



Executive Committee

Friday, May 9, 2025
9 a.m.

Welcome to SANDAG. The Executive Committee meeting scheduled for Friday, May 9, 2025, will be held in person in the SANDAG Board Room. While Committee members will attend in person, members of the public will have the option of participating either in person or virtually.

For public participation via Zoom webinar, click the link to join the meeting: <https://us02web.zoom.us/j/87184752326>

Webinar ID: 871 8475 2326

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Public Comments: Members of the public may speak to the Executive Committee on any item at the time the Committee is considering the item. Public speakers are generally limited to three minutes or less per person.

Persons who wish to address the members on an item to be considered at this meeting, or on non-agendized issues, may email comments to the Clerk at clerkoftheboard@sandag.org (please reference Executive Committee meeting in your subject line and identify the item number(s) to which your comments pertain). Comments received by 4 p.m. the business day before the meeting will be provided to members prior to the meeting. All comments received prior to the close of the meeting will be made part of the meeting record.

If you desire to provide in-person verbal comment during the meeting, please fill out a speaker slip, which can be found in the lobby. If you have joined the Zoom meeting by computer or phone, please use the "Raise Hand" function to request to provide public comment. On a computer, the "Raise Hand" feature is on the Zoom toolbar. By phone, enter *9 to "Raise Hand" and *6 to unmute. Requests to provide live public comment must be made at the beginning of the relevant item, and no later than the end of any staff presentation on the item. The Clerk will call on members of the public who have timely requested to provide comment by name for those in person and joining via a computer, and by the last three digits of the phone number of those joining via telephone. Should you wish to display media in conjunction with your comments, please inform the Clerk when called upon. The Clerk will be prepared to have you promoted to a position where you will be able to share your media yourself during your allotted comment time. In-person media sharing must be conducted by joining the Zoom meeting on the personal device where the content resides. Please note that any available chat feature on the Zoom meeting platform should be used by panelists and attendees solely for procedural or other "housekeeping" matters as comments provided via the chat feature will not be retained as part of the meeting record. All comments to be provided for the record must be made in writing via email or speaker slip, or verbally per the instructions above.

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To hear the verbatim discussion on any agenda item following the meeting, the [audio/video](#) recording of the meeting is accessible on the SANDAG website.

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This meeting will be conducted in English, and simultaneous interpretation will be provided in Spanish. Interpretation in additional languages will be provided upon request to ClerkoftheBoard@sandag.org at least 72 business hours before the meeting. Esta reunión se llevará a cabo en inglés, y se ofrecerá interpretación simultánea en español. Se ofrecerá interpretación en otros idiomas previa solicitud a ClerkoftheBoard@sandag.org al menos 72 horas antes de la reunión.

Free Language Assistance | Ayuda gratuita con el idioma | Libreng Tulong sa Wika | Hỗ trợ ngôn ngữ miễn phí | 免費語言協助 | 免費語言協助 | مجانية لغوية مساعدة | 무료 언어 지원 | رایگان زبان کمک | 無料の言語支援 | Бесплатная языковая помощь | Assistència lingüística gratuita | मुफ्त भाषा सहायता | Assistance linguistique gratuite | ផ្ដោតភាសាឥតគិតថ្លៃ | ఉచిత భాషా సహాయం | ການຊ່ວຍເຫຼືອດ້ານພາສາພຣີ | Kaalmada Luqadda ee Bilaashka ah | Безкоштовна мовна допомога | sandag.org/LanguageAssistance | (619) 699-1900

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Vision Statement: *Pursuing a brighter future for all*

Mission Statement: *We are the regional agency that connects people, places, and innovative ideas by implementing solutions with our unique and diverse communities.*

Our Commitment to Equity: *We hold ourselves accountable to the communities we serve. We acknowledge we have much to learn and much to change; and we firmly uphold equity and inclusion for every person in the San Diego region. This includes historically underserved, systemically marginalized groups impacted by actions and inactions at all levels of our government and society.*

We have an obligation to eliminate disparities and ensure that safe, healthy, accessible, and inclusive opportunities are available to everyone. The SANDAG equity action plan will inform how we plan, prioritize, fund, and build projects and programs; frame how we work with our communities; define how we recruit and develop our employees; guide our efforts to conduct unbiased research and interpret data; and set expectations for companies and stakeholders that work with us.

We are committed to creating a San Diego region where every person who visits, works, and lives can thrive.



Executive Committee

MEMBERSHIP

The Executive Committee is composed of elected officials responsible for setting the monthly SANDAG Board of Directors agenda, reviewing grant applications, reviewing legislative proposals, preparing the Overall Work Program and Budget, and providing direction to staff in preparing items for Board consideration. The Executive Committee consists of six voting members representing East County, North County Coastal, North County Inland, South County, the City of San Diego, and the San Diego County Board of Supervisors. The SANDAG Chair is one of the six voting members. The SANDAG Vice Chair also is on the Executive Committee, as long as he/she represents an area of the region that is different from the area of the region represented by the Chair.

The Executive Committee generally meets at 9 a.m., on the second Friday of the month.

Staff contact: Ariana Galvan, (619) 699-1977, ariana.galvan@sandag.org

MEMBERS

Vacant

Supervisor, County of San Diego

Joe LaCava, Vice Chair

Council President, City of San Diego

Lesa Heebner, Chair

Mayor, City of Solana Beach
(Representing North County Coastal)

Rebecca Jones

Mayor, City of San Marcos
(Representing North County Inland)

John Minto, 2nd Vice Chair

Mayor, City of Santee
(Representing East County)

John Duncan

Mayor, City of Coronado
(Representing South County)

EX-OFFICIO MEMBERS

David Zito

Councilmember, City of Solana Beach
(Chair, Transportation Committee)

Ed Musgrove

Councilmember, City of San Marcos
(Chair, Public Safety Committee)

Carolina Chavez

Councilmember, City of Chula Vista
(Chair, Borders Committee)

Jack Fisher

Councilmember, City of Imperial Beach
(Chair, Audit Committee)

Carrie Anne Downey

Councilmember, City of Coronado
(Chair, Regional Planning Committee)

ALTERNATES

Monica Montgomery-Steppe

Supervisor, County of San Diego

Vivian Moreno

Councilmember, City of San Diego

Sean Elo-Rivera

Councilmember, City of San Diego

Esther Sanchez

Mayor, City of Oceanside
(Representing North County Coastal)

Steve Vaus

Mayor, City of Poway
(Representing North County Inland)

Alysson Snow

Mayor, City of Lemon Grove
(Representing East County)

Luz Molina

Councilmember, City of National City
(Representing South County)

Executive Committee

Friday, May 9, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Executive Committee that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Executive Committee members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Approve

Francesca Webb, SANDAG

The Executive Committee is asked to approve the minutes from its April 11, 2025, meeting.

[Meeting Minutes](#)

+3. Review of Draft Board Agendas

Approve

Ariana Galvan, SANDAG

The Executive Committee is asked to approve the draft agendas for the May 23, 2025, May 30, 2025, and June 13, 2025, Board of Directors meetings.

[Draft BOD Agenda 5.23.25](#)

[Draft BOD Agenda 5.30.25](#)

[Draft BOD Agenda 6.13.25](#)

Reports

+4. Legislative Status Report

Approve

Jose Alvarez, Stacey Cooper, Sam Foulke, SANDAG; Brady Guertin, League of California Cities

Staff will present an overview of current advocacy efforts related to Regional Housing Needs Assessment and housing. The Executive Committee is asked to take a "support" position on Assembly Bill 650 (Papan).

[Legislative Status Report](#)

[Att. 1 - State Report](#)

[Att. 2 - Federal Report](#)

[Att. 3 - Border Report](#)

[Att. 4 - SB 423 Memo](#)

[Att. 5 - SANDAG RHNA Letter 10-25-24](#)

[Att. 6 - AB 650 \(Papan\)](#)

[Presentation](#)

Adjournment

5. Adjournment

The next meeting of the Executive Committee is scheduled for Friday, June 13, 2025, at 9 a.m.

+ next to an agenda item indicates an attachment

May 9, 2025

April 11, 2025, Meeting Minutes

[View Meeting Video](#)

Chair Lesa Heebner (North County Coastal) called the meeting of the Executive Committee to order at 9:01 a.m.

1. Public Comments/Communications/Member Comments

Public Comments: Purita Javier, Cesar Javier, Truth, Allegedly Audra, Paul the Bold, Blair Beekman.

Member Comments: Mayor Rebecca Jones (North County Inland), Mayor Esther Sanchez (North County Coastal - alternate), Vice Chair Joe LaCava (City of San Diego).

Consent

2. Approval of Meeting Minutes

The Executive Committee was asked to approve the minutes from its March 14, 2025, meeting.

3. Legislative Status Report

The Executive Committee was asked to take “support” positions on Senate Bill 233 (Seyarto) and Assembly Bill 334 (Pietre-Norris).

4. Review of Draft Board Agendas

The Executive Committee was asked to approve the draft agendas for the April 25, 2025, and May 9, 2025, Board of Directors meetings. A report about the 2025 Board Retreat was also provided for review.

Public Comments: Cesar Javier, Truth, Allegedly Audra, Blair Beekman, Paul the Bold.

Action: Upon a motion by Second Vice Chair John Minto (East County), and a second by Mayor John Duncan (South County), the Executive Committee voted to approve the Consent Agenda.

The motion passed.

Yes: Chair Heebner, Vice Chair LaCava, Second Vice Chair Minto, Mayor Jones, and Mayor Duncan.

No: None.

Abstain: None.

Absent: County of San Diego.

Reports

5. Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings and Related Recommendations

Senior Counsel Julie Wiley presented the item. The Executive Committee was asked to provide feedback on amendments to SANDAG board policies proposed to address findings and recommendations from Office of Independent Performance Auditor audits and investigation outcomes from 2024.

Public Comments: Truth, Allegedly Audra, Cesar Javier, Paul the Bold.

Action: Upon a motion by Second Vice Chair Minto and a second by Mayor Duncan, the Executive Committee voted to recommend that the Board of Directors approve the proposed Board Policy amendments.

The motion passed.

Yes: Chair Heebner, Vice Chair LaCava, Second Vice Chair Minto, Mayor Jones, and Mayor Duncan.

No: None.

Abstain: None.

Absent: County of San Diego.

Adjournment

6. Adjournment

The next meeting of the Executive Committee is scheduled for Friday, May 9, 2025, at 9 a.m.

Chair Heebner adjourned the meeting at 10:01 a.m.

Confirmed Attendance at Executive Committee Meeting

April 11, 2025

Jurisdiction	Name	Member/ Alternate	Attend
City of San Diego	Council President Joe LaCava, Vice Chair	Primary	Yes
	Councilmember Vivian Moreno	Alternate	No
	Councilmember Sean Elo-Rivero	Alternate	No
County of San Diego	Vacant	Primary	
	Supervisor Monica Montgomery Steppe	Alternate	No
East County	Mayor John Minto, 2nd Vice Chair	Primary	Yes
	Mayor Alysson Snow	Alternate	No
North County Coastal	Mayor Lesa Heebner, Chair	Primary	Yes
	Mayor Esther Sanchez	Alternate	Yes
North County Inland	Mayor Rebecca Jones	Primary	Yes
	Mayor Steve Vaus	Alternate	No
South County	Mayor John Duncan	Primary	Yes
	Councilmember Luz Molina	Alternate	No
Ex-Officio Members	Name		Attend
Chair, Transportation Committee	Councilmember David Zito		No
Chair, Public Safety Committee	Councilmember Ed Musgrove		No
Chair, Borders Committee	Deputy Mayor Carolina Chavez		No
Chair, Audit Committee	Councilmember Jack Fisher		No
Chair, Regional Planning Committee	Councilmember Carrie Anne Downey		No

Board of Directors

Friday, May 23, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Board of Directors on any issue within the jurisdiction of SANDAG that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Board members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Michael Garcia, SANDAG

The Board of Directors is asked to approve the minutes from the May 1-2, 2025, Board Retreat and May 9, 2025, Board meeting.

Approve

+3. Chief Executive Officer Delegated Actions*

Jennie Sharp, SANDAG

In accordance with various board policies, this report summarizes delegated actions taken by the Chief Executive Officer.

Information

+4. Policy Advisory Committee Actions

Francesca Webb, SANDAG

The Board of Directors is asked to ratify the actions taken by the Policy Advisory Committees as noted in the report.

Approve

+5. Transportation Development Act: FY 2025 Productivity Improvement Program and FY 2026 Allocations

Tim Garrett, SANDAG

The Transportation Committee recommends that the Board of Directors approve the eligibility of the Metropolitan Transit System and North County Transit District to receive their FY 2026 Transportation Development Act allocations of funds.

Approve

+6. Federal Transit Administration Section 5311 Program of Projects

Richard Radcliffe, SANDAG

The Transportation Committee recommends that the Board of Directors approve the Federal Fiscal Year 2025 apportionments of Federal Transit Administration Section 5311 Non-Urbanized Area Formula Program funds for the San Diego region.

Approve

+7. Overview of Developments in the Financial Markets, Quarterly Finance Report as of March 31, 2025*

Information

Dawn Vettese, SANDAG; Peter Shellenberger, PFM

This report provides an update on the latest developments in the financial markets, economy, sales tax revenues, and strategies being explored and implemented to minimize possible impacts to the TransNet Program.

+8. Approval of Proposed Solicitations

Approve

Kelly Mikhail, SANDAG

The Board of Directors is asked to authorize the Chief Executive Officer to conduct the proposed solicitation(s) and contract awards as identified in this report.

+9. Public Engagement Events for the Draft 2025 Regional Plan

Approve

Hannah Stern, SANDAG

This report provides the schedule of upcoming public hearings and other public engagement events regarding the Draft 2025 Regional Plan. The Board is asked to delegate authority to the Transportation Committee to conduct a public hearing at its July 18 meeting.

Reports

+10. SANDAG FY 2024 Annual Comprehensive Financial Report*

Information

Kimberly Trammel, SANDAG; Jennifer Farr, Davis Farr LLP

In accordance with the Statement of Auditing Standards 114 (SAS 114), SANDAG staff and Jennifer Farr of Davis Farr will present the FY 2024 SANDAG Annual Comprehensive Financial Report.

+11. SR 11/Otay Mesa East Port of Entry: Release of Security Technology Procurement

Approve

Maria Rodriguez Molina, Andrea Hoff, SANDAG

Staff will present an update on the SR 11/Otay Mesa East Port of Entry Project. The Board of Directors is asked to approve the release of a solicitation for a technology package for the project.

Adjournment

12. Adjournment

The next Board of Directors meeting is scheduled for Friday, May 30, 2025, at 9 a.m.

+ next to an agenda item indicates an attachment

* next to an agenda item indicates that the Board of Directors also is acting as the San Diego County Regional Transportation Commission for that item

Board of Directors

Friday, May 30, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Board of Directors on any issue within the jurisdiction of SANDAG that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Board members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Michael Garcia, SANDAG

Approve

The Board of Directors is asked to approve the minutes from its May 23, 2025, meeting.

+3. Policy Advisory Committee Actions

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to ratify the actions taken by the Policy Advisory Committees as noted in the report.

+4. Approval of Proposed Solicitations

Kelly Mikhail, SANDAG

Approve

The Board of Directors is asked to authorize the Chief Executive Officer to conduct the proposed solicitation(s) and contract awards as identified in this report.

+5. FY 2026 Weighted Vote Distribution*

Tyler Woods, SANDAG

Information

This report provides the weighted vote distribution effective July 1, 2025 pursuant to Public Utilities Code 132351.2(g).

+6. Approval of FY 2026 Member Assessments

Tyler Woods, SANDAG

Approve

The Board of Directors is asked to approve FY 2026 member assessments pursuant to Article VI, Section 2 of SANDAG's bylaws.

Reports

+7. Performance Audit of SANDAG's Sole Source Procurement Process

Courtney Ruby, Independent Performance Auditor

Discussion
/Possible
Action

The Independent Performance Auditor and Office of Independent Performance Auditor staff will present a summary of the Performance Audit of SANDAG's Sole Source Procurement Process for the audit period of July 1, 2022, to June 30, 2024, including the audit results and

recommendations.

+8. Specialized Transportation Grant Program Cycle 13 Call for Projects Funding Recommendations*

Approve

Aly Vazquez, SANDAG

The Transportation Committee recommends that the Board of Directors approve the proposed funding recommendations for the Specialized Transportation Grant Program Cycle 13 Call for Projects.

Adjournment

9. Adjournment

The next Board of Directors meeting is scheduled for Friday, June 13, 2025, at 10:30 a.m.

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DRAFT

Board of Directors

Friday, June 13, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

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Consent

+2. Approval of Meeting Minutes

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to approve the minutes from its May 30, 2025, meeting.

+3. Policy Advisory Committee Actions

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to ratify the actions taken by the Policy Advisory Committees as noted in the report.

+4. Meetings and Events Attended on Behalf of SANDAG

Francesca Webb, SANDAG

Information

This report provides an update on meetings and events attended by Board members.

+5. Approval of Proposed Solicitations

Kelly Mikhail, SANDAG

Approve

The Board of Directors is asked to authorize the Chief Executive Officer to conduct the proposed solicitation(s) and contract awards as identified in this report.

+6. Transportation Development Act Triennial Performance Audits

Brian Lane, SANDAG

Approve

The Transportation Committee recommends that the Board of Directors authorize the Chief Executive Officer to:

1. Transmit the performance audit report of SANDAG to the Caltrans Director as required;
2. Certify in writing to the Caltrans Director that the performance audit of the transit operators located in the area under its jurisdiction have been completed;
3. Implement the performance audit recommendations pertaining to SANDAG Transportation Development Act activities; and
4. Transmit the other recommendations to the transit operators for implementation.

Reports

+7. **Back Office System Project Update**

Information

Maria Rodriguez Molina, Alex Estrella, SANDAG

SANDAG staff will present an update on the implementation of the back-office system (BOS) project.

Adjournment

8. **Adjournment**

The next Board of Directors meeting is scheduled for Friday, June 27, 2025, at 9 a.m.

+ next to an agenda item indicates an attachment

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DRAFT

May 9, 2025

Legislative Status Report

Overview

Legislative status reports are provided to the Executive Committee on a monthly basis (Attachments 1-3); notable updates are also shared directly with the Board.

At the Board Retreat on May 1-2, 2025, there was significant discussion regarding the role of SANDAG related to housing and the Regional Housing Needs Allocation (RHNA) process. Questions were raised regarding several pieces of state legislation, their impacts on SANDAG and/or local jurisdictions, and the role that the League of California Cities, California Association of Councils of Governments (CALCOG), and other associations could play in legislative reform efforts.

Action: **Approve**

Staff will present an overview of current advocacy efforts related to Regional Housing Needs Assessment and housing. The Executive Committee is asked to take a “support” position on Assembly Bill 650 (Papan).

Fiscal Impact:

None.

Schedule/Scope Impact:

None.

Key Considerations

In recent years, the state legislature has enacted many new housing laws aimed at increasing housing production and addressing affordability. Senate Bill (SB) 35 (Wiener, 2017) and SB 423 (Wiener, 2023) are two such bills that are tied directly to the RHNA process and could significantly impact local jurisdictions.

SB 35 allows developers to pursue a streamlined ministerial approval process (SMAP) in jurisdictions that have fallen behind on their RHNA production targets. If a city is “short” on housing in any income category, then SB 35 offers a streamlined approval process for housing projects that seek to fill the gap in housing for that income category. The amount of affordable housing that must be included in an SB 35 project is determined by the status of the jurisdiction’s compliance with its RHNA-allocated targets.

Passed in 2023, SB 423 expanded the provisions of SB 35 by extending the sunset date to 2036 and broadening qualifying locations eligible for streamlined ministerial approval to include sites within the coastal zone¹. The California Coastal Commission sent a [Memorandum on Streamlined Ministerial Approval Process in the Coastal Zone](#) to coastal cities in November 2024.

Jurisdictions with insufficient progress toward Above-Moderate RHNA are subject to SB 35/423 SMAP provisions for developments with 10% affordability or above. Jurisdictions with insufficient progress toward Lower RHNA (Very Low and Low Income) are subject to SB 35/423 SMAP provisions for developments with 50% affordability or above.

Progress towards RHNA is evaluated at the middle and end points of the RHNA cycle. The current reporting period for SB 35/423 eligibility for jurisdictions in San Diego County is the end of the 5th cycle, which is reflected in HCD’s [SB 423 Determination Summary](#) from June 2024. In our region, nine

¹ A memo regarding implementation of SB 423 was shared with member agency planning staff in February 2024 (Attachment 4) that provides an overview of pertinent updates.

jurisdictions are currently subject to SB 35/423 SMAP at 10% affordability and above, and ten are subject to SB 35/423 SMAP at 50% affordability.

At the direction of the Board, staff has been exploring opportunities to advance the principles outlined in its 2024 letter to the California Legislature's Housing Committee Chairs (Attachment 5). In particular, SANDAG is currently working to identify legislative options that would allow waivers to jurisdictions who have demonstrated good faith efforts to plan and permit the development of housing. In other words, if jurisdictions can demonstrate that their inability to permit or approve their full RHNA allocation is not due to "acts or omissions that are arbitrary, capricious, entirely lacking in evidentiary support, contrary to established public policy, unlawful, or procedurally unfair," then they would not be subject to the streamlined ministerial approval process provided by SB 35 and SB 423.

This "good faith" standard is currently codified in Government Code section 65009.1 (b), following its inclusion in SB 1037 (Wiener, 2023). That statute authorizes the Attorney General to seek civil penalties—ranging from \$10,000 to \$50,000 per month—against local governments found to be in violation of state housing element or streamlined approval laws. To ensure these penalties are reserved for the most egregious violators, Senator Wiener amended the bill to apply only to jurisdictions not acting in good faith, as defined above.

