing for all income levels, including
4 multifamily rental housing, factory-built housing, mobilehomes,
5 housing for agricultural employees, supportive housing,
6 single-room occupancy units, emergency shelters, and transitional
7 housing.

8 (A) Where the inventory of sites, pursuant to paragraph (3) of
9 subdivision (a), does not identify adequate sites to accommodate
10 the need for groups of all household income levels pursuant to
11 Section 65584, rezoning of those sites, including adoption of
12 minimum density and development standards, for jurisdictions
13 with an eight-year housing element planning period pursuant to
14 Section 65588, shall be completed no later than three years after
15 either the date the housing element is adopted pursuant to
16 subdivision (f) of Section 65585 or the date that is 90 days after
17 receipt of comments from the department pursuant to subdivision
18 (b) of Section 65585, whichever is earlier, unless the deadline is
19 extended pursuant to subdivision (f). Notwithstanding the
20 foregoing, for a local government that fails to adopt a housing
21 element within 120 days of the statutory deadline in Section 65588
22 for adoption of the housing element, rezoning of those sites,
23 including adoption of minimum density and development standards,
24 shall be completed no later than three years and 120 days from the
25 statutory deadline in Section 65588 for adoption of the housing
26 element.

27 (B) Where the inventory of sites, pursuant to paragraph (3) of
28 subdivision (a), does not identify adequate sites to accommodate
29 the need for groups of all household income levels pursuant to
30 Section 65584, the program shall identify sites that can be
31 developed for housing within the planning period pursuant to
32 subdivision (h) of Section 65583.2. The identification of sites shall
33 include all components specified in Section 65583.2.

34 (C) Where the inventory of sites pursuant to paragraph (3) of
35 subdivision (a) does not identify adequate sites to accommodate
36 the need for farmworker housing, the program shall provide for
37 sufficient sites to meet the need with zoning that permits
38 farmworker housing use by right, including density and
39 development standards that could accommodate and facilitate the

1 feasibility of the development of farmworker housing for low- and
2 very low income households.

3 (2) Assist in the development of adequate housing to meet the
4 needs of extremely low, very low, low-, and moderate-income
5 households.

6 (3) Address and, where appropriate and legally possible, remove
7 governmental and nongovernmental constraints to the maintenance,
8 improvement, and development of housing, including housing for
9 all income levels and housing for persons with disabilities. The
10 program shall remove constraints to, and provide reasonable
11 accommodations for housing designed for, intended for occupancy
12 by, or with supportive services for, persons with disabilities.
13 Transitional housing and supportive housing shall be considered
14 a residential use of property and shall be subject only to those
15 restrictions that apply to other residential dwellings of the same
16 type in the same zone. Supportive housing, as defined in Section
17 65650, shall be a use by right in all zones where multifamily and
18 mixed uses are permitted, as provided in Article 11 (commencing
19 with Section 65650).

20 (4) Conserve and improve the condition of the existing
21 affordable housing stock, which may include addressing ways to
22 mitigate the loss of dwelling units demolished by public or private
23 action.

24 (5) Promote and affirmatively further fair housing opportunities
25 and promote housing throughout the community or communities
26 for all persons regardless of race, religion, sex, marital status,
27 ancestry, national origin, color, familial status, or disability, and
28 other characteristics protected by the California Fair Employment
29 and Housing Act (Part 2.8 (commencing with Section 12900) of
30 Division 3 of Title 2), Section 65008, and any other state and
31 federal fair housing and planning law.

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

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

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

9 (9) (A) Affirmatively further fair housing in accordance with
10 Chapter 15 (commencing with Section 8899.50) of Division 1 of
11 Title 2. The program shall include an assessment of fair housing
12 in the jurisdiction that shall include all of the following
13 components:

14 (i) A summary of fair housing issues in the jurisdiction and an
15 assessment of the jurisdiction's fair housing enforcement and fair
16 housing outreach capacity.

17 (ii) An analysis of available federal, state, and local data and
18 knowledge to identify integration and segregation patterns and
19 trends, racially or ethnically concentrated areas of poverty,
20 disparities in access to opportunity, and disproportionate housing
21 needs within the jurisdiction, including displacement risk.

22 (iii) An assessment of the contributing factors for the fair
23 housing issues identified under clause (ii).

24 (iv) An identification of the jurisdiction's fair housing priorities
25 and goals, giving highest priority to those factors identified in
26 clause (iii) that limit or deny fair housing choice or access to
27 opportunity, or negatively impact fair housing or civil rights
28 compliance, and identifying the metrics and milestones for
29 determining what fair housing results will be achieved.

30 (v) Strategies and actions to implement those priorities and
31 goals, which may include, but are not limited to, enhancing
32 mobility strategies and encouraging development of new affordable
33 housing in areas of opportunity, as well as place-based strategies
34 to encourage community revitalization, including preservation of
35 existing affordable housing, and protecting existing residents from
36 displacement.