SANDAG has shared this language with the Governor's Office and the California League of Cities and is continuing to seek authors who would be willing to include such a waiver in an existing bill. Conversations are ongoing and staff continue to monitor for potential vehicles as bills continue through the legislative process.

Additional Legislative Status Updates

Assembly Bill 650 (Papan): [Planning and zoning: housing element: regional housing needs allocation](#)

This bill, by Assemblymember Diane Papan, would extend several key deadlines related to the seventh housing element cycle and beyond by six months. Specifically, the Department of Housing and Community Development (HCD) would need to consult with councils of governments (COGs) 38 months before a scheduled housing element revision (up from the current 26-month period mandated by state law) and determine each region's Regional Housing Need Determination (RHND) 30 months in advance (up from the current 24-month requirement). COGs would be required to develop their RHNA methodology and distribute draft RHNA allocation plans at least 30 and 24 months prior, respectively, instead of the current 24 and 18 months—excluding COGs with 2027 due dates.

AB 650 could provide much-needed relief to local governments by addressing key challenges encountered during the 6th RHNA cycle, such as compressed timelines, unclear state expectations, and the late introduction of new requirements. By allowing local governments to begin updating their housing elements six months earlier, the bill offers additional time for preparation and responsiveness. It also enhances transparency and fairness by requiring HCD to clearly specify the text and analysis needed to address deficiencies identified within the housing element document, helping ensure local governments are not penalized for new issues raised late in the review process.

This legislation is being sponsored by the California League of Cities and aligns with SANDAG Legislative Program goal No. 23 to lead efforts to pursue legislative and/or administrative reform of the RHNA process and state housing element law. The bill also aligns with SANDAG's RHNA principles as outlined in the October 2024 letter to the California Legislative Housing Committees, specifically in requesting increased guidance and transparency through the RHNA process for local jurisdictions.

SANDAG staff is recommending a "support" position on Assembly Bill 650 (Attachment 6). Support of a bill means that SANDAG and its advocates will work to pursue passage of the legislation through letters of support, participation in hearings, and related activities.

SB 79 (Wiener)

This bill, by Senator Scott Wiener, would authorize a residential development within a ¼ or ½ mile distance of certain transit stops in a residential, mixed-use, commercial, and light industrial zone. The bill establishes requirements for height limits, density, and floor area ratio in accordance with a development's proximity to qualifying transit stops. It also expands the definition of "agency's use" under the Surplus Lands Act to include any land leased to support "public transit operations", and exempts specified residential and commercial developments on those sites from CEQA.

SB 79 passed the Senate Housing Committee on April 22 despite facing opposition from Chair Wahab and Vice Chair Seyarto. The Chair's opposition was based on the concerns raised by housing advocates and labor. The bill was also heard by the Senate Local Government Committee on April 30 and received a contested yet favorable vote of 4-3 despite Chair Durazo's opposition. The bill will now be referred to the Senate Appropriations Committee. Staff will continue to track this legislation as the potential impact on our region's local jurisdictions could be significant.

SB 457 (Becker)

This bill, by Senator Josh Becker, would raise the threshold of a "complete" application for the purpose of allowing a local agency to disapprove a housing development project that is inconsistent with the jurisdiction's zoning ordinances and general plan land use designation. Additionally, it provides that housing elements are deemed compliant on the date that a jurisdiction adopts its housing element, only if the California Department of Housing and Community Development (HCD) finds the housing element to be compliant after the department's review.

The bill was heard by the Senate Housing Committee on April 29th and received an unfavorable 1-2 vote with most of the committee abstaining from a vote. The bill did not pass the committee and may be reconsidered if the author so desires. Staff will continue to track any future developments on the bill and report back if it starts to move through the legislative process again.

Next Steps

SANDAG will continue to pursue potential "good faith effort" waiver language. Pending approval by the Executive Committee, staff will notify the author of AB 650 of its position, and advocate on behalf of the passage of the bill.

Hannah Stern, Acting Director of Public Affairs

- Attachments:
1. State Report from Ellison Wilson Advocacy, LLC
 2. Federal Report from Peter Peyser Associates, LLC
 3. Border Report
 4. SB 423 Memo
 5. SANDAG RHNA Letter
 6. AB 650 (Papan)



TO: SANDAG BOARD OF DIRECTORS
FROM: ELLISON WILSON ADVOCACY, LLC
SUBJECT: SANDAG LEGISLATIVE REPORT – APRIL 2025

Legislative Overview

As the first house policy committee deadline approaches, policy committee hearings are being held on bills introduced in 2025. Simultaneously, budget subcommittees in each house are continuing hearings on budget items to be included in the 2025-26 State Budget.

The remaining legislative calendar for 2025 includes:

- May 2: Last day for policy committees to hear first house fiscal bills
- May 23: Last day for fiscal committees to hear first house bills
- June 6: Last day for each house to pass first house bills
- June 15: Last day for Budget bill to be passed
- July 18: Last day for policy committees to hear all bills
- July 18-August 18: Summer Recess
- August 29: Last day for fiscal committees to hear all bills
- September 5: Last day to amend bills on the Floor
- September 12: Last day for each house to pass bills
- October 12: Last day for the Governor to sign or veto all bills

SB 10: Otay Mesa East Toll Facility Toll Revenues

SB 10 by Senator Steve Padilla would authorize SANDAG to use toll revenues from the Otay Mesa East Toll Facility “to assist in the maintenance of the South Bay International Boundary and Water Commission sewage treatment facility and the development of additional sanitation infrastructure projects related to the Tijuana River pursuant to an agreement with the federal government.” SANDAG has engaged in discussions with Senator Padilla and his office to address any proposed changes that could place the Otay Mesa East project in jeopardy, including that the “repayment of bond obligations shall take priority over other allocations of toll revenues.”

After being passed by the Senate Transportation Committee, 11-3, in late March, SB 10 was sent to the Senate Appropriations Committee. On April 21st, the bill was sent by the Committee to its “suspense file,” which is where the Committee sends all bills that cost the state \$150,000 or more. The Committee identified the following state costs associated with the bill:

To the extent the use of toll revenues for sewage treatment facility maintenance and other sanitation projects is consistent with federal and state law, this bill would result in unknown, major cost pressures, likely in the millions annually. Diversion of toll revenues for purposes specified in the bill that are not directly related to the new Port of Entry would reduce amounts currently planned for expenditure on transportation facilities associated with the state highway system in the SR 11 corridor, including the Intelligent Transportation System (ITS), tolling facilities, and the California Highway Patrol's Commercial Vehicle Enforcement Facility. To the extent there are insufficient remaining toll revenues to pay for ongoing operations, maintenance, repair/replacement, and improvements to those facilities, it may be necessary to expend state transportation revenues for those purposes.

The Senate Appropriations Committee is expected to take up its suspense file on May 22nd.

Bills Adding Unincorporated Communities to the SANDAG Board Stalled

AB 24 by Assembly Member Carl DeMaio would replace the existing SANDAG Board composition with: 1) the mayor and the president of the city council of the City of San Diego; 2) the mayor or a councilperson from each city in the county; 3) one member of the Board of Supervisors of San Diego County from an unincorporated area of the county; and 4) one representative from the Association of Planning Groups - San Diego County. AB 24 was heard by the Assembly Local Government Committee on April 23rd, where in its analysis the Committee had stated, "it is not clear how the existing voting structure of SANDAG is inequitable in favor of incorporated areas." Ultimately the bill did not have sufficient support from Committee Members and did not receive a vote at the hearing, and thus, at this point barring a turn of events, does not appear that it will be moving forward further this year.

SB 240 by Senator Brian Jones would clarify that the secondary representative for the County of San Diego shall be a resident of an unincorporated area of the County and shall be selected by a majority of the community planning groups in the County. The bill was scheduled for a hearing before the Senate Local Government Committee on April 23rd, but was pulled by the author from the hearing. As such, barring any surprises, it also does not appear that SB 240 will be moving forward further this year.

Some Housing Bills Stumble; Cal Cities Housing Bill Passed with Amendments

At a tense Senate Housing Committee hearing on April 22nd, Senator Wiener's SB 677, which according to the author would "strengthen" two of California's controversial housing streamlining laws, SB 9 (Atkins, 2021) and SB 423 (2023, Wiener), did not receive sufficient votes for passage and was held by the Committee. Committee members, including Chair Aisha Wahab, cited the elimination of owner-occupancy requirements, elimination of local impact fees, negative impacts on affordable housing, and the bill's prematurity in light of several existing laws just taking effect for their "no" vote. Opposition came from local governments, Association of Realtors, the State Building & Construction Trades Council, amongst others. Reconsideration was granted, so it's still unclear whether Senator Wiener will attempt to take further amendments in an effort to revive the bill's prospects for moving forward.

At this same hearing, Senator Wiener's SB 79 was narrowly passed, despite opposition from Chair Wahab, and a wide range of stakeholders including local governments and affordable housing advocates. SB 79 would force cities to approve transit-oriented development projects near specified transit stops – up to seven stories high and a density of 120 homes per acre – without regard to the community's needs, environmental review, or public input. SB 79 will be heard next by the Senate Local Government Committee on April 30th.

The Cal Cities-sponsored housing bill, AB 650 by Assembly Member Diane Papan, was heard and passed by the Assembly Housing & Community Development Committee, 11-0, on April 24th with amendments to remove the Builder's Remedy portions of the bill – as, according to the Committee's analysis, the Builder's Remedy provisions were just recently modified last year by AB 1893 (Wicks). The bill still includes provisions that would allow local governments to begin the housing element update process six months early, provide greater certainty and reduce ambiguity in the housing element review process, and ensure that local governments have adequate time to respond to the California Department of Housing and Community Development's (HCD) review letters. The bill is scheduled to be heard next by the Assembly Local Government Committee on April 30th.

PEYSER ASSOCIATES LLC

Peter A. Peyser

Transportation Update from Peyser Associates

April 25, 2025

DOT Warns Grantees on Compliance with DOT Interpretation of Federal Law on DEI and Immigration Enforcement

The Department of Transportation yesterday sent a letter to “All Recipients of US Department of Transportation Funding” warning them to ensure they comply with federal law and court decisions concerning DEI and immigration enforcement. The letter includes the following text:

“Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.”

The letter does not reference President Trump’s executive orders from earlier this year. It represents a new tack in the Department’s efforts to bring its grantees in line with Administration policy by sticking to references to federal laws such as Titles VI and VII of the Civil Rights Act of 1964, Title IX and immigration law. It also leans heavily on the Supreme Court’s 2023 decision on the Harvard case concerning race-based admissions policies and the equal protection clause of the Constitution.

The letter does not require any action by grantees or a response. It indicates that DOT will be reviewing compliance with grant terms and Federal law and will be working with grantees to ensure compliance.

Click [HERE](#) to see the letter.

Duffy Hails DOT’s Efforts to “Chip Away” at the Grant Backlog at the Agency

Secretary of Transportation Sean Duffy yesterday used the release of a bridge grant to South Carolina as an occasion to take a further swipe at the Biden Administration for leaving him with a backlog of 3,200 unexecuted grant awards and to indicate his agency is working through the stack.

Duffy’s statement said in the press release said: *“President Trump tasked my Department with a clear objective: rebuild America’s aging infrastructure. The previous administration left the nation with an unprecedented backlog of unfulfilled grant agreements and empty promises. Within 100 days of inauguration, we’re already delivering results.”*

The press release include the following “reminder” – “The Trump Administration inherited more than 3,200 unobligated grants that had been promoted by the previous administration but never fulfilled. This unprecedented backlog of unobligated grants, along with irrelevant climate, DEI, and social justice requirements, delayed critical investments in communities across the country. Under Secretary Duffy’s leadership, the Department is working diligently to accelerate the distribution of these long-overdue funds and address core infrastructure projects. “

In other grant news, the FRA announced on Tuesday that it had reached an agreement with Amtrak to reduce the scope of the Dock Bridge rehabilitation project on the Northeast Corridor in New Jersey and reduce the funding for the project by \$120 million.

For those keeping score, since taking office Secretary Duffy has touted the award of four grants, the cancellation of two and the reduction of scope with cost savings on two more.

April 18, 2024

Transportation Update from Peyser Associates

DOT Takes Action to Pull Back Two Grants for Major Rail Projects

With Congress out of town for their Spring recess, it was up to the Trump Administration to make news on transportation funding and policy this week. They delivered. Transportation Secretary Sean Duffy and the Federal Railroad Administration (FRA) this week took two actions on grants for major rail projects that sent a signal to DOT grantees and potential grantees nationwide.

The first action, announced on Monday, terminated a \$64 million grant previously awarded to Amtrak from the Corridor ID program to support project development work on the Dallas – Houston high speed rail project formerly known as Texas Central Railway. The grant terminated was a FY 2024 Corridor ID program grant awarded in August of last year. Amtrak had already drawn down about \$4 million from the grant. The FRA announced it plans to re-allocate the remaining \$60 million to other projects.

DOT's press release indicated that the Department and Amtrak had reached an "agreement" to terminate the grant. This means Amtrak is not planning to challenge the termination of the grant in court. It is important to point out that, as a creature of the federal government with a board appointed by the president, it would be unthinkable for Amtrak to seek relief from this action in court. A state or regional agency would be less likely to agree to have their grant terminated. For example, in 2019 when the Trump Administration announced the cancellation of a \$929 million grant to the California High Speed Rail Authority, the State of California sued the federal government to prevent the re-allocation of those funds to another project and then to ultimately overturn the termination. That case was never adjudicated as the Biden Administration re-instated the grant before the court could rule.

This action sends a message to grantees that their grants – including those that are executed and from which funds have already been expended – are subject to cancellation. Click [HERE](#) to see the press release on this action.

The second major grant action of the week was DOT's announcement yesterday that it is withdrawing a \$72.5 million grant award to the MTA in New York for project development work on the reconstruction of Penn Station in New York City. At the same time, DOT announced it will be changing the scope of a grant award to Amtrak for project development work on the expansion of the station so as to put both projects under Amtrak's leadership. The Department also announced they are "slashing" Amtrak's \$72 million grant award for the project. The result of the actions on both grants is \$120 million in total savings. [HERE](#) is the press release from DOT.

New York Governor Kathy Hochul (D) and the MTA have been working for years to balance a variety of stakeholder interests around the reconstruction of the existing station. The MTA has been vetting alternatives and private firms have been proposing their own in a lively and public debate. It is unclear how switching the management of the project to Amtrak will change that dynamic.

This action on a grant award awaiting execution makes it clear the degree of risk unexecuted grants face at present.

Senate Commerce Committee Preparing to Start Reauthorization Work on Rail Programs

Senate Commerce Committee Chair Ted Cruz (R-TX) last Saturday told a business audience in Houston that he plans to start hearings on reauthorization of rail programs next month. Then Senate Commerce Committee staff this week indicated that they expect Cruz to send out a Dear Colleague letter soon asking for Senators' input on reauthorization. Given last week's news, reported here, that the Environment and Public Works Committee, which covers highway programs, this means that two of the three major committees who set transportation policy in the Senate are gearing up. The third, the Banking Committee, has yet to show movement on the transit programs.

Senate Appropriations Committee Issues Earmark Guidance

The Senate Committee on Appropriations this week released its guidance for Senators seeking earmarks ("Congressionally Directed Spending") in the fiscal year 2026 appropriations process. The guidance is general in nature, with more guidance to come from subcommittees on program details.

The full committee did delineate the programs under the Transportation-HUD Subcommittee that will be available for earmarking. Those relating to transit and rail are FTA Transit Infrastructure Grants and FRA CRISI grants. The deadline for Senators to submit their projects is May 15. The deadline for more general programmatic requests to the THUD Subcommittee is May 23.

Click [HERE](#) to see the guidance.

April 11, 2025

Transportation Update from Peyser Associates

House Clears Budget Resolution – Intra-Party Battle Ahead for Reconciliation

The House of Representatives yesterday cleared the Fiscal Year 2026 Budget Resolution by the slimmest of margins – 216-214. The vote came about 18 hours after the originally planned vote on Wednesday. As debate on the budget progressed Wednesday, Speaker Mike Johnson (R-LA) realized that despite arm twisting by him and the President he did not have the votes. A handful of diehard budget hawks in this caucus were holding out in opposition due to the lack of assurance that the House's goal of \$1.5 trillion+ in spending cuts over ten years would be met in the budget reconciliation process. Johnson halted proceedings on the measure yesterday and resumed the cajoling Wednesday night and Thursday morning.

The combination of more phone calls from the President and a statement by Sen. Majority Leader John Thune (R-SD) that "a lot" of GOP Senators want to hit the House spending cut target were apparently sufficient to convince a couple of holdouts. Thune would need all but three of his 53 Senators in support to achieve the House goals. His statement was far from a commitment but apparently enough of a fig-leaf to get the measure across.

As hard as it was to get a blueprint for the tax cuts, spending cuts, and spending increases the President wants included in this "one big, beautiful bill," the really hard part of working out the details will begin when Congress returns from its two-week Spring break. The biggest battle between House and Senate GOP Members will be over the size of the spending cuts, with the House's plan for \$880 billion in Medicaid cuts over 10 years being the major flashpoint.

Besides the substantive issues, there is also likely to be tension around timing. House leadership is saying they would like the reconciliation bill to be enacted by Memorial Day. Senate leaders are saying they are

targeting enactment by the August recess. It is hard to speed up the “world’s greatest deliberative body” in its stately procession to a legislative product. Best to assume the Senate’s schedule will govern.

House Transportation-HUD Appropriations Subcommittee Issues Earmark Guidance

The House Appropriations Committee Subcommittee on Transportation-HUD this week released its guidance to House Members for their submittals of earmark requests by May 23.

The guidance is very similar to last year’s, with no substantial changes. One change of note is the subcommittee’s policy to stop funding early stage planning activities for Transit Infrastructure Grants and focus instead on “pre-construction” planning activities such as engineering, design, and property acquisition. For CRISI grants, the subcommittee makes it clear that while planning activities may be funded, applications that are only for planning activities will be “highly scrutinized.”

Here are links to the guidance for the programs within the THUD bill available for earmarking:

- [*Department of Transportation – Airport Improvement Program*](#)
- [*Department of Transportation – Highway Infrastructure Projects*](#)
- [*Department of Transportation – Consolidated Rail Infrastructure and Safety Improvements*](#)
- [*Department of Transportation – Transit Infrastructure Grants*](#)
- [*Department of Transportation – Port Infrastructure Development Program*](#)
- [*Department of Housing and Urban Development – Economic Development Initiatives*](#)

Members of Congress preparing to submit requests will ask project sponsors to fill out the forms contained in the guidance.

Senate Joins House in Advancing Reauthorization Timetable

Earlier this week, you received a special update on action by the House Committee on Transportation and Infrastructure to accelerate the process for reauthorization of surface transportation programs included in the Infrastructure Investment and Jobs Act. The Senate has now – at least in part – jumped on the bandwagon of moving towards committee action this Fall.

Senate Committee on Environment and Public Works (EPW) Chair Shelly Moore Capito (R-WV) on Thursday said she is planning to mark-up the highway title of a reauthorization later this year. She said she has begun seeking input from Members on their priorities. In the Senate, jurisdiction is split between the EPW committee; the Commerce, Science and Transportation committee, which handles railroads and the Banking, Housing and Urban Affairs Committee, which covers transit. No word yet from those committee on their plans.

As noted in this week’s earlier update, this schedule is well ahead of the normal schedule for reauthorization which, at best, would usually call for committee action in the Spring of the year the bill expires. The clear signal here from GOP committee leadership is their intent to get the bill done before the 2026 election. One would expect Democrats to try to drag the process out but, so far at least, Democratic committee leadership appears ready to play along with the early action approach.

April 4, 2025

Transportation Update from Peyser Associates

Senate to Vote Tonight on Budget Resolution – Teeing-up A Battle with the House

The Senate will vote tonight on their version of a budget resolution which, when enacted in final form, would be the basis for a Budget Reconciliation package that would extend or make permanent President Trump's 2017 tax cuts, cut other taxes, raise defense and border spending, cut domestic spending, and raise the national debt ceiling.

The Senate version is different from the one approved by the House GOP in several important respects:

- It removes the expiration date on Trump's 2017 tax breaks rather than just extending the date as does the House.
- It eliminates the need to offset revenues lost by continuing the tax cuts by declaring the current tax rates as the "policy baseline." This declaration by Budget Committee Chair Lindsay Graham (R-SC) circumvents the normal process under Senate rules that requires the non-partisan Parliamentarian rule on the amount of spending cuts required to offset a tax cut.
- As a result of the above, it requires the Senate Committee to find only a minimum of \$4 billion in spending cuts as compared to the House total of \$1.5 trillion.
- It increases the debt ceiling by \$5 trillion as compared to the House's \$4 trillion. Senate GOP leaders believe the House figure is not enough to get past the 2026 midterm elections without having to vote again on a debt limit increase.

Democrats are planning to offer amendments tonight as the Senate embarks on a "vote-a-rama," – a process where amendments are debated in sequence and then all votes are held until the end. It promises to be a long night as the Democrats plan to talk for a long time about the threat to Medicaid funding in the resolution. Even though the instructions to Senate Committees do not require significant cuts, GOP Senators are pledging to go beyond the requirements in their committees and the resolution still contains the instructions to House Committees approved by the House. Those instructions include a \$880 billion cut in Medicaid spending over 10 years.

The most conservative House GOP Members are already crying foul over the Senate's low floor on budget cuts and the size of their debt limit increase. This sets up a potentially stressful week next week as leaders try to get agreement on a final budget before Congress leaves for a two-week Spring Break next Friday. If they fail to do so, the process of assembling the package containing the legislative details to reconcile tax and spending legislation with the budget will not be able to begin until late April/early May. This may delay the start of serious work on the fiscal year 2026 appropriations cycle.

House Appropriations Committee Kicks-off the Earmark Process for FY 2026

House Appropriations Committee Chair Tom Cole (R-OK) on Tuesday issued guidance to House Members on the process for "Community Project Funding" (i.e. earmarks) for fiscal year 2026.

The guidance from the full committee does not contain information on the specific programs that will be available for earmarking at the subcommittee level or the program-specific requirements projects will be required to meet. It also does not contain any reference to projects having to conform to recent executive orders issued by the President – although that could potentially be included in subcommittee guidance yet to be released.

The committee's release also includes guidance on programmatic and language requests.

The deadlines for each subcommittee are included in the guidance as well. For the Transportation-HUD Subcommittee, May 23 is the deadline Members to submit both earmark and language requests.

Click [HERE](#) to see the guidance.

New FTA and FRA Master Grant Agreements Reflect Executive Orders

The Federal Transit Administration and Federal Railroad Administration on March 28 published new Master Agreements on their websites that reflect changes in federal policy made by new executive orders and the cancellation of old ones.

Most of the changes in the agencies' agreements are the deletion of provisions relating to social equity, climate change, environmental justice and DEI. However, both agencies added language requiring grantees to certify that they do not "operate any programs promoting diversity, equity and inclusion (DEI) initiatives that violate any applicable anti-discrimination laws."

Some Democratic congressional offices are expressing an interest in how transit agencies are reacting to these changes. It is certainly foreseeable that the issue of whether standard procurement, business outreach and hiring practices of transit agencies "violate any applicable anti-discrimination laws" will be tested in the courts. But it remains to be seen how transit agencies will react to this change. Some may assert that their practices comply with applicable laws and seek to continue them. Others may make changes to avoid a potential conflict with the FTA or FRA.

Here is the [FTA](#) Master Agreement and here is the one from [FRA](#).

Duffy Sails Through Hearing on Reauthorization of Surface Transportation Programs

The Senate Committee on Environment and Public Works heard testimony Wednesday from Secretary of Transportation Sean Duffy at a hearing entitled "Constructing Surface Transportation Reauthorization Bill: United States Secretary of Transportation's Perspective." The major news of the hearing was Duffy's announcement that grants are starting to move out of the Department.

In their opening statements, committee Chair Shelly Moore Capito (R-WV) and Ranking Member Sheldon Whitehouse (D-RI) both touted projects in their states for funding and also talked about the need to streamline the permitting process for infrastructure projects. Whitehouse in particular emphasized the potential for bipartisan cooperation on permitting reform. In a nod to the stated purpose of the hearing, Chair Capito did lay out three principles for the reauthorization of at least the highway portion of the surface transportation bill. Those are:

1. Eliminate duplicative programs and focus federal funding on the formula programs that states have come to rely on for most of their funding.
2. Make the programs more efficient through permitting reform.
3. Give states maximum flexibility to address their own needs with minimum "top-down" mandates from Washington.

In his oral statement, Duffy spent the first five minutes talking about improvements he intends to make to the air traffic control system – a topic not germane to the subject of the hearing and not under the committee's jurisdiction. He also talked about permitting reform.

During the question-and-answer period, the hearing delved deeply into the concerns of Senators about the release of grants to projects in their states. In response to a question from Chair Capito, Duffy pointed out that the Biden Administration left on his desk 3,200 awarded, but not obligated, grants. He said that between Election Day and Inauguration Day the Biden team had awarded 950 grants when the range during that period previously was between 47 and 107 awards. He acknowledged that the department is reviewing grants for their compliance with the president's executive orders but said the delay in the release of grants has more to do with the sheer volume of them than that policy review. Duffy also took great pleasure in announcing three grants that are being approved. One of them was executed on Monday for a bridge in Senator Whitehouse's State of Rhode Island. The other two are in California – one for a road in Madera and one for the Otay Mesa East Port of Entry in San Diego. He pointed out that all three of those are in Democratic states.

There were only two Senators who asked questions that were targeted on transit programmatic issues. One, from Sen. Padilla (D-CA), was to ask Duffy if he would support continuing Bipartisan Infrastructure Law funding for the FTA Capital Investment Grant Program. This led to a confusing back and forth that started with Duffy thinking the question was about California's high-speed rail project (a project not funded through CIG, of course) and Padilla reminding him that there are other rail projects in California, including the LOSSAN Corridor, that need help. Duffy did not respond about CIG funding.

Sen. Angela Alsobrooks (D-MD) asked Duffy how federal transit funding could keep pace with rising construction costs. Duffy indicated that permitting reform would reduce the time needed to complete projects and make federal funding go farther. Alsobrooks went on to ask if Duffy would support "long-term, predictable" funding for transit systems like Washington and New York. Duffy used this as an opportunity to talk about transit safety. He said he believed the Mayor of Washington is "making good efforts" on transit safety but said nothing about New York. He went on to criticize the cost of developing transit projects in New York, saying it is five times as expensive as Washington.

DOT Releases First New NOFO of the Trump Administration

The Department of Transportation on Tuesday published a Notice of Funding Opportunity for the Safe Streets and Roads for All (SS4A) program. DOT will allocate \$982 million in this cycle. The NOFO does not include language that was part of the Biden Administration's NOFO's for the program on DEI such as equity and environmental justice. It does not appear to include any certifications requiring grantees to certify they are NOT carrying out DEI programs themselves.

Applications for planning grants and implementation grants are due on June 26. To see the NOFO and accompanying information, click [HERE](#).

Molinaro Nomination Cleared by Senate Banking Committee

The nomination of former New York Congressman Marc Molinaro was approved yesterday by the Senate Banking Committee and sent to the full Senate for a vote. As a result, Molinaro is likely to be in the job before the end of month – possibly as early as next week.

Border Report
Friday, May 9, 2025**William "Chad" McIntosh Named U.S. Commissioner for International Boundary and Water Commission**

On April 19, 2025, President Donald Trump appointed William "Chad" McIntosh as the new Commissioner of the U.S. Section of the International Boundary and Water Commission (IBWC)—the agency responsible for implementing boundary and water treaties between the United States and Mexico, and for resolving any disputes that may arise under those agreements. Commissioner McIntosh will oversee ongoing efforts to address crossborder sewage and the pollution affecting the Tijuana River and Pacific Ocean beaches in the San Diego border region. He previously served as Assistant Administrator for the Office of International and Tribal Affairs at the U.S. Environmental Protection Agency (EPA). McIntosh is a Registered Professional Chemical Engineer and a licensed Attorney.

EPA Administrator Lee Zeldin visits San Diego

On April 21–22, 2025, U.S. EPA Administrator Lee Zeldin visited San Diego to meet with local leaders, stakeholders, and Mexican officials. Discussions focused on progress related to the agreements outlined in Minute 328, including the San Antonio de los Buenos Treatment Plant and 15 other projectsⁱ. Administrator Zeldin stated that his visit aimed “to ensure that the path forward is one of maximum collaboration and extreme urgency to end a crisis that should have ended a long time agoⁱⁱ.”

ⁱ <https://www.gob.mx/semarnat/documentos/mensaje-de-la-secretaria-barcena-sobre-la-reunion-con-el-administrador-de-la-agencia-de-proteccion-ambiental-de-estados-unidos-lee-zeldin-396042?idiom=es>

ⁱⁱ <https://www.epa.gov/newsreleases/epa-administrator-lee-zeldin-holds-press-conference-tijuana-river-sewage-crisis-san>



SB 423: Modifications to Streamlined Ministerial Approval Process

(Government Code Section 65913.4)

February 2024

Overview

Senate Bill (SB) 423 amends the streamlined ministerial approval process for qualifying multifamily and mixed-use affordable housing projects as defined in Government Code Section 65913.4 — generally known as the “SB 35” process.

Major amendments to this streamlined ministerial approval process include:

- Modified affordability provisions.
- Updated labor standards.
- Amendments to qualifying locations eligible for streamlined ministerial approval.
- Minor clarifications for determining review and approval timelines.
- Addition of a public meeting in certain locations.
- Extension of the sunset date to January 1, 2036.

Purpose

This document is intended solely as a technical overview of new legislation. It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel before taking any action to implement these changes.

Background on the “SB 35” Streamlined Ministerial Approval Process

Pursuant to Government Code Section 65913.4, local governments that do not have a compliant housing element, that have had insufficient progress towards their Regional Housing Needs Allocation (RHNA), and/or that have not submitted the latest Annual Progress Report (APR) on their housing element, are required to provide a streamlined ministerial review process for qualifying multifamily housing projects if the proposed development meets specified eligibility criteria.¹

Qualifying projects must be approved through a streamlined ministerial approval process, subject to specific timelines. Ministerial projects can only be reviewed for consistency with objective design and development standards. Ministerial projects are not subject to

¹ The State Department of Housing and Community Development (HCD) is responsible for making a determination whether a jurisdiction is subject to the streamlined ministerial approval process. As defined in Government Code Section 65913.4(a)(4), this determination shall be based on permit data received through the most recent APR provided. Jurisdictions that do not submit their latest APR prior to HCD's determination are automatically subject to the streamlined ministerial approval process.

environmental review under the California Environmental Quality Act (CEQA) and may not be subject to a conditional use permit (CUP) or discretionary design review process.

Qualifying Projects

To qualify for streamlined ministerial approval, projects must meet a specific set of requirements. As listed in Section 65913.4, projects must be:

- A multifamily housing development (at least two residential units) in an urbanized area,
- Located where 75% of the perimeter of the site is developed,
- Zoned or designated by the general plan for residential or mixed-use residential development,
- One that includes affordable housing in accordance with the minimum requirements included in Section 65913.4 (4),
- In a location that does not have an adopted, compliant housing element certified by the California Department of Housing and Community Development (HCD) or a location where the locality's share of regional housing needs, by income level, have not been satisfied based on issued building permits,
- Consistent with objective zoning and design review standards; and,
- Willing to pay construction workers the state-determined prevailing wage.

Modified Affordability Provisions

A qualifying development must provide a minimum percentage of below market rate housing and commit to providing these units at affordable housing costs for the mandated periods of time. Previously, to be eligible for the SB 35 ministerial approval process, any project (rental or for-sale) in a jurisdiction that had insufficient RHNA progress for above-moderate income units was required to dedicate a minimum of 10 percent of total number of units to households making at or below 80 percent of area median income (AMI). With SB 423 changes, rental and for-sale projects in those qualifying jurisdictions are now required to provide either (i) at least 10 percent of the total units to households making at or below 50 percent of AMI or (ii) comply with the locality's inclusionary ordinance where that ordinance requires greater than 10 percent of the units to be dedicated to households making at or below 50 percent AMI.

Updated Labor Standards

Government Code Section 65913.4 requires developers to comply with certain wage and labor standards, including that all construction workers will be paid prevailing wages. These requirements do not apply to a project that consists of 10 or fewer units and is not a public work. In addition, SB 423 modified requirements regarding labor standards. Projects with over 50 units must employ apprentices and provide health care for workers. For projects more than 85 feet high, a "skilled and trained" workforce must be used, unless qualified contractors are not available.

Amendments to Qualifying Locations Eligible for Streamlined Ministerial Approval

SB 423 amends Section 65913.4 (6) to extend and expand the applicability of streamlined ministerial approval in coastal zones and high and very high fire hazard severity zones. These provisions go into effect on January 1, 2025.

There are still several locations where developers may not apply for streamlined ministerial approval pursuant to the provisions of Government Code Section 65913.4. A project will not qualify if it is in specified environmentally sensitive areas or if the project requires demolition of existing multi-family or affordable housing.

Coastal Zones

SB 423 extends the applicability of streamlined ministerial approval processing to the coastal zone, with certain exceptions. Within the coastal zone, sites are not eligible unless they are zoned for multifamily housing. Sites within 100 feet of a wetland, estuary, or stream; on prime agricultural land; in a community that does not have a certified local coastal program or land use plan; are vulnerable to sea level rise; or located between the sea and first public road or within 300 feet of a beach or high tide or coastal bluff cannot utilize the streamlined ministerial approval process. For sites that are eligible, the local agency must approve a coastal development permit if it conforms with all objective standards of the certified local coastal program or land use plan. Any density bonus, concessions, waivers, or parking ratios allowed under density bonus law are not a basis to find the development inconsistent with the local coastal program.

Very High Fire Hazard Severity Zones

SB 423 also removes the prohibition against an SB 35 project being located within a high or very high fire hazard severity zone as indicated on maps adopted by the California Department of Forestry and Fire Protection (CAL FIRE). However, within a very high fire severity zone and the statutorily defined state responsibility area, the local jurisdiction must have adopted specified fire hazard mitigation measures applicable to the site for a project to be eligible for the streamlined ministerial process.

Equine or Equestrian Districts

SB 423 added provisions that streamlined ministerial approval processing is not applicable to housing development applications on sites within an equine or equestrian district submitted on or after January 1, 2024, but before July 1, 2025.

Minor Clarifications for Determining Review and Approval Timelines

Review and approval timelines are outlined in Section 65913.4 (c)(1) and (d)(1). Based on the total number of units in a proposed development, a local agency has 60 to 90 days to provide a written determination describing whether the proposal meets local objective standards. If the deadline is missed, the project is automatically deemed to meet the standards.

SB 423 provides clarification for the purposes of determining the total number of units in a proposed development. The total number of units in a development now includes (i) all projects developed on a site regardless of when those developments occur and (ii) all projects developed on adjacent sites pursuant to Government Code § 65913.4 if the adjacent site had been subdivided from the site development pursuant to Government Code § 65913.4 after January 1, 2023.

Addition of a Public Meeting in Certain Locations

SB 423 adds the requirement for a public meeting if the development is in a moderate resource area, low resource area, or an area of high segregation and poverty—as determined by the most recent “CTCAC/HCD Opportunity Map” published by the California Tax Credit Allocation Committee. If the development is in one of these areas, the local government is required to provide for a public meeting within 45 days of receiving a notice of intent before the applicant submits an application for the proposed development. The public meeting must be held at a regular city council or board of supervisors meeting, subject to the Brown Act. For cities or unincorporated area of a county with a population greater than 250,000 people, the meeting may be held by the jurisdiction’s planning commission.

The applicant must attend the meeting and provide a written statement that they reviewed oral and written testimony in its submittal of an application for streamlined ministerial approval. Local agencies will need to arrange for public meetings in advance of the submission of certain projects; however, they cannot require applicants to modify the project in response to public comments. If the local government fails to hold the hearing within 45 days after receiving the notice of intent, the applicant then has a duty to hold a public meeting on the proposed development before submitting an application.

Extension of the Sunset Date to January 1, 2036

Previously the provisions set forth under Government Code Section 65913.4 were set to sunset in 2026, but SB 423 extends the provisions by 10 years to provide a new sunset date of January 1, 2036.



October 25, 2024

The Honorable Chris Ward
Chair, Assembly Housing and Community Development Committee
Capitol Office, 1021 O Street, Suite 6350
Sacramento, CA 95814

The Honorable Nancy Skinner
Chair, Senate Housing Committee
Capitol Office, 1021 O Street, Suite 8630
Sacramento, CA 95814

Dear Chair Ward and Chair Skinner,

Subject: Assembly Bill 101 (2019) Implementation of Regional Housing Needs Assessment (RHNA) Reform

The San Diego Association of Governments (SANDAG) has been closely participating in the RHNA reform process under Assembly Bill 101 (2019) and appreciates your leadership on addressing the ongoing housing challenges throughout the state. We applaud the State's efforts to address the auditor's recommendations but are concerned that California Department of Housing and Community Development's (HCD) stakeholder engagement process did not incorporate meaningful input from those who are most impacted by RHNA - local governments. As you take on RHNA reform in the upcoming legislative cycles, we ask you to consider the following principles.

Sustainable Funding

Local jurisdictions and developers alike need more funding, including capital investments, to support affordable housing. Local jurisdictions need funding to enact policies and processes that encourage housing development and provide infrastructure and services, and developers need funding to make non-market rate projects financially viable. The dissolution of redevelopment agencies, which for decades were critical in the development of affordable housing projects, eliminated an important source of funding for cities. While the Regional Early Action Planning (REAP) grants provided by the State furthered jurisdictions' ability to implement the sixth cycle RHNA, ongoing state and federal funding for planning and capital investments is necessary to meet housing goals.

Fulfilling our region's sixth cycle allocation of 68,959 low and very low units (with an average cost of \$700,000 per unit) will cost almost \$49 billion in construction costs. Construction costs are not the only expense associated with additional housing. The accessibility of fundamental housing infrastructure needs to be taken into consideration in the RHNA process, and additional funding proportional to the number of new units allocated is needed to provide required services such as water, sewer, parks, and other ongoing maintenance.

We also encourage the State to collaborate with regions to develop a two-tiered approach to include both an analysis of the overall housing need as well as a funding analysis to determine what is achievable within an 8-year production cycle.

Local Context

Local jurisdictions are responsible for planning and developing policies that encourage housing development, but do not control market conditions or the building industry. An 8-year cycle is not enough time to make up for the decades-long housing shortage, as new policies and processes take time to make an impact. When assessing each jurisdiction's progress towards RHNA, HCD should evaluate jurisdictions based on good faith efforts, meaning that they are approving eligible housing development projects, and consider factors outside of their control, such as market conditions and other State

mandated regulatory processes that can impede housing production. For example, the California Coastal Commission's review process often delays the approval of housing permits. Additionally, efforts to reduce vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions in less VMT-efficient areas can further complicate housing development in certain parts of our county. Jurisdictions should retain local control when they are meeting their housing responsibilities, especially when other factors outside their control are impeding development.

In addition, given the large military and student population in the San Diego region, we strongly recommend that HCD consider the role of the military and higher education partners in solving the housing crisis. Housing built on campuses and military bases helps alleviate the pressure on the housing stock in local jurisdictions and should be considered as progress towards achieving RHNA targets.

Greater Transparency

The HCD RHNA report recommends implementing procedural and informational enhancements to the current process, but there is a lack of information on how and when these changes will be made. To ensure transparency, we strongly advocate that only publicly available data sources are used and that HCD works directly with local governments throughout the RHNA process (determination and allocation phases). We request prompt guidance and increased transparency on upcoming changes to the RHNA process and any modifications that will be necessary for housing elements.

Regional Approach

To truly address the state's housing crisis, RHNA cycles need to include a more collaborative regional approach, as not all jurisdictions have the resources or capacity to support additional housing. Since housing is a quality-of-life issue that crosses jurisdictional boundaries, HCD should allow a collective effort to produce affordable housing that may be funded by multiple jurisdictions and share progress towards our regional goal. Two or more cities should be allowed to reallocate or redistribute units if it will result in an increase in housing stock that would otherwise not be achieved. Through the collaboration of local leaders, we can identify and build housing in the right places and provide the supportive transportation options that align with California's climate goals.

Preservation of Affordable Housing

We urge state leaders to take steps to preserve naturally occurring affordable housing (NOAH) by passing legislation that provides tax incentives to landlords or offers other creative financial incentives. HCD should develop guidance to allow local jurisdictions to report on NOAH units that are not deed-restricted in annual progress reports. Preserving existing affordable housing is a critical component to addressing current and future housing needs in our region.

We thank you for your consideration and welcome the opportunity for further collaboration with your offices as we work towards meeting the housing needs of current and future San Diego residents.

Sincerely,



Nora Vargas
Chairwoman
San Diego Association of Governments

CC:

Gustavo Velasquez, Director, California Department of Housing & Community Development

AMENDED IN ASSEMBLY APRIL 24, 2025

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 650

Introduced by Assembly Member Papan

February 13, 2025

An act to amend Sections 65583, 65584, 65584.01, 65584.03, 65584.04, 65584.05, ~~65585, and 65589.5~~ and 65585 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 650, as amended, Papan. Planning and zoning: housing element: regional housing needs allocation.

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, which includes, among other mandatory elements, a housing element. Existing law requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. Existing law defines “affirmatively furthering fair housing,” as provided.

The Planning and Zoning Law requires that a housing element include, among other things, a program that sets forth a schedule of actions during the planning period. Existing law requires the Department of Housing and Community Development to develop a standardized reporting format for programs and actions taken pursuant to the requirement to affirmatively further fair housing.

This bill would require the department to develop the above-described standardized reporting format on or before December 31, 2026.

(2) Existing law requires, for the 4th and subsequent revisions of the housing element, the department to determine the existing and projected need for housing for each region, as specified. Existing law requires the department, in consultation with the council of governments, to determine the existing and projected need of housing for each region at least 2 years prior to the scheduled revision of the housing element, as provided. Existing law requires the department to meet and consult with the council of governments regarding the assumptions and methodology to be used to determine the region's housing needs at least 26 months prior to the scheduled revision of the housing element, as provided.

~~This bill~~ *bill, except as specified,* would extend the above-described timeline for the department to determine the existing and projected need of housing for each region from 2 years to ~~30 months~~ 3 years prior to the scheduled revision of the housing element, and the above-described timeline to meet and consult with a council of governments from at least 26 months to at least ~~32~~ 38 months prior to the scheduled revision of the housing element, respectively.

(3) Existing law authorizes at least 2 or more cities and a county, or counties, and at least 28 months prior to the scheduled housing element revision, to form a subregional entity to allocate the subregion's existing and projected housing need among its members. If the council of governments does not receive a notification of this formation at least 28 months prior to the update, existing law requires the council of governments to implement specified requirements regarding the regional housing need process. Existing law requires the council of governments to determine the share of regional housing need assigned to each delegate subregion at least 25 months prior to the scheduled revision.