37 (B) A jurisdiction that completes or revises an assessment of
38 fair housing pursuant to Subpart A (commencing with Section
39 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal
40 Regulations, as published in Volume 80 of the Federal Register,

1 Number 136, page 42272, dated July 16, 2015, or an analysis of
2 impediments to fair housing choice in accordance with the
3 requirements of Section 91.225 of Title 24 of the Code of Federal
4 Regulations in effect prior to August 17, 2015, may incorporate
5 relevant portions of that assessment or revised assessment of fair
6 housing or analysis or revised analysis of impediments to fair
7 housing into its housing element.

8 (C) The requirements of this paragraph shall apply to housing
9 elements due to be revised pursuant to Section 65588 on or after
10 January 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 *SEC. 3. Section 65585 of the Government Code is amended to*
11 *read:*

12 65585. (a) In the preparation of its housing element, each city
13 and county shall consider the guidelines adopted by the department
14 pursuant to Section 50459 of the Health and Safety Code. Those
15 guidelines shall be advisory to each city or county in the
16 preparation of its housing element.

17 (b) (1) At least 90 days prior to adoption of its housing element,
18 or at least 60 days prior to the adoption of an amendment to this
19 element, the planning agency shall submit a draft element or draft
20 amendment to the department.

21 (2) The planning agency staff shall collect and compile the
22 public comments regarding the housing element received by the
23 city, county, or city and county, and provide these comments to
24 each member of the legislative body before it adopts the housing
25 element.

26 (3) The department shall review the draft and report its written
27 findings to the planning agency within 90 days of its receipt of the
28 draft in the case of an adoption or within 60 days of its receipt in
29 the case of a draft amendment.

30 (c) In the preparation of its findings, the department may consult
31 with any public agency, group, or person. The department shall
32 receive and consider any written comments from any public
33 agency, group, or person regarding the draft or adopted element
34 or amendment under review.

35 (d) In its written findings, the department shall determine
36 whether the draft element or draft amendment substantially
37 complies with this article.

38 (e) Prior to the adoption of its draft element or draft amendment,
39 the legislative body shall consider the findings made by the
40 department. If the department's findings are not available within

1 the time limits set by this section, the legislative body may act
2 without them.

3 (f) If the department finds that the draft element or draft
4 amendment does not substantially comply with this article, the
5 legislative body shall take one of the following actions:

6 (1) Change the draft element or draft amendment to substantially
7 comply with this article.

8 (2) Adopt the draft element or draft amendment without changes.
9 The legislative body shall include in its resolution of adoption
10 written findings which explain the reasons the legislative body
11 believes that the draft element or draft amendment substantially
12 complies with this article despite the findings of the department.

13 (g) Promptly following the adoption of its element or
14 amendment, the planning agency shall submit a copy to the
15 department. *For any element or amendment adopted on or after*
16 *January 1, 2021, the planning agency shall submit to the*
17 *department an electronic copy of its inventory of land suitable for*
18 *residential development, pursuant to paragraph (3) of subdivision*
19 *(a) of Section 65583.*

20 (h) The department shall, within 90 days, review adopted
21 housing elements or amendments and report its findings to the
22 planning agency.

23 (i) (1) (A) The department shall review any action or failure
24 to act by the city, county, or city and county that it determines is
25 inconsistent with an adopted housing element or Section 65583,
26 including any failure to implement any program actions included
27 in the housing element pursuant to Section 65583. The department
28 shall issue written findings to the city, county, or city and county
29 as to whether the action or failure to act substantially complies
30 with this article, and provide a reasonable time no longer than 30
31 days for the city, county, or city and county to respond to the
32 findings before taking any other action authorized by this section,
33 including the action authorized by subparagraph (B).

34 (B) If the department finds that the action or failure to act by
35 the city, county, or city and county does not substantially comply
36 with this article, and if it has issued findings pursuant to this section
37 that an amendment to the housing element substantially complies
38 with this article, the department may revoke its findings until it
39 determines that the city, county, or city and county has come into
40 compliance with this article.

1 (2) The department may consult with any local government,
2 public agency, group, or person, and shall receive and consider
3 any written comments from any public agency, group, or person,
4 regarding the action or failure to act by the city, county, or city
5 and county described in paragraph (1), in determining whether the
6 housing element substantially complies with this article.

7 (j) The department shall notify the city, county, or city and
8 county and may notify the Office of the Attorney General that the
9 city, county, or city and county is in violation of state law if the
10 department finds that the housing element or an amendment to this
11 element, or any action or failure to act described in subdivision
12 (i), does not substantially comply with this article or that any local
13 government has taken an action in violation of the following:

14 (1) Housing Accountability Act (Section 65589.5 of the
15 Government Code).

16 (2) Section 65863 of the Government Code.

17 (3) Chapter 4.3 (commencing with Section 65915) of Division
18 1 of Title 7 of the Government Code.

19 (4) Section 65008 of the Government Code.

20 *SEC. 4. No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *this act provides for offsetting savings to local agencies or school*
23 *districts that result in no net costs to the local agencies or school*
24 *districts, within the meaning of Section 17556 of the Government*
25 *Code.*