This bill would extend the above-described timeline for cities and counties to form a subregional entity to allocate the subregion's housing need, as provided, from 28 months to 34 months, and the above-described timeline for the council of governments to determine the share of regional housing need assigned to each subregion from 25 months to 31 months, respectively.

~~(3)~~

(4) Existing law, at least 2 years before a scheduled revision of the housing element, as specified, requires each council of governments, or delegate subregion as applicable, to develop, in consultation with

the department, a proposed methodology for distributing the existing and projected regional housing need to jurisdictions, as specified. Existing law, at least 1 ½ years before a scheduled revision of the housing element, as specified, requires each council of governments and delegate subregion, as applicable, to distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, as specified.

This bill, except with respect to the 7th housing element cycle for councils of governments with a housing element revision due date during the 2027 calendar year, would instead require that the above-described methodology be developed from at least 2 ½ years before a scheduled revision of the housing element, and that the distribution of the draft allocation plan be made at least 2 years before a scheduled revision of the housing element, respectively.

(4)

(5) Existing law requires a planning agency to submit a copy of its draft housing element or amendments to its housing element or housing element revision to the department for review, and requires the department to notify the city, county, or city and county with written findings if the department finds that the housing element or the amendment does not substantially comply with specified law. If the department finds that the draft housing element or draft amendment is not in substantial compliance, existing law requires the jurisdiction to either update the draft to substantially comply with specified law, or adopt the draft housing element or amendment without changes, as provided.

This bill would require the department, if the department finds that a draft element or draft amendment does not substantially comply, as described above, to (A) identify and explain the specific deficiencies in the draft element or draft amendment and (B) provide the specific analysis or text that the department expects the planning agency to include in the draft element or draft amendment to remedy those deficiencies, as specified. The bill would require a jurisdiction, in updating a noncompliant housing element or amendment under the above-described provisions, to include the specific analysis or text in its draft element or amendment. ~~The bill would also exempt a jurisdiction from certain requirements to approve a so-called “builder’s remedy project” under specified law for the period during which the department is reviewing that jurisdiction’s updated draft element or draft amendment after submission of the updated element or amendment,~~

as described above, or for 90 days from the date the department notifies the planning agency of additional deficiencies with the draft, as provided. The bill would make various conforming changes in this regard.

(5)

(6) By imposing additional duties on local governments, this bill would create 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:

1 SECTION 1. Section 65583 of the Government Code is
2 amended to read:

3 65583. The housing element shall consist of an identification
4 and analysis of existing and projected housing needs and a
5 statement of goals, policies, quantified objectives, financial
6 resources, and scheduled programs for the preservation,
7 improvement, and development of housing. The housing element
8 shall identify adequate sites for housing, including rental housing,
9 factory-built housing, mobilehomes, and emergency shelters, and
10 shall make adequate provision for the existing and projected needs
11 of all economic segments of the community. The housing element
12 shall contain all of the following:

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

17 (1) An analysis of population and employment trends and
18 documentation of projections and a quantification of the locality's
19 existing and projected housing needs for all income levels. These
20 existing and projected needs shall include the locality's share of
21 the regional housing need in accordance with Section 65584.

22 (2) An analysis and documentation of household characteristics,
23 including level of payment compared to ability to pay, housing

1 characteristics, including overcrowding, and housing stock
2 condition.

3 (3) An inventory of land suitable and available for residential
4 development, including vacant sites and sites having realistic and
5 demonstrated potential for redevelopment during the planning
6 period to meet the locality's housing need for a designated income
7 level, and an analysis of the relationship of zoning and public
8 facilities and services to these sites, and an analysis of the
9 relationship of the sites identified in the land inventory to the
10 jurisdiction's duty to affirmatively further fair housing.

11 (4) (A) The identification of one or more zoning designations
12 that allow residential uses, including mixed uses, where emergency
13 shelters are allowed as a permitted use without a conditional use
14 or other discretionary permit and that are suitable for residential
15 uses. The identified zoning designations shall include sufficient
16 sites meeting the requirements of subparagraph (H) with sufficient
17 capacity, as described in subparagraph (I), to accommodate the
18 need for emergency shelter identified in paragraph (7), except that
19 each local government shall identify a zoning designation or
20 designations that can accommodate at least one year-round
21 emergency shelter. If the local government cannot identify a zoning
22 designation or designations with sufficient capacity, the local
23 government shall include a program to amend its zoning ordinance
24 to meet the requirements of this paragraph within one year of the
25 adoption of the housing element. The local government may
26 identify additional zoning designations where emergency shelters
27 are permitted with a conditional use permit. The local government
28 shall also demonstrate that existing or proposed permit processing,
29 development, and management standards that apply to emergency
30 shelters are objective and encourage and facilitate the development
31 of, or conversion to, emergency shelters.

32 (B) Emergency shelters shall only be subject to the following
33 written, objective standards:

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

36 (ii) Sufficient parking to accommodate all staff working in the
37 emergency shelter, provided that the standards do not require more
38 parking for emergency shelters than other residential or commercial
39 uses within the 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 (C) For purposes of this paragraph, “emergency shelter” shall
11 include other interim interventions, including, but not limited to,
12 a navigation center, bridge housing, and respite or recuperative
13 care.

14 (D) The permit processing, development, and management
15 standards applied under this paragraph shall not be deemed to be
16 discretionary acts within the meaning of the California
17 Environmental Quality Act (Division 13 (commencing with Section
18 21000) of the Public Resources Code).

19 (E) If a local government has adopted written, objective
20 standards pursuant to subparagraph (B), the local government shall
21 include an analysis of the standards in the analysis of constraints
22 pursuant to paragraph (5).

23 (F) A local government that can demonstrate, to the satisfaction
24 of the department, the existence of one or more emergency shelters
25 either within its jurisdiction or pursuant to a multijurisdictional
26 agreement that can accommodate that jurisdiction’s need and the
27 needs of the other jurisdictions that are a part of the agreement for
28 emergency shelter identified in paragraph (7) may comply with
29 the zoning requirements of subparagraph (A) by identifying a
30 zoning designation where new emergency shelters are allowed
31 with a conditional use permit.

32 (G) A local government with an existing ordinance or ordinances
33 that comply with this paragraph shall not be required to take
34 additional action to identify zoning designations for emergency
35 shelters. The housing element must only describe how existing
36 ordinances, policies, and standards are consistent with the
37 requirements of this paragraph.

38 (H) The zoning designation or designations where emergency
39 shelters are allowed, as described in subparagraph (A), shall include
40 sites that meet at least one of the following standards:

1 (i) Vacant sites zoned for residential use.

2 (ii) Vacant sites zoned for nonresidential use that allow
3 residential development, if the local government can demonstrate
4 how the sites with this zoning designation that are being used to
5 satisfy the requirements of paragraph (1) are located near amenities
6 and services that serve people experiencing homelessness, which
7 may include health care, transportation, retail, employment, and
8 social services, or that the local government will provide free
9 transportation to services or offer services onsite.

10 (iii) Nonvacant sites zoned for residential use or for
11 nonresidential use that allow residential development that are
12 suitable for use as a shelter in the current planning period, or which
13 can be redeveloped for use as a shelter in the current planning
14 period. A nonvacant site with an existing use shall be presumed
15 to impede emergency shelter development absent an analysis based
16 on substantial evidence that the use is likely to be discontinued
17 during the planning period. The analysis shall consider current
18 market demand for the current uses, market conditions, and
19 incentives or standards to encourage shelter development.

20 (I) The zoning designation or designations shall have sufficient
21 sites meeting the requirements of subparagraph (H) to
22 accommodate the need for shelters identified pursuant to paragraph
23 (7). The number of people experiencing homelessness that can be
24 accommodated on any site shall be demonstrated by dividing the
25 square footage of the site by a minimum of 200 square feet per
26 person, unless the locality can demonstrate that one or more
27 shelters were developed on sites that have fewer square feet per
28 person during the prior planning period or the locality provides
29 similar evidence to the department demonstrating that the site can
30 accommodate more people experiencing homelessness. Any
31 standard applied pursuant to this subparagraph is intended only
32 for calculating site capacity pursuant to this section, and shall not
33 be construed as establishing a development standard applicable to
34 the siting, development, or approval of a shelter.

35 (J) Notwithstanding subparagraph (H), a local government may
36 accommodate the need for emergency shelters identified pursuant
37 to paragraph (7) on sites owned by the local government if it
38 demonstrates with substantial evidence that the sites will be made
39 available for emergency shelter during the planning period, they
40 are suitable for residential use, and the sites are located near

1 amenities and services that serve people experiencing
2 homelessness, which may include health care, transportation, retail,
3 employment, and social services, or that the local government will
4 provide free transportation to services or offer services onsite.

5 (5) An analysis of potential and actual governmental constraints
6 upon the maintenance, improvement, or development of housing
7 for all income levels, including the types of housing identified in
8 paragraph (1) of subdivision (c), and for persons with disabilities
9 as identified in the analysis pursuant to paragraph (7), including
10 land use controls, building codes and their enforcement, site
11 improvements, fees, and other exactions required of developers,
12 local processing and permit procedures, historic preservation
13 practices and policies and an assessment of how existing and
14 proposed historic designations affect the locality's ability to meet
15 its share of the housing need pursuant to paragraph (1), and any
16 locally adopted ordinances that directly impact the cost and supply
17 of residential development. The analysis shall also demonstrate
18 local efforts to remove governmental constraints that hinder the
19 locality from meeting its share of the regional housing need in
20 accordance with Section 65584 and from meeting the need for
21 housing for persons with disabilities, supportive housing,
22 transitional housing, and emergency shelters identified pursuant
23 to paragraph (7).

24 (6) An analysis of potential and actual nongovernmental
25 constraints upon the maintenance, improvement, or development
26 of housing for all income levels, including the availability of
27 financing, the price of land, the cost of construction, the requests
28 to develop housing at densities below those anticipated in the
29 analysis required by subdivision (c) of Section 65583.2, and the
30 length of time between receiving approval for a housing
31 development and submittal of an application for building permits
32 for that housing development that hinder the construction of a
33 locality's share of the regional housing need in accordance with
34 Section 65584. The analysis shall also demonstrate local efforts
35 to remove nongovernmental constraints that create a gap between
36 the locality's planning for the development of housing for all
37 income levels and the construction of that housing.

38 (7) (A) An analysis of any special housing needs, such as those
39 of the elderly; persons with disabilities, including a developmental
40 disability, as defined in Section 4512 of the Welfare and

1 Institutions Code; extremely low income households; large
2 families; farmworkers; families with female heads of households;
3 and families and persons in need of emergency shelter. The need
4 for emergency shelter shall be assessed based on the capacity
5 necessary to accommodate the most recent homeless point-in-time
6 count conducted before the start of the planning period, the need
7 for emergency shelter based on number of beds available on a
8 year-round and seasonal basis, the number of shelter beds that go
9 unused on an average monthly basis within a one-year period, and
10 the percentage of those in emergency shelters that move to
11 permanent housing solutions. The need for emergency shelter may
12 be reduced by the number of supportive housing units that are
13 identified in an adopted 10-year plan to end chronic homelessness
14 and that are either vacant or for which funding has been identified
15 to allow construction during the planning period. An analysis of
16 special housing needs by a city or county may include an analysis
17 of the need for frequent user coordinated care housing services.

18 (B) For the seventh and subsequent revisions of the housing
19 element, the analysis required in subparagraph (A) shall also
20 include an analysis of the housing needs of acutely and extremely
21 low income households.

22 (8) An analysis of opportunities for energy conservation with
23 respect to residential development. Cities and counties are
24 encouraged to include weatherization and energy efficiency
25 improvements as part of publicly subsidized housing rehabilitation
26 projects. This may include energy efficiency measures that
27 encompass the building envelope, its heating and cooling systems,
28 and its electrical system.

29 (9) An analysis of existing assisted housing developments that
30 are eligible to change from low-income housing uses during the
31 next 10 years due to termination of subsidy contracts, mortgage
32 prepayment, or expiration of restrictions on use. "Assisted housing
33 developments," for the purpose of this section, shall mean
34 multifamily rental housing that receives governmental assistance
35 under federal programs listed in subdivision (a) of Section
36 65863.10, state and local multifamily revenue bond programs,
37 local redevelopment programs, the federal Community
38 Development Block Grant Program, or local in-lieu fees. "Assisted
39 housing developments" shall also include multifamily rental units
40 that were developed pursuant to a local inclusionary housing

1 program or used to qualify for a density bonus pursuant to Section
2 65916.

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

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

18 (C) The analysis shall identify public and private nonprofit
19 corporations known to the local government that have legal and
20 managerial capacity to acquire and manage these housing
21 developments.

22 (D) The analysis shall identify and consider the use of all federal,
23 state, and local financing and subsidy programs that can be used
24 to preserve, for lower income households, the assisted housing
25 developments, identified in this paragraph, including, but not
26 limited to, federal Community Development Block Grant Program
27 funds, tax increment funds received by a redevelopment agency
28 of the community, and administrative fees received by a housing
29 authority operating within the community. In considering the use
30 of these financing and subsidy programs, the analysis shall identify
31 the amounts of funds under each available program that have not
32 been legally obligated for other purposes and that could be
33 available for use in preserving assisted housing developments.

34 (b) (1) A statement of the community's goals, quantified
35 objectives, and policies relative to affirmatively furthering fair
36 housing and to the maintenance, preservation, improvement, and
37 development of housing.

38 (2) It is recognized that the total housing needs identified
39 pursuant to subdivision (a) may exceed available resources and
40 the community's ability to satisfy this need within the content of

1 the general plan requirements outlined in Article 5 (commencing
2 with Section 65300). Under these circumstances, the quantified
3 objectives need not be identical to the total housing needs. The
4 quantified objectives shall establish the maximum number of
5 housing units by income category that can be constructed,
6 rehabilitated, and conserved over a five-year time period.

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

24 (1) Identify actions that will be taken to make sites available
25 during the planning period with appropriate zoning and
26 development standards and with services and facilities to
27 accommodate that portion of the city's or county's share of the
28 regional housing need for all income levels that could not be
29 accommodated on sites identified in the inventory completed
30 pursuant to paragraph (3) of subdivision (a) without rezoning, and
31 to comply with the requirements of Section 65584.09. Sites shall
32 be identified as needed to affirmatively further fair housing and
33 to facilitate and encourage the development of a variety of types
34 of housing for all income levels, including multifamily rental
35 housing, factory-built housing, mobilehomes, housing for
36 agricultural employees, supportive housing, single-room occupancy
37 units, emergency shelters, and transitional housing.

38 (A) Where the inventory of sites, pursuant to paragraph (3) of
39 subdivision (a), does not identify adequate sites to accommodate
40 the need for groups of all household income levels pursuant to

1 Section 65584, a program for rezoning of those sites, subject to
2 the following deadlines:

3 (i) For the adoption of the sixth revision of the housing element,
4 jurisdictions with an eight-year housing element planning period
5 pursuant to Section 65588, including adoption of minimum density
6 and development standards or, for a jurisdiction in the coastal zone,
7 any necessary local coastal program amendments related to land
8 use designations, changes in intensity of land use, zoning
9 ordinances, or zoning district maps, consistent with Sections 30512,
10 30512.2, 30513, and 30514 of the Public Resources Code, shall
11 be completed no later than three years after either the date the
12 housing element is adopted pursuant to subdivision (f) of Section
13 65585 or the date that is 90 days after receipt of comments from
14 the department pursuant to subdivision (b) of Section 65585,
15 whichever is earlier, unless the deadline is extended pursuant to
16 subdivision (f). Notwithstanding the foregoing, for a local
17 government that fails to adopt a housing element that the
18 department has found to be in substantial compliance with this
19 article within 120 days of the statutory deadline in Section 65588
20 for adoption of the housing element, rezoning of those sites,
21 including adoption of minimum density and development standards
22 or, for a jurisdiction in the coastal zone, any necessary local coastal
23 program amendments related to land use designations, changes in
24 intensity of land use, zoning ordinances, or zoning district maps,
25 consistent with Sections 30512, 30512.2, 30513, and 30514 of the
26 Public Resources Code, shall be completed no later than one year
27 from the statutory deadline in Section 65588 for adoption of the
28 housing element.

29 (ii) For adoption of the seventh and all subsequent revisions of
30 the housing element, rezonings shall be completed no later than
31 one year from the statutory deadline in Section 65588 for adoption
32 of the housing element.

33 (iii) Notwithstanding clause (ii), for the adoption of the seventh
34 and all subsequent revisions of the housing element, rezonings
35 shall be completed no later than three years and 90 days after the
36 statutory deadline in Section 65588 for adoption of the housing
37 element, unless the deadline is extended pursuant to subdivision
38 (f). This clause shall apply only if the local government complies
39 with all of the following:

1 (I) The local government submits a draft element or draft
2 amendment to the department for review pursuant to paragraph
3 (1) of subdivision (b) of Section 65585 at least 90 days before the
4 statutory deadline established in Section 65588 for adoption of the
5 housing element.

6 (II) The local government receives from the department findings
7 that the draft element or draft amendment substantially complies
8 with this article pursuant to paragraph (3) of subdivision (b) of
9 Section 65585 on or before the statutory deadline set forth in
10 Section 65588 for adoption of the housing element.

11 (III) The local government adopts the draft element or draft
12 amendment that the department found to substantially comply with
13 this article no later than 120 days after the statutory deadline set
14 forth in Section 65588.

15 (B) Where the inventory of sites, pursuant to paragraph (3) of
16 subdivision (a), does not identify adequate sites to accommodate
17 the need for groups of all household income levels pursuant to
18 Section 65584, the program shall identify sites that can be
19 developed for housing within the planning period pursuant to
20 subdivision (h) of Section 65583.2. The identification of sites shall
21 include all components specified in Section 65583.2.

22 (C) Where the inventory of sites pursuant to paragraph (3) of
23 subdivision (a) does not identify adequate sites to accommodate
24 the need for farmworker housing, the program shall provide for
25 sufficient sites to meet the need with zoning that permits
26 farmworker housing use by right, including density and
27 development standards that could accommodate and facilitate the
28 feasibility of the development of farmworker housing for low- and
29 very low income households.

30 (2) (A) Assist in the development of adequate housing to meet
31 the needs of extremely low, very low, low-, and moderate-income
32 households.

33 (B) For the seventh and subsequent revisions of the housing
34 element, the program shall also assist in the development of
35 adequate housing to meet the needs of acutely low income
36 households.

37 (3) Address and, where appropriate and legally possible, remove
38 governmental and nongovernmental constraints to the maintenance,
39 improvement, and development of housing, including housing for
40 all income levels and housing for persons with disabilities. The

1 program shall remove constraints to, and provide reasonable
2 accommodations for housing designed for, intended for occupancy
3 by, or with supportive services for, persons with disabilities.
4 Transitional housing and supportive housing shall be considered
5 a residential use of property and shall be subject only to those
6 restrictions that apply to other residential dwellings of the same
7 type in the same zone. Supportive housing, as defined in Section
8 65650, shall be a use by right in all zones where multifamily and
9 mixed uses are permitted, as provided in Article 11 (commencing
10 with Section 65650).

11 (4) Conserve and improve the condition of the existing
12 affordable housing stock, which may include addressing ways to
13 mitigate the loss of dwelling units demolished by public or private
14 action.

15 (5) Promote and affirmatively further fair housing opportunities
16 and promote housing throughout the community or communities
17 for all persons regardless of race, religion, sex, marital status,
18 ancestry, national origin, color, familial status, or disability, and
19 other characteristics protected by the California Fair Employment
20 and Housing Act (Part 2.8 (commencing with Section 12900) of
21 Division 3 of Title 2), Section 65008, and any other state and
22 federal fair housing and planning law.

23 (6) Preserve for lower income households the assisted housing
24 developments identified pursuant to paragraph (9) of subdivision
25 (a). The program for preservation of the assisted housing
26 developments shall utilize, to the extent necessary, all available
27 federal, state, and local financing and subsidy programs identified
28 in paragraph (9) of subdivision (a), except where a community has
29 other urgent needs for which alternative funding sources are not
30 available. The program may include strategies that involve local
31 regulation and technical assistance.

32 (7) Develop a plan that incentivizes and promotes the creation
33 of accessory dwelling units that can be offered at affordable rent,
34 as defined in Section 50053 of the Health and Safety Code, for
35 very low, low-, or moderate-income households. For purposes of
36 this paragraph, “accessory dwelling units” has the same meaning
37 as “accessory dwelling unit” as defined in subdivision (a) of
38 Section 66313.

39 (8) Include an identification of the agencies and officials
40 responsible for the implementation of the various actions and the

1 means by which consistency will be achieved with other general
2 plan elements and community goals.

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

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

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

15 (ii) An analysis of available federal, state, and local data and
16 knowledge to identify integration and segregation patterns and
17 trends, racially or ethnically concentrated areas of poverty and
18 affluence, disparities in access to opportunity, and disproportionate
19 housing needs, including displacement risk. The analysis shall
20 identify and examine such patterns, trends, areas, disparities, and
21 needs, both within the jurisdiction and comparing the jurisdiction
22 to the region in which it is located, based on race and other
23 characteristics protected by the California Fair Employment and
24 Housing Act (Part 2.8 (commencing with Section 12900) of
25 Division 3 of Title 2) and Section 65008.

26 (iii) An assessment of the contributing factors, including the
27 local and regional historical origins and current policies and
28 practices, for the fair housing issues identified under clauses (i)
29 and (ii).

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

36 (v) Strategies and actions to implement those priorities and
37 goals, which may include, but are not limited to, enhancing
38 mobility strategies and encouraging development of new affordable
39 housing in areas of opportunity, as well as place-based strategies
40 to encourage community revitalization, including preservation of

1 existing affordable housing, and protecting existing residents from
2 displacement.

3 (B) A jurisdiction that completes or revises an assessment of
4 fair housing pursuant to Subpart A (commencing with Section
5 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal
6 Regulations, as published in Volume 80 of the Federal Register,
7 Number 136, page 42272, dated July 16, 2015, or an analysis of
8 impediments to fair housing choice in accordance with the
9 requirements of Section 91.225 of Title 24 of the Code of Federal
10 Regulations in effect before August 17, 2015, may incorporate
11 relevant portions of that assessment or revised assessment of fair
12 housing or analysis or revised analysis of impediments to fair
13 housing into its housing element.

14 (C) (i) The requirements of this paragraph shall apply to housing
15 elements due to be revised pursuant to Section 65588 on or after
16 January 1, 2021.

17 (ii) The assessment required pursuant to this paragraph shall be
18 completed before the planning agency makes its first draft revision
19 of a housing element available for public comment pursuant to
20 subdivision (b) of Section 65585.

21 (D) (i) On or before December 31, 2026, the department shall
22 develop a standardized reporting format for programs and actions
23 taken pursuant to this paragraph. The standardized reporting format
24 shall enable the reporting of all of the assessment components
25 listed in subparagraph (A) and, at a minimum, include all of the
26 following fields:

27 (I) Timelines for implementation.

28 (II) Responsible party or parties.

29 (III) Resources committed from the local budget to affirmatively
30 further fair housing.

31 (IV) Action areas.

32 (V) Potential impacts of the program.

33 (ii) A local government shall utilize the standardized report
34 format developed pursuant to this subparagraph for the seventh
35 and each subsequent revision of the housing element.

36 (d) (1) A local government may satisfy all or part of its
37 requirement to identify a zone or zones suitable for the
38 development of emergency shelters pursuant to paragraph (4) of
39 subdivision (a) by adopting and implementing a multijurisdictional
40 agreement, with a maximum of two other adjacent communities,

1 that requires the participating jurisdictions to develop at least one
2 year-round emergency shelter within two years of the beginning
3 of the planning period.

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

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

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

12 (B) The jurisdiction's contribution to the facility for both the
13 development and ongoing operation and management of the
14 facility.

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

17 (4) The aggregate capacity claimed by the participating
18 jurisdictions in their housing elements shall not exceed the actual
19 capacity of the shelter.

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

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

28 (2) Any housing element or housing element amendment
29 prepared pursuant to subdivision (e) of Section 65588 or Section
30 65584.02, when the city, county, or city and county fails to submit
31 the first draft to the department before the due date specified in
32 Section 65588 or 65584.02.

33 (f) The deadline for completing required rezoning pursuant to
34 subparagraph (A) of paragraph (1) of subdivision (c) shall be
35 extended by one year if the local government has completed the
36 rezoning at densities sufficient to accommodate at least 75 percent
37 of the units for lower income households and if the legislative
38 body at the conclusion of a public hearing determines, based upon
39 substantial evidence, that any of the following circumstances exists:

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

4 (2) The local government is unable to complete the rezoning
5 because of infrastructure deficiencies due to fiscal or regulatory
6 constraints.

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

11 The resolution and the findings shall be transmitted to the
12 department together with a detailed budget and schedule for
13 preparation and adoption of the required rezonings, including plans
14 for citizen participation and expected interim action. The schedule
15 shall provide for adoption of the required rezoning within one year
16 of the adoption of the resolution.

17 (g) (1) If a local government fails to complete the rezoning by
18 the deadline provided in subparagraph (A) of paragraph (1) of
19 subdivision (c), as it may be extended pursuant to subdivision (f),
20 except as provided in paragraph (2), a local government may not
21 disapprove a housing development project, nor require a
22 conditional use permit, planned unit development permit, or other
23 locally imposed discretionary permit, or impose a condition that
24 would render the project infeasible, if the housing development
25 project, (A) is proposed to be located on a site required to be
26 rezoned pursuant to the program action required by that
27 subparagraph and, (B) complies with applicable, objective general
28 plan and zoning standards and criteria, including design review
29 standards, described in the program action required by that
30 subparagraph. Any subdivision of sites shall be subject to the
31 Subdivision Map Act (Division 2 (commencing with Section
32 66410)). Design review shall not constitute a “project” for purposes
33 of Division 13 (commencing with Section 21000) of the Public
34 Resources Code.

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

39 (A) The housing development project would have a specific,
40 adverse impact upon the public health or safety unless the project

1 is disapproved or approved upon the condition that the project be
2 developed at a lower density. As used in this paragraph, a “specific,
3 adverse impact” means a significant, quantifiable, direct, and
4 unavoidable impact, based on objective, identified written public
5 health or safety standards, policies, or conditions as they existed
6 on the date the application was deemed complete.

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

12 (3) The applicant or any interested person may bring an action
13 to enforce this subdivision. If a court finds that the local agency
14 disapproved a project or conditioned its approval in violation of
15 this subdivision, the court shall issue an order or judgment
16 compelling compliance within 60 days. The court shall retain
17 jurisdiction to ensure that its order or judgment is carried out. If
18 the court determines that its order or judgment has not been carried
19 out within 60 days, the court may issue further orders to ensure
20 that the purposes and policies of this subdivision are fulfilled. In
21 any such action, the city, county, or city and county shall bear the
22 burden of proof.

23 (4) For purposes of this subdivision, “housing development
24 project” means a project to construct residential units for which
25 the project developer provides sufficient legal commitments to the
26 appropriate local agency to ensure the continued availability and
27 use of at least 49 percent of the housing units for very low, low-,
28 and moderate-income households with an affordable housing cost
29 or affordable rent, as defined in Section 50052.5 or 50053 of the
30 Health and Safety Code, respectively, for the period required by
31 the applicable financing.

32 (h) An action to enforce the program actions of the housing
33 element shall be brought pursuant to Section 1085 of the Code of
34 Civil Procedure.

35 (i) Notwithstanding any other law, the otherwise applicable
36 timeframe set forth in paragraph (2) of subdivision (b) and
37 subdivision (d) of Section 21080.3.1 of the Public Resources Code,
38 and paragraph (3) of subdivision (d) of Section 21082.3 of the
39 Public Resources Code, for a Native American tribe to respond to
40 a lead agency and request consultation in writing is extended by

1 30 days for any housing development project application
2 determined or deemed to be complete on or after March 4, 2020,
3 and prior to December 31, 2021.

4 (j) On or after January 1, 2024, at the discretion of the
5 department, the analysis of government constraints pursuant to
6 paragraph (5) of subdivision (a) may include an analysis of
7 constraints upon the maintenance, improvement, or development
8 of housing for persons with a characteristic identified in subdivision
9 (b) of Section 51 of the Civil Code. The implementation of this
10 subdivision is contingent upon an appropriation by the Legislature
11 in the annual Budget Act or another statute for this purpose.

12 SEC. 2. Section 65584 of the Government Code is amended
13 to read:

14 65584. (a) (1) For the fourth and subsequent revisions of the
15 housing element pursuant to Section 65588, the department shall
16 determine the existing and projected need for housing for each
17 region pursuant to this article. For purposes of subdivision (a) of
18 Section 65583, the share of a city or county of the regional housing
19 need shall include that share of the housing need of persons at all
20 income levels within the area significantly affected by the general
21 plan of the city or county.

22 (2) It is the intent of the Legislature that cities, counties, and
23 cities and counties should undertake all necessary actions to
24 encourage, promote, and facilitate the development of housing to
25 accommodate the entire regional housing need, and reasonable
26 actions should be taken by local and regional governments to
27 ensure that future housing production meets, at a minimum, the
28 regional housing need established for planning purposes. These
29 actions shall include applicable reforms and incentives in Section
30 65582.1.

31 (3) The Legislature finds and declares that insufficient housing
32 in job centers hinders the state's environmental quality and runs
33 counter to the state's environmental goals. In particular, when
34 Californians seeking affordable housing are forced to drive longer
35 distances to work, an increased amount of greenhouse gases and
36 other pollutants are released and puts in jeopardy the achievement
37 of the state's climate goals, as established pursuant to Section
38 38566 of the Health and Safety Code, and clean air goals.

39 (b) (1) (A) The department, in consultation with each council
40 of governments, shall determine each region's existing and

1 projected housing need pursuant to Section 65584.01 at least 30
2 months three years prior to the scheduled revision required
3 pursuant to Section 65588. The 65588, except in the following
4 circumstances:

5 (i) For regions with a scheduled housing element revision due
6 date in the 2027 calendar year, the department shall determine
7 the region's housing need at least two years before the scheduled
8 revision.

9 (ii) For regions with a scheduled housing element revision due
10 date in the 2028 calendar year or the first six months of the 2029
11 calendar year, the department shall determine the region's housing
12 need at least 32 months before the scheduled revision.

13 (B) For cities and counties without a council of governments,
14 the department shall determine each region's existing and
15 projected housing need pursuant to Section 65584.01 at least 30
16 months before the scheduled revision required pursuant to Section
17 65588, except for cities and counties with a scheduled housing
18 element revision due date in the 2027 calendar year or the first
19 six months of the 2028 calendar year, the department shall
20 determine their existing and projected housing need at least two
21 years before the scheduled revision.

22 (2) The appropriate council of governments, or for cities and
23 counties without a council of governments, the department, shall
24 adopt a final regional housing need plan that allocates a share of
25 the regional housing need to each city, county, or city and county
26 at least one year prior to the scheduled revision for the region
27 required by Section 65588. The allocation plan prepared by a
28 council of governments shall be prepared pursuant to Sections
29 65584.04 and 65584.05.

30 (c) Notwithstanding any other provision of law, the due dates
31 for the determinations of the department or for the council of
32 governments, respectively, regarding the regional housing need
33 may be extended by the department by not more than 60 days if
34 the extension will enable access to more recent critical population
35 or housing data from a pending or recent release of the United
36 States Census Bureau or the Department of Finance. If the due
37 date for the determination of the department or the council of
38 governments is extended for this reason, the department shall
39 extend the corresponding housing element revision deadline
40 pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall further all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households. The regional housing needs allocation plan shall allocate units for extremely ~~low~~ low and acutely low income households in a manner that is roughly proportional to, and within a range of 3 percent of, the housing need for very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

1 (f) (1) Subject to paragraph (2), for purposes of this section
2 with respect to revisions of the housing element through the sixth
3 revision, “household income levels” are as determined by the
4 department pursuant to the following code sections:

5 (A) Very low incomes, as defined by Section 50105 of the
6 Health and Safety Code.

7 (B) Lower incomes, as defined by Section 50079.5 of the Health
8 and Safety Code.

9 (C) Moderate incomes, as defined by Section 50093 of the
10 Health and Safety Code.

11 (D) Above moderate incomes are those exceeding the
12 moderate-income level of Section 50093 of the Health and Safety
13 Code.

14 (2) For purposes of this section with respect to the seventh and
15 subsequent revisions of the housing element, “household income
16 levels” are as determined by the department in accordance with
17 the definitions of acutely low, extremely low, very low, low,
18 moderate, and above moderate income in Section 65582.

19 (g) Notwithstanding any other provision of law, determinations
20 made by the department, a council of governments, or a city or
21 county pursuant to this section or Section 65584.01, 65584.02,
22 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08
23 are exempt from the California Environmental Quality Act
24 (Division 13 (commencing with Section 21000) of the Public
25 Resources Code).

26 SEC. 3. Section 65584.01 of the Government Code is amended
27 to read:

28 65584.01. For the fourth and subsequent revision of the housing
29 element pursuant to Section 65588, the department, in consultation
30 with each council of governments, where applicable, shall
31 determine the existing and projected need for housing for each
32 region in the following manner:

33 (a) The department’s determination shall be based upon
34 population projections produced by the Department of Finance
35 and regional population forecasts used in preparing regional
36 transportation plans, in consultation with each council of
37 governments. If the total regional population forecast for the
38 projection year, developed by the council of governments and used
39 for the preparation of the regional transportation plan, is within a
40 range of 1.5 percent of the total regional population forecast for

1 the projection year by the Department of Finance, then the
2 population forecast developed by the council of governments shall
3 be the basis from which the department determines the existing
4 and projected need for housing in the region. If the difference
5 between the total population projected by the council of
6 governments and the total population projected for the region by
7 the Department of Finance is greater than 1.5 percent, then the
8 department and the council of governments shall meet to discuss
9 variances in methodology used for population projections and seek
10 agreement on a population projection for the region to be used as
11 a basis for determining the existing and projected housing need
12 for the region. If agreement is not reached, then the population
13 projection for the region shall be the population projection for the
14 region prepared by the Department of Finance as may be modified
15 by the department as a result of discussions with the council of
16 governments.

17 (b) (1) At least ~~32~~ 38 months prior to the scheduled revision
18 pursuant to Section 65588 and prior to developing the existing and
19 projected housing need for a region, the department shall meet and
20 consult with the council of governments regarding the assumptions
21 and methodology to be used by the department to determine the
22 region's housing ~~needs~~. *needs, except for the seventh housing*
23 *element cycle, for which the department shall meet and consult*
24 *with the council of governments at least two months prior to*
25 *developing the existing and projected housing need for a region*
26 *pursuant to the timelines in subparagraph (A) of paragraph (1)*
27 *of subdivision (b) of Section 65584. The council of governments*
28 *shall provide data assumptions from the council's projections,*
29 *including, if available, the following data for the region:*

30 (A) Anticipated household growth associated with projected
31 population increases.

32 (B) Household size data and trends in household size.

33 (C) The percentage of households that are overcrowded and the
34 overcrowding rate for a comparable housing market. For purposes
35 of this subparagraph:

36 (i) The term "overcrowded" means more than one resident per
37 room in each room in a dwelling.

38 (ii) The term "overcrowding rate for a comparable housing
39 market" means that the overcrowding rate is no more than the

1 average overcrowding rate in comparable regions throughout the
2 nation, as determined by the council of governments.

3 (D) The rate of household formation, or headship rates, based
4 on age, gender, ethnicity, or other established demographic
5 measures.

6 (E) The vacancy rates in existing housing stock, and the vacancy
7 rates for healthy housing market functioning and regional mobility,
8 as well as housing replacement needs. For purposes of this
9 subparagraph, the vacancy rate for a healthy rental housing market
10 shall be considered no less than 5 percent.

11 (F) Other characteristics of the composition of the projected
12 population.

13 (G) The relationship between jobs and housing, including any
14 imbalance between jobs and housing.

15 (H) The percentage of households that are cost burdened and
16 the rate of housing cost burden for a healthy housing market. For
17 the purposes of this subparagraph:

18 (i) The term “cost burdened” means the share of very low, low-,
19 moderate-, and above moderate-income households that are paying
20 more than 30 percent of household income on housing costs.

21 (ii) The term “rate of housing cost burden for a healthy housing
22 market” means that the rate of households that are cost burdened
23 is no more than the average rate of households that are cost
24 burdened in comparable regions throughout the nation, as
25 determined by the council of governments.

26 (I) The loss of units during a state of emergency that was
27 declared by the Governor pursuant to the California Emergency
28 Services Act (Chapter 7 (commencing with Section 8550) of
29 Division 1 of Title 2), during the planning period immediately
30 preceding the relevant revision pursuant to Section 65588 that
31 have yet to be rebuilt or replaced at the time of the data request.

32 (J) The housing needs of individuals and families experiencing
33 homelessness.

34 (i) The data utilized by the council of governments shall align
35 with homelessness data best practices as determined by the
36 department.

37 (ii) Sources of homelessness data may include the Homeless
38 Data Integration System administered by the Interagency Council
39 on Homelessness, the homeless point-in-time count, or other
40 sources deemed appropriate by the department.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (I), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments. The methodology submitted by the department may make adjustments based on the region's total projected households, which includes existing households as well as projected households.

(c) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (b). The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (a), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (b). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (b), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (b).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also

1 include documentation of its basis for the alternative determination.
2 Within 45 days of receiving an objection filed pursuant to this
3 section, the department shall consider the objection and make a
4 final written determination of the region's existing and projected
5 housing need that includes an explanation of the information upon
6 which the determination was made.

7 (4) In regions in which the department is required to distribute
8 the regional housing need pursuant to Section 65584.06, no city
9 or county may file an objection to the regional housing need
10 determination.

11 (d) Statutory changes enacted after the date the department
12 issued a final determination pursuant to this section shall not be a
13 basis for a revision of the final determination.

14 *SEC. 4. Section 65584.03 of the Government Code is amended*
15 *to read:*

16 65584.03. (a) At least ~~28~~ 34 months prior to the scheduled
17 housing element update required by Section 65588, at least two
18 or more cities and a county, or counties, may form a subregional
19 entity for the purpose of allocation of the subregion's existing and
20 projected need for housing among its members in accordance with
21 the allocation methodology established pursuant to Section
22 65584.04. The purpose of establishing a subregion shall be to
23 recognize the community of interest and mutual challenges and
24 opportunities for providing housing within a subregion. A
25 subregion formed pursuant to this section may include a single
26 county and each of the cities in that county or any other
27 combination of geographically contiguous local governments and
28 shall be approved by the adoption of a resolution by each of the
29 local governments in the subregion as well as by the council of
30 governments. All decisions of the subregion shall be approved by
31 vote as provided for in rules adopted by the local governments
32 comprising the subregion or shall be approved by vote of the
33 county or counties, if any, and the majority of the cities with the
34 majority of population within a county or counties.

35 (b) Upon formation of the subregional entity, the entity shall
36 notify the council of governments of this formation. If the council
37 of governments has not received notification from an eligible
38 subregional entity at least ~~28~~ 34 months prior to the scheduled
39 housing element update required by Section 65588, the council of
40 governments shall implement the provisions of Sections 65584

1 and 65584.04. The delegate subregion and the council of
2 governments shall enter into an agreement that sets forth the
3 process, timing, and other terms and conditions of the delegation
4 of responsibility by the council of governments to the subregion.

5 (c) At least ~~25~~ 31 months prior to the scheduled revision, the
6 council of governments shall determine the share of regional
7 housing need assigned to each delegate subregion. The share or
8 shares allocated to the delegate subregion or subregions by a
9 council of governments shall be in a proportion consistent with
10 the distribution of households assumed for the comparable time
11 period of the applicable regional transportation plan. Prior to
12 allocating the regional housing needs to any delegate subregion
13 or subregions, the council of governments shall hold at least one
14 public hearing, and may consider requests for revision of the
15 proposed allocation to a subregion. If a proposed revision is
16 rejected, the council of governments shall respond with a written
17 explanation of why the proposed revised share has not been
18 accepted.

19 (d) Each delegate subregion shall fully allocate its share of the
20 regional housing need to local governments within its subregion.
21 If a delegate subregion fails to complete the regional housing need
22 allocation process among its member jurisdictions in a manner
23 consistent with this article and with the delegation agreement
24 between the subregion and the council of governments, the
25 allocations to member jurisdictions shall be made by the council
26 of governments.

27 ~~SEC. 4.~~

28 *SEC. 5.* Section 65584.04 of the Government Code is amended
29 to read:

30 65584.04. (a) At least two and one-half years before a
31 scheduled revision required by Section 65588, each council of
32 governments, or delegate subregion as applicable, shall develop,
33 in consultation with the department, a proposed methodology for
34 distributing the existing and projected regional housing need to
35 cities, counties, and cities and counties within the region or within
36 the subregion, where applicable pursuant to this section. The
37 methodology shall further the objectives listed in subdivision (d)
38 of Section 65584.

39 (b) (1) No more than six months before the development of a
40 proposed methodology for distributing the existing and projected

1 housing need, each council of governments shall survey each of
2 its member jurisdictions to request, at a minimum, information
3 regarding the factors listed in subdivision (e) that will allow the
4 development of a methodology based upon the factors established
5 in subdivision (e).

6 (2) With respect to the objective in paragraph (5) of subdivision
7 (d) of Section 65584, the survey shall review and compile
8 information that will allow the development of a methodology
9 based upon the issues, strategies, and actions that are included, as
10 available, in an Analysis of Impediments to Fair Housing Choice
11 or an Assessment of Fair Housing completed by any city or county
12 or the department that covers communities within the area served
13 by the council of governments, and in housing elements adopted
14 pursuant to this article by cities and counties within the area served
15 by the council of governments.

16 (3) The council of governments shall seek to obtain the
17 information in a manner and format that is comparable throughout
18 the region and utilize readily available data to the extent possible.

19 (4) The information provided by a local government pursuant
20 to this section shall be used, to the extent possible, by the council
21 of governments, or delegate subregion as applicable, as source
22 information for the methodology developed pursuant to this section.
23 The survey shall state that none of the information received may
24 be used as a basis for reducing the total housing need established
25 for the region pursuant to Section 65584.01.

26 (5) If the council of governments fails to conduct a survey
27 pursuant to this subdivision, a city, county, or city and county may
28 submit information related to the items listed in subdivision (e)
29 before the public comment period provided for in subdivision (d).

30 (c) The council of governments shall electronically report the
31 results of the survey of fair housing issues, strategies, and actions
32 compiled pursuant to paragraph (2) of subdivision (b). The report
33 shall describe common themes and effective strategies employed
34 by cities and counties within the area served by the council of
35 governments, including common themes and effective strategies
36 around avoiding the displacement of lower income households.
37 The council of governments shall also identify significant barriers
38 to affirmatively furthering fair housing at the regional level and
39 may recommend strategies or actions to overcome those barriers.
40 A council of governments or metropolitan planning organization,

1 as appropriate, may use this information for any other purpose,
2 including publication within a regional transportation plan adopted
3 pursuant to Section 65080 or to inform the land use assumptions
4 that are applied in the development of a regional transportation
5 plan.

6 (d) Public participation and access shall be required in the
7 development of the methodology and in the process of drafting
8 and adoption of the allocation of the regional housing needs.
9 Participation by organizations other than local jurisdictions and
10 councils of governments shall be solicited in a diligent effort to
11 achieve public participation of all economic segments of the
12 community as well as members of protected classes under Section
13 12955 and households with special housing needs under paragraph
14 (7) of subdivision (a) of Section 65583. The proposed
15 methodology, along with any relevant underlying data and
16 assumptions, an explanation of how information about local
17 government conditions gathered pursuant to subdivision (b) has
18 been used to develop the proposed methodology, how each of the
19 factors listed in subdivision (e) is incorporated into the
20 methodology, and how the proposed methodology furthers the
21 objectives listed in subdivision (d) of Section 65584, shall be
22 distributed to all cities, counties, any subregions, and members of
23 the public who have made a written or electronic request for the
24 proposed methodology and published on the council of
25 governments', or delegate subregion's, internet website. The
26 council of governments, or delegate subregion, as applicable, shall
27 conduct at least one public hearing to receive oral and written
28 comments on the proposed methodology.

29 (e) To the extent that sufficient data is available from local
30 governments pursuant to subdivision (b) or other sources, each
31 council of governments, or delegate subregion as applicable, shall
32 consider including the following factors in developing the
33 methodology that allocates regional housing needs:

34 (1) Each member jurisdiction's existing and projected jobs and
35 housing relationship. This shall include an estimate based on
36 readily available data on the number of low-wage jobs within the
37 jurisdiction and how many housing units within the jurisdiction
38 are affordable to low-wage workers as well as an estimate based
39 on readily available data, of projected job growth and projected

1 household growth by income level within each member jurisdiction
2 during the planning period.

3 (2) The opportunities and constraints to development of
4 additional housing in each member jurisdiction, including all of
5 the following:

6 (A) Lack of capacity for sewer or water service due to federal
7 or state laws, regulations or regulatory actions, or supply and
8 distribution decisions made by a sewer or water service provider
9 other than the local jurisdiction that preclude the jurisdiction from
10 providing necessary infrastructure for additional development
11 during the planning period.

12 (B) The availability of land suitable for urban development or
13 for conversion to residential use, the availability of underutilized
14 land, and opportunities for infill development and increased
15 residential densities. The council of governments may not limit
16 its consideration of suitable housing sites or land suitable for urban
17 development to existing zoning ordinances and land use restrictions
18 of a locality, but shall consider the potential for increased
19 residential development under alternative zoning ordinances and
20 land use restrictions. The determination of available land suitable
21 for urban development may exclude lands where the Federal
22 Emergency Management Agency (FEMA) or the Department of
23 Water Resources has determined that the flood management
24 infrastructure designed to protect that land is not adequate to avoid
25 the risk of flooding.

26 (C) Lands preserved or protected from urban development under
27 existing federal or state programs, or both, designed to protect
28 open space, farmland, environmental habitats, and natural resources
29 on a long-term basis, including land zoned or designated for
30 agricultural protection or preservation that is subject to a local
31 ballot measure that was approved by the voters of that jurisdiction
32 that prohibits or restricts conversion to nonagricultural uses.

33 (D) County policies to preserve prime agricultural land, as
34 defined pursuant to Section 56064, within an unincorporated area
35 and land within an unincorporated area zoned or designated for
36 agricultural protection or preservation that is subject to a local
37 ballot measure that was approved by the voters of that jurisdiction
38 that prohibits or restricts its conversion to nonagricultural uses.

39 (E) Emergency evacuation route capacity, wildfire risk, sea
40 level rise, and other impacts caused by climate change.

1 (3) The distribution of household growth assumed for purposes
2 of a comparable period of regional transportation plans and
3 opportunities to maximize the use of public transportation and
4 existing transportation infrastructure.

5 (4) Agreements between a county and cities in a county to direct
6 growth toward incorporated areas of the county and land within
7 an unincorporated area zoned or designated for agricultural
8 protection or preservation that is subject to a local ballot measure
9 that was approved by the voters of the jurisdiction that prohibits
10 or restricts conversion to nonagricultural uses.

11 (5) The loss of units contained in assisted housing developments,
12 as defined in paragraph (9) of subdivision (a) of Section 65583,
13 that changed to non-low-income use through mortgage prepayment,
14 subsidy contract expirations, or termination of use restrictions.

15 (6) The percentage of existing households at each of the income
16 levels listed in subdivision (f) of Section 65584 that are paying
17 more than 30 percent and more than 50 percent of their income in
18 rent.

19 (7) The rate of overcrowding.

20 (8) The housing needs of farmworkers.

21 (9) The housing needs generated by the presence of a private
22 university or a campus of the California State University or the
23 University of California within any member jurisdiction.

24 (10) The housing needs of individuals and families experiencing
25 homelessness. If a council of governments has surveyed each of
26 its member jurisdictions pursuant to subdivision (b) on or before
27 January 1, 2020, this paragraph shall apply only to the development
28 of methodologies for the seventh and subsequent revisions of the
29 housing element.

30 (11) The loss of units during a state of emergency that was
31 declared by the Governor pursuant to the California Emergency
32 Services Act (Chapter 7 (commencing with Section 8550) of
33 Division 1 of Title 2), during the planning period immediately
34 preceding the relevant revision pursuant to Section 65588 that
35 have yet to be rebuilt or replaced at the time of the analysis.

36 (12) The region's greenhouse gas emissions targets provided
37 by the State Air Resources Board pursuant to Section 65080.

38 (13) Any other factors adopted by the council of governments,
39 that further the objectives listed in subdivision (d) of Section
40 65584, provided that the council of governments specifies which

1 of the objectives each additional factor is necessary to further. The
2 council of governments may include additional factors unrelated
3 to furthering the objectives listed in subdivision (d) of Section
4 65584 so long as the additional factors do not undermine the
5 objectives listed in subdivision (d) of Section 65584 and are applied
6 equally across all household income levels as described in
7 subdivision (f) of Section 65584 and the council of governments
8 makes a finding that the factor is necessary to address significant
9 health and safety conditions.

10 (f) The council of governments, or delegate subregion, as
11 applicable, shall explain in writing how each of the factors
12 described in subdivision (e) was incorporated into the methodology
13 and how the methodology furthers the objectives listed in
14 subdivision (d) of Section 65584. The methodology may include
15 numerical weighting. This information, and any other supporting
16 materials used in determining the methodology, shall be posted
17 on the council of governments', or delegate subregion's, internet
18 website.

19 (g) The following criteria shall not be a justification for a
20 determination or a reduction in a jurisdiction's share of the regional
21 housing need:

22 (1) Any ordinance, policy, voter-approved measure, or standard
23 of a city or county that directly or indirectly limits the number of
24 residential building permits issued by a city or county.

25 (2) Prior underproduction of housing in a city or county from
26 the previous regional housing need allocation, as determined by
27 each jurisdiction's annual production report submitted pursuant
28 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
29 65400.

30 (3) Stable population numbers in a city or county from the
31 previous regional housing needs cycle.

32 (h) Following the conclusion of the public comment period
33 described in subdivision (d) on the proposed allocation
34 methodology, and after making any revisions deemed appropriate
35 by the council of governments, or delegate subregion, as applicable,
36 as a result of comments received during the public comment period,
37 and as a result of consultation with the department, each council
38 of governments, or delegate subregion, as applicable, shall publish
39 a draft allocation methodology on its internet website and submit

1 the draft allocation methodology, along with the information
2 required pursuant to subdivision (e), to the department.

3 (i) Within 60 days, the department shall review the draft
4 allocation methodology and report its written findings to the
5 council of governments, or delegate subregion, as applicable. In
6 its written findings the department shall determine whether the
7 methodology furthers the objectives listed in subdivision (d) of
8 Section 65584. If the department determines that the methodology
9 is not consistent with subdivision (d) of Section 65584, the council
10 of governments, or delegate subregion, as applicable, shall take
11 one of the following actions:

12 (1) Revise the methodology to further the objectives listed in
13 subdivision (d) of Section 65584 and adopt a final regional, or
14 subregional, housing need allocation methodology.

15 (2) Adopt the regional, or subregional, housing need allocation
16 methodology without revisions and include within its resolution
17 of adoption findings, supported by substantial evidence, as to why
18 the council of governments, or delegate subregion, believes that
19 the methodology furthers the objectives listed in subdivision (d)
20 of Section 65584 despite the findings of the department.

21 (j) If the department's findings are not available within the time
22 limits set by subdivision (i), the council of governments, or delegate
23 subregion, may act without them.

24 (k) Upon either action pursuant to subdivision (i), the council
25 of governments, or delegate subregion, shall provide notice of the
26 adoption of the methodology to the jurisdictions within the region,
27 or delegate subregion, as applicable, and to the department, and
28 shall publish the adopted allocation methodology, along with its
29 resolution and any adopted written findings, on its internet website.

30 (l) The department may, within 45 days, review the adopted
31 methodology and report its findings to the council of governments,
32 or delegate subregion.

33 (m) (1) It is the intent of the Legislature that housing planning
34 be coordinated and integrated with the regional transportation plan.
35 To achieve this goal, the allocation plan shall allocate housing
36 units within the region consistent with the development pattern
37 included in the sustainable communities strategy.

38 (2) (A) The final allocation plan shall ensure that the total
39 regional housing need, by income category, as determined under
40 Section 65584, is maintained, and that each jurisdiction in the

1 region receive an allocation of units for low- and very low income
2 households.

3 (B) For the seventh and subsequent revisions of the housing
4 element, the allocation to each region required under subparagraph
5 (A) shall also include an allocation of units for acutely low and
6 extremely low income households.

7 (3) The resolution approving the final housing need allocation
8 plan shall demonstrate that the plan is consistent with the
9 sustainable communities strategy in the regional transportation
10 plan and furthers the objectives listed in subdivision (d) of Section
11 65584.

12 (n) This section shall become operative on January 1, 2025.

13 (o) For the seventh housing element cycle, the changes to this
14 section made by the act adding this subdivision shall not apply to
15 councils of governments with a housing element revision due date
16 during the 2027 calendar year.

17 ~~SEC. 5.~~

18 *SEC. 6.* Section 65584.05 of the Government Code is amended
19 to read:

20 65584.05. (a) At least two years before the scheduled revision
21 required by Section 65588, each council of governments and
22 delegate subregion, as applicable, shall distribute a draft allocation
23 of regional housing needs to each local government in the region
24 or subregion, where applicable, and the department, based on the
25 methodology adopted pursuant to Section 65584.04 and shall
26 publish the draft allocation on its internet website. The council of
27 governments may additionally distribute the draft allocation plan
28 upon adoption of the final methodology reviewed and accepted
29 by the department pursuant to paragraph (2) of subdivision (i) of
30 Section 65584.04. The draft allocation shall include the underlying
31 data and methodology on which the allocation is based, and a
32 statement as to how it furthers the objectives listed in subdivision
33 (d) of Section 65584. It is the intent of the Legislature that the draft
34 allocation should be distributed before the completion of the update
35 of the applicable regional transportation plan. The draft allocation
36 shall distribute to localities and subregions, if any, within the region
37 the entire regional housing need determined pursuant to Section
38 65584.01 or within subregions, as applicable, the subregion's entire
39 share of the regional housing need determined pursuant to Section
40 65584.03.

(b) Within 30 days following receipt of the draft allocation, a local government within the region or the delegate subregion, as applicable, or the department may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments. Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584. An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Section 65080. Appeals shall be limited to any of the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.

(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

(c) At the close of the period for filing appeals pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website. Local governments and the department may, within 45 days, comment on one or more appeals. If no appeals are filed, the draft allocation may be adopted pursuant to subdivision (g).

1 (d) No later than 30 days after the close of the comment period,
2 and after providing all local governments within the region or
3 delegate subregion, as applicable, at least 10 days prior notice, the
4 council of governments or delegate subregion shall conduct one
5 public hearing to consider all appeals filed pursuant to subdivision
6 (b) and all comments received pursuant to subdivision (c).

7 (e) No later than 45 days after the public hearing pursuant to
8 subdivision (d), the council of governments or delegate subregion,
9 as applicable, shall do all of the following:

10 (1) Make a final determination that either accepts, rejects, or
11 modifies each appeal for a revised share filed pursuant to
12 subdivision (b). Final determinations shall be based upon the
13 information and methodology described in Section 65584.04 and
14 whether the revision is necessary to further the objectives listed
15 in subdivision (d) of Section 65584. The final determination shall
16 be in writing and shall include written findings as to how the
17 determination is consistent with this article. The final determination
18 on an appeal may require the council of governments or delegate
19 subregion, as applicable, to adjust the share of the regional housing
20 need allocated to one or more local governments that are not the
21 subject of an appeal.

22 (2) Issue a proposed final allocation plan.

23 (3) Submit the proposed final allocation plan to the department.

24 (4) Set a date for a public hearing to adopt a final allocation
25 plan pursuant to subdivision (g).

26 (f) In the proposed final allocation plan, the council of
27 governments or delegate subregion, as applicable, shall adjust
28 allocations to local governments based upon the results of the
29 appeals process. If the adjustments total 7 percent or less of the
30 regional housing need determined pursuant to Section 65584.01,
31 or, as applicable, total 7 percent or less of the subregion's share
32 of the regional housing need as determined pursuant to Section
33 65584.03, then the council of governments or delegate subregion,
34 as applicable, shall distribute the adjustments proportionally to all
35 local governments. If the adjustments total more than 7 percent of
36 the regional housing need, then the council of governments or
37 delegate subregion, as applicable, shall develop a methodology to
38 distribute the amount greater than the 7 percent to local
39 governments. The total distribution of housing need shall not equal
40 less than the regional housing need, as determined pursuant to

1 Section 65584.01, nor shall the subregional distribution of housing
2 need equal less than its share of the regional housing need as
3 determined pursuant to Section 65584.03.

4 (g) Within 45 days after the issuance of the proposed final
5 allocation plan by the council of governments and each delegate
6 subregion, as applicable, the council of governments shall hold a
7 public hearing to adopt a final allocation plan. To the extent that
8 the final allocation plan fully allocates the regional share of
9 statewide housing need, as determined pursuant to Section
10 65584.01 and has taken into account all appeals, the council of
11 governments shall have final authority to determine the distribution
12 of the region's existing and projected housing need as determined
13 pursuant to Section 65584.01. The council of governments shall
14 submit its final allocation plan to the department within three days
15 of adoption. Within 15 days after the department's receipt of the
16 final allocation plan adopted by the council of governments, the
17 department shall determine if the final allocation plan is consistent
18 with the existing and projected housing need for the region, as
19 determined pursuant to Section 65584.01. The department may
20 revise the determination of the council of governments if necessary
21 to obtain this consistency.

22 (h) Any authority of the council of governments to review and
23 revise the share of a city or county of the regional housing need
24 under this section shall not constitute authority to revise, approve,
25 or disapprove the manner in which the share of the city or county
26 of the regional housing need is implemented through its housing
27 program.

28 (i) Any time period in subdivision (d) or (e) may be extended
29 by a council of governments or delegate subregion, as applicable,
30 for up to 30 days. Any time period in subdivision (b), (c), (d), (e),
31 or (g) may be reduced by a council of governments or delegate
32 subregion, as applicable, to facilitate earlier adoption of the final
33 allocation plan. No time period shall be reduced to fewer than a
34 minimum of 10 days.

35 (j) The San Diego Association of Governments may follow the
36 process in this section for the draft and final allocation plan for
37 the sixth revision of the housing element notwithstanding such
38 actions being carried out before the adoption of an updated regional
39 transportation plan and sustainable communities strategy.

1 (k) For the seventh housing element cycle, the changes to this
2 section made by the act adding this subdivision shall not apply to
3 councils of governments with a housing element revision due date
4 during the 2027 calendar year.

5 ~~SEC. 6.~~

6 *SEC. 7.* Section 65585 of the Government Code is amended
7 to read:

8 65585. (a) In the preparation of its housing element, each city
9 and county shall consider the guidelines adopted by the department
10 pursuant to Section 50459 of the Health and Safety Code. Those
11 guidelines shall be advisory to each city or county in the
12 preparation of its housing element.

13 (b) (1) (A) At least 90 days prior to adoption of a revision of
14 its housing element pursuant to subdivision (e) of Section 65588,
15 or at least 60 days prior to the adoption of a subsequent amendment
16 to this element, the planning agency shall submit a draft element
17 revision or draft amendment to the department. The local
18 government of the planning agency shall make the first draft
19 revision of a housing element available for public comment for at
20 least 30 days and, if any comments are received, the local
21 government shall take at least 10 business days after the 30-day
22 public comment period to consider and incorporate public
23 comments into the draft revision prior to submitting it to the
24 department. For any subsequent draft revision, the local
25 government shall post the draft revision on its internet website and
26 shall email a link to the draft revision to all individuals and
27 organizations that have previously requested notices relating to
28 the local government's housing element at least seven days before
29 submitting the draft revision to the department.

30 (B) The planning agency staff shall collect and compile the
31 public comments regarding the housing element received by the
32 city, county, or city and county and provide these comments to
33 each member of the legislative body before it adopts the housing
34 element.

35 (C) The department shall review the draft and report its written
36 findings to the planning agency within 90 days of its receipt of the
37 first draft submittal for each housing element revision pursuant to
38 subdivision (e) of Section 65588 or within 60 days of its receipt
39 of a subsequent draft amendment or an adopted revision or adopted
40 amendment to an element. The department shall not review the

1 first draft submitted for each housing element revision pursuant
2 to subdivision (e) of Section 65588 until the local government has
3 made the draft available for public comment for at least 30 days
4 and, if comments were received, has taken at least 10 business
5 days to consider and incorporate public comments pursuant to
6 paragraph (1).

7 (2) (A) At least 90 days prior to the initial adoption of a revision
8 of its housing element pursuant to subdivision (e) of Section 65588,
9 and at least 7 days prior to any subsequent adoption submittal if
10 changes have occurred to the inventory of sites, a local government
11 shall do both of the following:

12 (i) Make a draft of its inventory of sites required pursuant to
13 paragraph (3) of subdivision (a) of Section 65583 available to the
14 department and the public and post the draft inventory on its
15 internet website.

16 (ii) Send an email to all individuals and organizations that have
17 previously requested notices notifying them that the inventory has
18 been updated that includes a link to the draft inventory on its
19 website.

20 (B) The requirements of this paragraph shall apply to the seventh
21 and each subsequent revision of the housing element.

22 (c) In the preparation of its findings, the department may consult
23 with any public agency, group, or person. The department shall
24 receive and consider any written comments from any public
25 agency, group, or person regarding the draft or adopted element
26 or amendment under review.

27 (d) In its written findings, the department shall determine
28 whether the draft element or draft amendment substantially
29 complies with this article. If the department finds that the draft
30 element or draft amendment does not substantially comply with
31 this article, the department shall in a written communication to the
32 planning agency do both of the following:

33 (1) Identify and explain the specific deficiencies in the draft
34 element or draft amendment, including a reference to each
35 subdivision of Section 65583 that the draft element or draft
36 amendment does not comply with.

37 (2) Provide the specific analysis or text that the department
38 expects the planning agency to include in the draft element or draft
39 amendment to remedy the deficiencies identified in paragraph (1).

1 (e) Prior to the adoption of its draft element or draft amendment,
2 the legislative body shall consider the findings made, and the
3 specific analysis or text required, by the department. If the
4 department's findings are not available within the time limits set
5 by this section, the legislative body may act without them.

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

9 (1) (A) Include the specific analysis or text in the draft element
10 or draft amendment to substantially comply with this article, as
11 required by the department pursuant to subdivision (d).

12 (B) Any change to a draft element or draft amendment pursuant
13 to subparagraph (A) shall be completed in accordance with
14 subdivision (b). This subparagraph does not constitute a change
15 in, but is declaratory of, existing law.

16 ~~(C) Notwithstanding Section 65589.5, a jurisdiction shall not~~
17 ~~be required to approve a builder's remedy project, as defined in~~
18 ~~paragraph (11) of subdivision (h) of Section 65889.5, within the~~
19 ~~planning agency's jurisdiction during either of the following~~
20 ~~periods:~~

21 ~~(i) The duration of the department's review of a draft element~~
22 ~~or draft amendment revised pursuant to this paragraph.~~

23 ~~(ii) Ninety days from the date the department notifies the~~
24 ~~planning agency of additional deficiencies not previously identified~~
25 ~~by the department in response to the prior submission of the draft~~
26 ~~element or draft amendment.~~

27 (2) Adopt the draft element or draft amendment without the
28 specific analysis or text required by the department pursuant to
29 subdivision (d). The legislative body shall include in its resolution
30 of adoption written findings that explain the reasons the legislative
31 body believes that the draft element or draft amendment
32 substantially complies with this article despite the findings of, and
33 specific analysis or text required by, the department.

34 (g) (1) Promptly following the adoption of its element or
35 amendment, the planning agency shall submit a copy of the adopted
36 element or amendment and any findings made pursuant to
37 paragraph (2) of subdivision (f) to the department.

38 (2) This subdivision shall not be construed to excuse a legislative
39 body from complying with subdivision (f). This paragraph does
40 not constitute a change in, but is declaratory of, existing law.

1 (h) The department shall, within 60 days, review adopted
2 housing elements or amendments and any findings pursuant to
3 paragraph (2) of subdivision (f), make a finding as to whether the
4 adopted element or amendment is in substantial compliance with
5 this article, and report its findings to the planning agency. If the
6 department finds that the adopted element or amendment is not in
7 substantial compliance with this article, the department shall
8 identify each subdivision of Section 65583 that the housing element
9 does not substantially comply with and provide the specific analysis
10 or text to the planning agency that, if adopted, would bring the
11 housing element or amendment into substantial compliance.

12 (i) (1) (A) The department shall review any action or failure
13 to act by the city, county, or city and county that it determines is
14 inconsistent with an adopted housing element or Section 65583,
15 including any failure to implement any program actions included
16 in the housing element pursuant to Section 65583. The department
17 shall issue written findings to the city, county, or city and county
18 as to whether the action or failure to act substantially complies
19 with this article, and provide a reasonable time no longer than 30
20 days for the city, county, or city and county to respond to the
21 findings before taking any other action authorized by this section,
22 including the action authorized by subparagraph (C).

23 (B) If the department finds that the city's, county's, or city and
24 county's action or failure to act does not substantially comply with
25 its adopted housing element or its obligations pursuant to Section
26 65583, there shall be a rebuttable presumption of invalidity in any
27 legal action challenging that action or failure to act.

28 (C) If the department finds that the action or failure to act by
29 the city, county, or city and county does not substantially comply
30 with this article, and if it has issued findings pursuant to this section
31 that an amendment to the housing element substantially complies
32 with this article, the department may revoke its findings until it
33 determines that the city, county, or city and county has come into
34 compliance with this article.

35 (2) The department may consult with any local government,
36 public agency, group, or person, and shall receive and consider
37 any written comments from any public agency, group, or person,
38 regarding the action or failure to act by the city, county, or city
39 and county described in paragraph (1), in determining whether the
40 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 (j), 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).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65400.
- (12) Section 65863.2.
- (13) Chapter 4.1 (commencing with Section 65912.100).
- (14) Section 65905.5.
- (15) Chapter 13 (commencing with Section 66310).
- (16) Section 65852.21.
- (17) Section 65852.24.
- (18) Section 66411.7.
- (19) Section 65913.16.
- (20) Article 2 (commencing with Section 66300.5) of Chapter 12.
- (21) Section 65852.28.
- (22) Section 65913.4.5.
- (23) Section 66499.41.
- (24) Homeless Housing, Assistance, and Prevention program (Chapter 6 (commencing with Section 50216) and Chapter 6.5 (commencing with Section 50230) of Part 1 of Division 31 of the Health and Safety Code).
- (25) Encampment Resolution Funding program (Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code).

1 (26) Family Homelessness Challenge Grants and Technical
2 Assistance Program (Chapter 8 (commencing with Section 50255)
3 of Part 1 of Division 31 of the Health and Safety Code).

4 (27) (A) Article 11.5 (commencing with Section 65658).

5 (B) This paragraph shall become operative only if Assembly
6 Bill 3068 of the 2023–24 Regular Session of the Legislature is
7 enacted and takes effect on or before January 1, 2025.

8 (k) Commencing July 1, 2019, prior to the Attorney General
9 bringing any suit for a violation of the provisions identified in
10 subdivision (j) related to housing element compliance and seeking
11 remedies available pursuant to this subdivision, the department
12 shall offer the jurisdiction the opportunity for two meetings in
13 person or via telephone to discuss the violation, and shall provide
14 the jurisdiction written findings regarding the violation. This
15 paragraph does not affect any action filed prior to the effective
16 date of this section. The requirements set forth in this subdivision
17 do not apply to any suits brought for a violation or violations of
18 paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

19 (l) In any action or special proceeding brought by the Attorney
20 General relating to housing element compliance pursuant to a
21 notice or referral under subdivision (j), the Attorney General may
22 request, upon a finding of the court that the housing element does
23 not substantially comply with the requirements of this article
24 pursuant to this section, that the court issue an order or judgment
25 directing the jurisdiction to bring its housing element into
26 substantial compliance with the requirements of this article. The
27 court shall retain jurisdiction to ensure that its order or judgment
28 is carried out. If a court determines that the housing element of
29 the jurisdiction substantially complies with this article, it shall
30 have the same force and effect, for purposes of eligibility for any
31 financial assistance that requires a housing element in substantial
32 compliance and for purposes of any incentives provided under
33 Section 65589.9, as a determination by the department that the
34 housing element substantially complies with this article.

35 (1) If the jurisdiction has not complied with the order or
36 judgment after 12 months, the court shall conduct a status
37 conference. Following the status conference, upon a determination
38 that the jurisdiction failed to comply with the order or judgment
39 compelling substantial compliance with the requirements of this
40 article, the court shall impose fines on the jurisdiction, which shall

1 be deposited into the Building Homes and Jobs Trust Fund. Any
2 fine levied pursuant to this paragraph shall be in a minimum
3 amount of ten thousand dollars (\$10,000) per month, but shall not
4 exceed one hundred thousand dollars (\$100,000) per month, except
5 as provided in paragraphs (2) and (3). In the event that the
6 jurisdiction fails to pay fines imposed by the court in full and on
7 time, the court may require the Controller to intercept any available
8 state and local funds and direct such funds to the Building Homes
9 and Jobs Trust Fund to correct the jurisdiction's failure to pay.
10 The intercept of the funds by the Controller for this purpose shall
11 not violate any provision of the California Constitution.

12 (2) If the jurisdiction has not complied with the order or
13 judgment after three months following the imposition of fees
14 described in paragraph (1), the court shall conduct a status
15 conference. Following the status conference, if the court finds that
16 the fees imposed pursuant to paragraph (1) are insufficient to bring
17 the jurisdiction into compliance with the order or judgment, the
18 court may multiply the fine determined pursuant to paragraph (1)
19 by a factor of three. In the event that the jurisdiction fails to pay
20 fines imposed by the court in full and on time, the court may
21 require the Controller to intercept any available state and local
22 funds and direct such funds to the Building Homes and Jobs Trust
23 Fund to correct the jurisdiction's failure to pay. The intercept of
24 the funds by the Controller for this purpose shall not violate any
25 provision of the California Constitution.

26 (3) If the jurisdiction has not complied with the order or
27 judgment six months following the imposition of fees described
28 in paragraph (1), the court shall conduct a status conference. Upon
29 a determination that the jurisdiction failed to comply with the order
30 or judgment, the court may impose the following:

31 (A) If the court finds that the fees imposed pursuant to
32 paragraphs (1) and (2) are insufficient to bring the jurisdiction into
33 compliance with the order or judgment, the court may multiply
34 the fine determined pursuant to paragraph (1) by a factor of six.
35 In the event that the jurisdiction fails to pay fines imposed by the
36 court in full and on time, the court may require the Controller to
37 intercept any available state and local funds and direct such funds
38 to the Building Homes and Jobs Trust Fund to correct the
39 jurisdiction's failure to pay. The intercept of the funds by the

1 Controller for this purpose shall not violate any provision of the
2 California Constitution.

3 (B) The court may order remedies available pursuant to Section
4 564 of the Code of Civil Procedure, under which the agent of the
5 court may take all governmental actions necessary to bring the
6 jurisdiction's housing element into substantial compliance pursuant
7 to this article in order to remedy identified deficiencies. The court
8 shall determine whether the housing element of the jurisdiction
9 substantially complies with this article and, once the court makes
10 that determination, it shall have the same force and effect, for all
11 purposes, as the department's determination that the housing
12 element substantially complies with this article. An agent appointed
13 pursuant to this paragraph shall have expertise in planning in
14 California.

15 (4) This subdivision does not limit a court's discretion to apply
16 any and all remedies in an action or special proceeding for a
17 violation of any law identified in subdivision (j).

18 (m) In determining the application of the remedies available
19 under subdivision (l), the court shall consider whether there are
20 any mitigating circumstances delaying the jurisdiction from coming
21 into compliance with state housing law. The court may consider
22 whether a city, county, or city and county is making a good faith
23 effort to come into substantial compliance or is facing substantial
24 undue hardships.

25 (n) Nothing in this section shall limit the authority of the office
26 of the Attorney General to bring a suit to enforce state law in an
27 independent capacity. The office of the Attorney General may seek
28 all remedies available under law including those set forth in this
29 section.

30 (o) Notwithstanding Sections 11040 and 11042, if the Attorney
31 General declines to represent the department in any action or
32 special proceeding brought pursuant to a notice or referral under
33 subdivision (j), the department may appoint or contract with other
34 counsel for purposes of representing the department in the action
35 or special proceeding.

36 (p) Notwithstanding any other provision of law, the statute of
37 limitations set forth in subdivision (a) of Section 338 of the Code
38 of Civil Procedure shall apply to any action or special proceeding
39 brought by the office of the Attorney General or pursuant to a

1 notice or referral under subdivision (j), or by the department
2 pursuant to subdivision (o).

3 (q) The amendments to this section made by the act adding this
4 subdivision shall not be construed to limit the department's ability
5 to enforce programmatic requirements or remedies against cities,
6 counties, and continuums of care pursuant to the Homeless
7 Housing, Assistance, and Prevention program (Chapter 6
8 (commencing with Section 50216) and Chapter 6.5 (commencing
9 with Section 50230) of Part 1 of Division 31 of the Health and
10 Safety Code), the Encampment Resolution Funding program
11 (Chapter 7 (commencing with Section 50250)), and the Family
12 Homelessness Challenge Grants and Technical Assistance Program
13 (Chapter 8 (commencing with Section 50255)).

14 ~~SEC. 7. Section 65589.5 of the Government Code is amended~~
15 ~~to read:~~

16 ~~65589.5. (a) (1) The Legislature finds and declares all of the~~
17 ~~following:~~

18 ~~(A) The lack of housing, including emergency shelters, is a~~
19 ~~critical problem that threatens the economic, environmental, and~~
20 ~~social quality of life in California.~~

21 ~~(B) California housing has become the most expensive in the~~
22 ~~nation. The excessive cost of the state's housing supply is partially~~
23 ~~caused by activities and policies of many local governments that~~
24 ~~limit the approval of housing, increase the cost of land for housing,~~
25 ~~and require that high fees and exactions be paid by producers of~~
26 ~~housing.~~

27 ~~(C) Among the consequences of those actions are discrimination~~
28 ~~against low-income and minority households, lack of housing to~~
29 ~~support employment growth, imbalance in jobs and housing,~~
30 ~~reduced mobility, urban sprawl, excessive commuting, and air~~
31 ~~quality deterioration.~~

32 ~~(D) Many local governments do not give adequate attention to~~
33 ~~the economic, environmental, and social costs of decisions that~~
34 ~~result in disapproval of housing development projects, reduction~~
35 ~~in density of housing projects, and excessive standards for housing~~
36 ~~development projects.~~

37 ~~(2) In enacting the amendments made to this section by the act~~
38 ~~adding this paragraph, the Legislature further finds and declares~~
39 ~~the following:~~

1 ~~(A) California has a housing supply and affordability crisis of~~
2 ~~historic proportions. The consequences of failing to effectively~~
3 ~~and aggressively confront this crisis are hurting millions of~~
4 ~~Californians, robbing future generations of the chance to call~~
5 ~~California home, stifling economic opportunities for workers and~~
6 ~~businesses, worsening poverty and homelessness, and undermining~~
7 ~~the state's environmental and climate objectives.~~

8 ~~(B) While the causes of this crisis are multiple and complex,~~
9 ~~the absence of meaningful and effective policy reforms to~~
10 ~~significantly enhance the approval and supply of housing affordable~~
11 ~~to Californians of all income levels is a key factor.~~

12 ~~(C) The crisis has grown so acute in California that supply,~~
13 ~~demand, and affordability fundamentals are characterized in the~~
14 ~~negative: underserved demands, constrained supply, and protracted~~
15 ~~unaffordability.~~

16 ~~(D) According to reports and data, California has accumulated~~
17 ~~an unmet housing backlog of nearly 2,000,000 units and must~~
18 ~~provide for at least 180,000 new units annually to keep pace with~~
19 ~~growth through 2025.~~

20 ~~(E) California's overall home ownership rate is at its lowest~~
21 ~~level since the 1940s. The state ranks 49th out of the 50 states in~~
22 ~~home ownership rates as well as in the supply of housing per capita.~~
23 ~~Only one-half of California's households are able to afford the~~
24 ~~cost of housing in their local regions.~~

25 ~~(F) Lack of supply and rising costs are compounding inequality~~
26 ~~and limiting advancement opportunities for many Californians.~~

27 ~~(G) The majority of California renters, more than 3,000,000~~
28 ~~households, pay more than 30 percent of their income toward rent~~
29 ~~and nearly one-third, more than 1,500,000 households, pay more~~
30 ~~than 50 percent of their income toward rent.~~

31 ~~(H) When Californians have access to safe and affordable~~
32 ~~housing, they have more money for food and health care; they are~~
33 ~~less likely to become homeless and in need of~~
34 ~~government-subsidized services; their children do better in school;~~
35 ~~and businesses have an easier time recruiting and retaining~~
36 ~~employees.~~

37 ~~(I) An additional consequence of the state's cumulative housing~~
38 ~~shortage is a significant increase in greenhouse gas emissions~~
39 ~~caused by the displacement and redirection of populations to states~~
40 ~~with greater housing opportunities, particularly working- and~~

1 middle-class households. California's cumulative housing shortfall
2 therefore has not only national but international environmental
3 consequences.

4 (J) California's housing picture has reached a crisis of historic
5 proportions despite the fact that, for decades, the Legislature has
6 enacted numerous statutes intended to significantly increase the
7 approval, development, and affordability of housing for all income
8 levels, including this section.

9 (K) The Legislature's intent in enacting this section in 1982 and
10 in expanding its provisions since then was to significantly increase
11 the approval and construction of new housing for all economic
12 segments of California's communities by meaningfully and
13 effectively curbing the capability of local governments to deny,
14 reduce the density for, or render infeasible housing development
15 projects and emergency shelters. That intent has not been fulfilled.

16 (L) It is the policy of the state that this section be interpreted
17 and implemented in a manner to afford the fullest possible weight
18 to the interest of, and the approval and provision of, housing.

19 (3) It is the intent of the Legislature that the conditions that
20 would have a specific, adverse impact upon the public health and
21 safety, as described in paragraph (2) of subdivision (d) and
22 paragraph (1) of subdivision (j), arise infrequently.

23 (4) It is the intent of the Legislature that the amendments
24 removing provisions from subparagraphs (D) and (E) of paragraph
25 (6) of subdivision (h) and adding those provisions to Sections
26 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
27 as they are substantially the same as existing law, shall be
28 considered restatements and continuations of existing law, and not
29 new enactments.

30 (b) It is the policy of the state that a local government not reject
31 or make infeasible housing development projects, including
32 emergency shelters, that contribute to meeting the need determined
33 pursuant to this article without a thorough analysis of the economic,
34 social, and environmental effects of the action and without
35 complying with subdivision (d).

36 (e) The Legislature also recognizes that premature and
37 unnecessary development of agricultural lands for urban uses
38 continues to have adverse effects on the availability of those lands
39 for food and fiber production and on the economy of the state.
40 Furthermore, it is the policy of the state that development should

1 be guided away from prime agricultural lands; therefore, in
2 implementing this section, local jurisdictions should encourage,
3 to the maximum extent practicable, in filling existing urban areas.

4 (d) For a housing development project for very low, low-, or
5 moderate-income households, or an emergency shelter, a local
6 agency shall not disapprove the housing development project or
7 emergency shelter, or condition approval in a manner that renders
8 the housing development project or emergency shelter infeasible,
9 including through the use of design review standards, unless it
10 makes written findings, based upon a preponderance of the
11 evidence in the record, as to one of the following:

12 (1) The jurisdiction has adopted a housing element pursuant to
13 this article that has been revised in accordance with Section 65588,
14 is in substantial compliance with this article, and the jurisdiction
15 has met or exceeded its share of the regional housing need
16 allocation pursuant to Section 65584 for the planning period for
17 the income category proposed for the housing development project,
18 provided that any disapproval or conditional approval shall not be
19 based on any of the reasons prohibited by Section 65008. If the
20 housing development project includes a mix of income categories,
21 and the jurisdiction has not met or exceeded its share of the regional
22 housing need for one or more of those categories, then this
23 paragraph shall not be used to disapprove or conditionally approve
24 the housing development project. The share of the regional housing
25 need met by the jurisdiction shall be calculated consistently with
26 the forms and definitions that may be adopted by the Department
27 of Housing and Community Development pursuant to Section
28 65400. In the case of an emergency shelter, the jurisdiction shall
29 have met or exceeded the need for emergency shelter, as identified
30 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
31 disapproval or conditional approval pursuant to this paragraph
32 shall be in accordance with applicable law, rule, or standards.

33 (2) The housing development project or emergency shelter as
34 proposed would have a specific, adverse impact upon the public
35 health or safety, and there is no feasible method to satisfactorily
36 mitigate or avoid the specific, adverse impact without rendering
37 the development unaffordable to low- and moderate-income
38 households or rendering the development of the emergency shelter
39 financially infeasible. As used in this paragraph, a “specific,
40 adverse impact” means a significant, quantifiable, direct, and

1 unavoidable impact, based on objective, identified written public
2 health or safety standards, policies, or conditions as they existed
3 on the date the application was deemed complete. The following
4 shall not constitute a specific, adverse impact upon the public
5 health or safety:

6 (A) Inconsistency with the zoning ordinance or general plan
7 land use designation.

8 (B) The eligibility to claim a welfare exemption under
9 subdivision (g) of Section 214 of the Revenue and Taxation Code.

10 (3) The denial of the housing development project or imposition
11 of conditions is required in order to comply with specific state or
12 federal law, and there is no feasible method to comply without
13 rendering the development unaffordable to low- and
14 moderate-income households or rendering the development of the
15 emergency shelter financially infeasible.

16 (4) The housing development project or emergency shelter is
17 proposed on land zoned for agriculture or resource preservation
18 that is surrounded on at least two sides by land being used for
19 agricultural or resource preservation purposes, or which does not
20 have adequate water or wastewater facilities to serve the project.

21 (5) On the date an application for the housing development
22 project or emergency shelter was deemed complete, the jurisdiction
23 had adopted a revised housing element that was in substantial
24 compliance with this article, and the housing development project
25 or emergency shelter was inconsistent with both the jurisdiction's
26 zoning ordinance and general plan land use designation as specified
27 in any element of the general plan.

28 (A) This paragraph shall not be utilized to disapprove or
29 conditionally approve a housing development project proposed on
30 a site, including a candidate site for rezoning, that is identified as
31 suitable or available for very low, low-, or moderate-income
32 households in the jurisdiction's housing element if the housing
33 development project is consistent with the density specified in the
34 housing element, even though the housing development project
35 was inconsistent with both the jurisdiction's zoning ordinance and
36 general plan land use designation on the date the application was
37 deemed complete.

38 (B) If the local agency has failed to identify a zone or zones
39 where emergency shelters are allowed as a permitted use without
40 a conditional use or other discretionary permit, has failed to

1 demonstrate that the identified zone or zones include sufficient
2 capacity to accommodate the need for emergency shelter identified
3 in paragraph (7) of subdivision (a) of Section 65583, or has failed
4 to demonstrate that the identified zone or zones can accommodate
5 at least one emergency shelter, as required by paragraph (4) of
6 subdivision (a) of Section 65583, then this paragraph shall not be
7 utilized to disapprove or conditionally approve an emergency
8 shelter proposed for a site designated in any element of the general
9 plan for industrial, commercial, or multifamily residential uses. In
10 any action in court, the burden of proof shall be on the local agency
11 to show that its housing element does satisfy the requirements of
12 paragraph (4) of subdivision (a) of Section 65583.

13 ~~(6) On the date an application for the housing development~~
14 ~~project or emergency shelter was deemed complete, the jurisdiction~~
15 ~~did not have an adopted revised housing element that was in~~
16 ~~substantial compliance with this article and the housing~~
17 ~~development project is not a builder's remedy project.~~

18 ~~(7) On the date an application for the housing development~~
19 ~~project or emergency shelter was deemed complete, the jurisdiction~~
20 ~~did not have an adopted revised housing element that was in~~
21 ~~substantial compliance with this article, and the housing~~
22 ~~development project is a builder's remedy project, and at least one~~
23 ~~of the conditions described in subparagraph (C) of paragraph (1)~~
24 ~~of subdivision (f) of Section 65585 applies.~~

25 ~~(e) Nothing in this section shall be construed to relieve the local~~
26 ~~agency from complying with the congestion management program~~
27 ~~required by Chapter 2.6 (commencing with Section 65088) of~~
28 ~~Division 1 of Title 7 or the California Coastal Act of 1976~~
29 ~~(Division 20 (commencing with Section 30000) of the Public~~
30 ~~Resources Code). Neither shall anything in this section be~~
31 ~~construed to relieve the local agency from making one or more of~~
32 ~~the findings required pursuant to Section 21081 of the Public~~
33 ~~Resources Code or otherwise complying with the California~~
34 ~~Environmental Quality Act (Division 13 (commencing with Section~~
35 ~~21000) of the Public Resources Code).~~

36 ~~(f) (1) Except as provided in paragraphs (6) and (8) of this~~
37 ~~subdivision, and subdivision (o), nothing in this section shall be~~
38 ~~construed to prohibit a local agency from requiring the housing~~
39 ~~development project to comply with objective, quantifiable, written~~
40 ~~development standards, conditions, and policies appropriate to,~~

1 and consistent with, meeting the jurisdiction's share of the regional
2 housing need pursuant to Section 65584. However, the
3 development standards, conditions, and policies shall be applied
4 to facilitate and accommodate development at the density permitted
5 on the site and proposed by the development. Nothing in this
6 section shall limit a project's eligibility for a density bonus,
7 incentive, or concession, or waiver or reduction of development
8 standards and parking ratios, pursuant to Section 65915.

9 (2) Except as provided in subdivision (o), nothing in this section
10 shall be construed to prohibit a local agency from requiring an
11 emergency shelter project to comply with objective, quantifiable,
12 written development standards, conditions, and policies that are
13 consistent with paragraph (4) of subdivision (a) of Section 65583
14 and appropriate to, and consistent with, meeting the jurisdiction's
15 need for emergency shelter, as identified pursuant to paragraph
16 (7) of subdivision (a) of Section 65583. However, the development
17 standards, conditions, and policies shall be applied by the local
18 agency to facilitate and accommodate the development of the
19 emergency shelter project.

20 (3) Except as provided in subdivision (o), nothing in this section
21 shall be construed to prohibit a local agency from imposing fees
22 and other exactions otherwise authorized by law that are essential
23 to provide necessary public services and facilities to the housing
24 development project or emergency shelter.

25 (4) For purposes of this section, a housing development project
26 or emergency shelter shall be deemed consistent, compliant, and
27 in conformity with an applicable plan, program, policy, ordinance,
28 standard, requirement, or other similar provision if there is
29 substantial evidence that would allow a reasonable person to
30 conclude that the housing development project or emergency
31 shelter is consistent, compliant, or in conformity.

32 (5) For purposes of this section, a change to the zoning ordinance
33 or general plan land use designation subsequent to the date the
34 application was deemed complete shall not constitute a valid basis
35 to disapprove or condition approval of the housing development
36 project or emergency shelter.

37 (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
38 following apply to a housing development project that is a builder's
39 remedy project:

1 (A) A local agency may only require the project to comply with
2 the objective, quantifiable, written development standards;
3 conditions, and policies that would have applied to the project had
4 it been proposed on a site with a general plan designation and
5 zoning classification that allow the density and unit type proposed
6 by the applicant. If the local agency has no general plan designation
7 or zoning classification that would have allowed the density and
8 unit type proposed by the applicant, the development proponent
9 may identify any objective, quantifiable, written development
10 standards, conditions, and policies associated with a different
11 general plan designation or zoning classification within that
12 jurisdiction, that facilitate the project's density and unit type, and
13 those shall apply.

14 (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
15 of subdivision (d), a local agency shall not apply any individual
16 or combination of objective, quantifiable, written development
17 standards, conditions, and policies to the project that do any of the
18 following:

19 (I) Render the project infeasible.

20 (II) Preclude a project that meets the requirements allowed to
21 be imposed by subparagraph (A), as modified by any density bonus,
22 incentive, or concession, or waiver or reduction of development
23 standards and parking ratios, pursuant to Section 65915, from
24 being constructed as proposed by the applicant.

25 (ii) The local agency shall bear the burden of proof of complying
26 with clause (i).

27 (C) (i) A project applicant that qualifies for a density bonus
28 pursuant to Section 65915 shall receive two incentives or
29 concessions in addition to those granted pursuant to paragraph (2)
30 of subdivision (d) of Section 65915.

31 (ii) For a project seeking density bonuses, incentives,
32 concessions, or any other benefits pursuant to Section 65915, and
33 notwithstanding paragraph (6) of subdivision (o) of Section 65915,
34 for purposes of this paragraph, maximum allowable residential
35 density or base density means the density permitted for a builder's
36 remedy project pursuant to subparagraph (C) of paragraph (11) of
37 subdivision (h).

38 (iii) A local agency shall grant any density bonus pursuant to
39 Section 65915 based on the number of units proposed and

allowable pursuant to subparagraph (C) of paragraph (11) of subdivision (h):

(iv) A project that dedicates units to extremely low-income households pursuant to subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915.

(v) All units dedicated to extremely low-income, very low income, low-income, and moderate-income households pursuant to paragraph (11) of subdivision (h) shall be counted as affordable units in determining whether the applicant qualifies for a density bonus pursuant to Section 65915.

(D) (i) The project shall not be required to apply for, or receive approval of, a general plan amendment, specific plan amendment, rezoning, or other legislative approval.

(ii) The project shall not be required to apply for, or receive, any approval or permit not generally required of a project of the same type and density proposed by the applicant.

(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.

(E) A local agency shall not adopt or impose any requirement, process, practice, or procedure or undertake any course of conduct, 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 a builder's remedy project.

(F) (i) A builder's remedy project shall be deemed to be in compliance with the residential density standards for the purposes of complying with subdivision (b) of Section 65912.123.

(ii) A builder's remedy project shall be deemed to be in compliance with the objective zoning standards, objective subdivision standards, and objective design review standards for the purposes of complying with paragraph (5) of subdivision (a) of Section 65913.4.

1 ~~(G) (i) (I) If the local agency had a local affordable housing~~
2 ~~requirement, as defined in Section 65912.101, that on January 1,~~
3 ~~2024, required a greater percentage of affordable units than~~
4 ~~required under subparagraph (A) of paragraph (11) of subdivision~~
5 ~~(h), or required an affordability level deeper than what is required~~
6 ~~under subparagraph (A) of paragraph (11) of subdivision (h), then,~~
7 ~~except as provided in subclauses (II) and (III), the local agency~~
8 ~~may require a housing development for mixed-income households~~
9 ~~to comply with an otherwise lawfully applicable local affordability~~
10 ~~percentage or affordability level. The local agency shall not require~~
11 ~~housing for mixed-income households to comply with any other~~
12 ~~aspect of the local affordable housing requirement.~~

13 ~~(H) Notwithstanding subclause (I), the local affordable housing~~
14 ~~requirements shall not be applied to require housing for~~
15 ~~mixed-income households to dedicate more than 20 percent of the~~
16 ~~units to affordable units of any kind.~~

17 ~~(HH) Housing for mixed-income households that is required to~~
18 ~~dedicate 20 percent of the units to affordable units shall not be~~
19 ~~required to dedicate any of the affordable units at an income level~~
20 ~~deeper than lower income households, as defined in Section~~
21 ~~50079.5 of the Health and Safety Code.~~

22 ~~(IV) A local agency may only require housing for mixed-income~~
23 ~~households to comply with the local percentage requirement or~~
24 ~~affordability level described in subclause (I) if it first makes written~~
25 ~~findings, supported by a preponderance of evidence, that~~
26 ~~compliance with the local percentage requirement or the~~
27 ~~affordability level, or both, would not render the housing~~
28 ~~development project infeasible. If a reasonable person could find~~
29 ~~compliance with either requirement, either alone or in combination,~~
30 ~~would render the project infeasible, the project shall not be required~~
31 ~~to comply with that requirement.~~

32 ~~(ii) Affordable units in the development project shall have a~~
33 ~~comparable bedroom and bathroom count as the market rate units.~~

34 ~~(iii) Each affordable unit dedicated pursuant to this subparagraph~~
35 ~~shall count toward satisfying a local affordable housing~~
36 ~~requirement. Each affordable unit dedicated pursuant to a local~~
37 ~~affordable housing requirement that meets the criteria established~~
38 ~~in this subparagraph shall count towards satisfying the requirements~~
39 ~~of this subparagraph. This is declaratory of existing law.~~

1 ~~(7) (A) For a housing development project application that is~~
2 ~~deemed complete before January 1, 2025, the development~~
3 ~~proponent for the project may choose to be subject to the provisions~~
4 ~~of this section that were in place on the date the preliminary~~
5 ~~application was submitted, or, if the project meets the definition~~
6 ~~of a builder's remedy project, it may choose to be subject to any~~
7 ~~or all of the provisions of this section applicable as of January 1,~~
8 ~~2025.~~

9 ~~(B) Notwithstanding subdivision (c) of Section 65941.1, for a~~
10 ~~housing development project deemed complete before January 1,~~
11 ~~2025, the development proponent may choose to revise their~~
12 ~~application so that the project is a builder's remedy project, without~~
13 ~~being required to resubmit a preliminary application, even if the~~
14 ~~revision results in the number of residential units or square footage~~
15 ~~of construction changing by 20 percent or more.~~

16 ~~(8) A housing development project proposed on a site that is~~
17 ~~identified as suitable or available for very low, low-, or~~
18 ~~moderate-income households in the jurisdiction's housing element,~~
19 ~~that is consistent with the density specified in the most recently~~
20 ~~updated and adopted housing element, and that is inconsistent with~~
21 ~~both the jurisdiction's zoning ordinance and general plan land use~~
22 ~~designation on the date the application was deemed complete, shall~~
23 ~~be subject to the provisions of subparagraphs (A), (B), and (D) of~~
24 ~~paragraph (6) and paragraph (9).~~

25 ~~(9) For purposes of this subdivision, "objective, quantifiable,~~
26 ~~written development standards, conditions, and policies" means~~
27 ~~criteria that involve no personal or subjective judgment by a public~~
28 ~~official and are uniformly verifiable by reference to an external~~
29 ~~and uniform benchmark or criterion available and knowable by~~
30 ~~both the development applicant or proponent and the public official~~
31 ~~before submittal, including, but not limited to, any standard,~~
32 ~~ordinance, or policy described in paragraph (4) of subdivision (o).~~
33 ~~Nothing herein shall affect the obligation of the housing~~
34 ~~development project to comply with the minimum building~~
35 ~~standards approved by the California Building Standards~~
36 ~~Commission as provided in Part 2.5 (commencing with Section~~
37 ~~18901) of Division 13 of the Health and Safety Code. In the event~~
38 ~~that applicable objective, quantifiable, written development~~
39 ~~standards, conditions, and policies are mutually inconsistent, a~~
40 ~~development shall be deemed consistent with the criteria that~~

1 permits the density and unit type closest to that of the proposed
2 project.

3 (g) ~~This section shall be applicable to charter cities because the~~
4 ~~Legislature finds that the lack of housing, including emergency~~
5 ~~shelter, is a critical statewide problem.~~

6 (h) ~~The following definitions apply for the purposes of this~~
7 ~~section:~~

8 (1) ~~“Feasible” means capable of being accomplished in a~~
9 ~~successful manner within a reasonable period of time, taking into~~
10 ~~account economic, environmental, social, and technological factors.~~

11 (2) ~~“Housing development project” means a use consisting of~~
12 ~~any of the following:~~

13 (A) ~~Residential units only.~~

14 (B) ~~Mixed-use developments consisting of residential and~~
15 ~~nonresidential uses that meet any of the following conditions:~~

16 (i) ~~At least two-thirds of the new or converted square footage~~
17 ~~is designated for residential use.~~

18 (ii) ~~At least 50 percent of the new or converted square footage~~
19 ~~is designated for residential use and the project meets both of the~~
20 ~~following:~~

21 (I) ~~The project includes at least 500 net new residential units.~~

22 (II) ~~No portion of the project is designated for use as a hotel,~~
23 ~~motel, bed and breakfast inn, or other transient lodging, except a~~
24 ~~portion of the project may be designated for use as a residential~~
25 ~~hotel, as defined in Section 50519 of the Health and Safety Code.~~

26 (iii) ~~At least 50 percent of the net new or converted square~~
27 ~~footage is designated for residential use and the project meets all~~
28 ~~of the following:~~

29 (I) ~~The project includes at least 500 net new residential units.~~

30 (II) ~~The project involves the demolition or conversion of at least~~
31 ~~100,000 square feet of nonresidential use.~~

32 (III) ~~The project demolishes at least 50 percent of the existing~~
33 ~~nonresidential uses on the site.~~

34 (IV) ~~No portion of the project is designated for use as a hotel,~~
35 ~~motel, bed and breakfast inn, or other transient lodging, except a~~
36 ~~portion of the project may be designated for use as a residential~~
37 ~~hotel, as defined in Section 50519 of the Health and Safety Code.~~

38 (C) ~~Transitional housing or supportive housing.~~

39 (D) ~~Farmworker housing, as defined in subdivision (h) of~~
40 ~~Section 50199.7 of the Health and Safety Code.~~

1 ~~(3) (A) “Housing for very low, low-, or moderate-income~~
2 ~~households” means housing for lower income households,~~
3 ~~mixed-income households, or moderate-income households.~~

4 ~~(B) “Housing for lower income households” means a housing~~
5 ~~development project in which 100 percent of the units, excluding~~
6 ~~managers’ units, are dedicated to lower income households, as~~
7 ~~defined in Section 50079.5 of the Health and Safety Code, at an~~
8 ~~affordable cost, as defined by Section 50052.5 of the Health and~~
9 ~~Safety Code, or an affordable rent set in an amount consistent with~~
10 ~~the rent limits established by the California Tax Credit Allocation~~
11 ~~Committee. The units shall be subject to a recorded deed restriction~~
12 ~~for a period of 55 years for rental units and 45 years for~~
13 ~~owner-occupied units.~~

14 ~~(C) (i) “Housing for mixed-income households” means any of~~
15 ~~the following:~~

16 ~~(I) A housing development project in which at least 7 percent~~
17 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
18 ~~of subdivision (o) of Section 65915, are dedicated to extremely~~
19 ~~low income households, as defined in Section 50106 of the Health~~
20 ~~and Safety Code.~~

21 ~~(II) A housing development project in which at least 10 percent~~
22 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
23 ~~of subdivision (o) of Section 65915, are dedicated to very low~~
24 ~~income households, as defined in Section 50105 of the Health and~~
25 ~~Safety Code.~~

26 ~~(III) A housing development project in which at least 13 percent~~
27 ~~of the total units, as defined in subparagraph (A) of paragraph (8)~~
28 ~~of subdivision (o) of Section 65915, are dedicated to lower income~~
29 ~~households, as defined in Section 50079.5 of the Health and Safety~~
30 ~~Code.~~

31 ~~(IV) A housing development project in which there are 10 or~~
32 ~~fewer total units, as defined in subparagraph (A) of paragraph (8)~~
33 ~~of subdivision (o) of Section 65915, that is on a site that is smaller~~
34 ~~than one acre, and that is proposed for development at a minimum~~
35 ~~density of 10 units per acre.~~

36 ~~(ii) All units dedicated to extremely low income, very low~~
37 ~~income, and low-income households pursuant to clause (i) shall~~
38 ~~meet both of the following:~~

1 ~~(I) The units shall have an affordable housing cost, as defined~~
2 ~~in Section 50052.5 of the Health and Safety Code, or an affordable~~
3 ~~rent, as defined in Section 50053 of the Health and Safety Code.~~

4 ~~(H) The development proponent shall agree to, and the local~~
5 ~~agency shall ensure, the continued affordability of all affordable~~
6 ~~rental units included pursuant to this section for 55 years and all~~
7 ~~affordable ownership units included pursuant to this section for a~~
8 ~~period of 45 years.~~

9 ~~(D) “Housing for moderate-income households” means a~~
10 ~~housing development project in which 100 percent of the units are~~
11 ~~sold or rented to moderate-income households, as defined in~~
12 ~~Section 50093 of the Health and Safety Code, at an affordable~~
13 ~~housing cost, as defined in Section 50052.5 of the Health and~~
14 ~~Safety Code, or an affordable rent, as defined in Section 50053 of~~
15 ~~the Health and Safety Code. The units shall be subject to a recorded~~
16 ~~deed restriction for a period of 55 years for rental units and 45~~
17 ~~years for owner-occupied units.~~

18 ~~(4) “Area median income” means area median income as~~
19 ~~periodically established by the Department of Housing and~~
20 ~~Community Development pursuant to Section 50093 of the Health~~
21 ~~and Safety Code.~~

22 ~~(5) Notwithstanding any other law, until January 1, 2030,~~
23 ~~“deemed complete” means that the applicant has submitted a~~
24 ~~preliminary application pursuant to Section 65941.1 or, if the~~
25 ~~applicant has not submitted a preliminary application, has~~
26 ~~submitted a complete application pursuant to Section 65943. The~~
27 ~~local agency shall bear the burden of proof in establishing that the~~
28 ~~application is not complete.~~

29 ~~(6) “Disapprove the housing development project” includes any~~
30 ~~instance in which a local agency does any of the following:~~

31 ~~(A) Votes or takes final administrative action on a proposed~~
32 ~~housing development project application and the application is~~
33 ~~disapproved, including any required land use approvals or~~
34 ~~entitlements necessary for the issuance of a building permit.~~

35 ~~(B) Fails to comply with the time periods specified in~~
36 ~~subdivision (a) of Section 65950. An extension of time pursuant~~
37 ~~to Article 5 (commencing with Section 65950) shall be deemed to~~
38 ~~be an extension of time pursuant to this paragraph.~~

39 ~~(C) Fails to meet the time limits specified in Section 65913.3.~~

1 ~~(D) Fails to cease a course of conduct undertaken for an~~
2 ~~improper purpose, such as to harass or to cause unnecessary delay~~
3 ~~or needless increases in the cost of the proposed housing~~
4 ~~development project, that effectively disapproves the proposed~~
5 ~~housing development without taking final administrative action if~~
6 ~~all of the following conditions are met:~~

7 ~~(i) The project applicant provides written notice detailing the~~
8 ~~challenged conduct and why it constitutes disapproval to the local~~
9 ~~agency established under Section 65100.~~

10 ~~(ii) Within five working days of receiving the applicant's written~~
11 ~~notice described in clause (i), the local agency shall post the notice~~
12 ~~on the local agency's internet website, provide a copy of the notice~~
13 ~~to any person who has made a written request for notices pursuant~~
14 ~~to subdivision (f) of Section 21167 of the Public Resources Code,~~
15 ~~and file the notice with the county clerk of each county in which~~
16 ~~the project will be located. The county clerk shall post the notice~~
17 ~~and make it available for public inspection in the manner set forth~~
18 ~~in subdivision (e) of Section 21152 of the Public Resources Code.~~

19 ~~(iii) The local agency shall consider all objections, comments,~~
20 ~~evidence, and concerns about the project or the applicant's written~~
21 ~~notice and shall not make a determination until at least 60 days~~
22 ~~after the applicant has given written notice to the local agency~~
23 ~~pursuant to clause (i).~~

24 ~~(iv) Within 90 days of receipt of the applicant's written notice~~
25 ~~described in clause (i), the local agency shall issue a written~~
26 ~~statement that it will immediately cease the challenged conduct or~~
27 ~~issue written findings that comply with both of the following~~
28 ~~requirements:~~

29 ~~(I) The findings articulate an objective basis for why the~~
30 ~~challenged course of conduct is necessary.~~

31 ~~(II) The findings provide clear instructions on what the applicant~~
32 ~~must submit or supplement so that the local agency can make a~~
33 ~~final determination regarding the next necessary approval or set~~
34 ~~the date and time of the next hearing.~~

35 ~~(v) (I) If a local agency continues the challenged course of~~
36 ~~conduct described in the applicant's written notice and fails to~~
37 ~~issue the written findings described in clause (iv), the local agency~~
38 ~~shall bear the burden of establishing that its course of conduct does~~
39 ~~not constitute a disapproval of the housing development project~~
40 ~~under this subparagraph in an action taken by the applicant.~~

1 (H) ~~If an applicant challenges a local agency's course of conduct~~
2 ~~as a disapproval under this subparagraph, the local agency's written~~
3 ~~findings described in clause (iv) shall be incorporated into the~~
4 ~~administrative record and be deemed to be the final administrative~~
5 ~~action for purposes of adjudicating whether the local agency's~~
6 ~~course of conduct constitutes a disapproval of the housing~~
7 ~~development project under this subparagraph.~~

8 (vi) ~~A local agency's action in furtherance of complying with~~
9 ~~the California Environmental Quality Act (Division 13~~
10 ~~(commencing with Section 21000) of the Public Resources Code),~~
11 ~~including, but not limited to, imposing mitigating measures, shall~~
12 ~~not constitute project disapproval under this subparagraph.~~

13 (E) ~~Fails to comply with Section 65905.5. For purposes of this~~
14 ~~subparagraph, a builder's remedy project shall be deemed to~~
15 ~~comply with the applicable, objective general plan and zoning~~
16 ~~standards in effect at the time an application is deemed complete.~~

17 (F) (i) ~~Determines that an application for a housing development~~
18 ~~project is incomplete pursuant to subdivision (a) or (b) of Section~~
19 ~~65943 and includes in the determination an item that is not required~~
20 ~~on the local agency's submittal requirement checklist. The local~~
21 ~~agency shall bear the burden of proof that the required item is~~
22 ~~listed on the submittal requirement checklist.~~

23 (ii) ~~In a subsequent review of an application pursuant to Section~~
24 ~~65943, requests the applicant provide new information that was~~
25 ~~not identified in the initial determination and upholds this~~
26 ~~determination in the final written determination on an appeal filed~~
27 ~~pursuant to subdivision (c) of Section 65943. The local agency~~
28 ~~shall bear the burden of proof that the required item was identified~~
29 ~~in the initial determination.~~

30 (iii) ~~Determines that an application for a housing development~~
31 ~~project is incomplete pursuant to subdivision (a) or (b) of Section~~
32 ~~65943, a reasonable person would conclude that the applicant has~~
33 ~~submitted all of the items required on the local agency's submittal~~
34 ~~requirement checklist, and the local agency upholds this~~
35 ~~determination in the final written determination on an appeal filed~~
36 ~~pursuant to subdivision (c) of Section 65943.~~

37 (iv) ~~If a local agency determines that an application is~~
38 ~~incomplete under Section 65943 after two resubmittals of the~~
39 ~~application by the applicant, the local agency shall bear the burden~~

1 of establishing that the determination is not an effective disapproval
2 of a housing development project under this section.

3 ~~(G) Violates subparagraph (D) or (E) of paragraph (6) of~~
4 ~~subdivision (f).~~

5 ~~(H) Makes a written determination that a preliminary application~~
6 ~~described in subdivision (a) of Section 65941.1 has expired or that~~
7 ~~the applicant has otherwise lost its vested rights under the~~
8 ~~preliminary application for any reason other than those described~~
9 ~~in subdivisions (c) and (d) of Section 65941.1.~~

10 ~~(I) (i) Fails to make a determination of whether the project is~~
11 ~~exempt from the California Environmental Quality Act (Division~~
12 ~~13 (commencing with Section 21000) of the Public Resources~~
13 ~~Code), or commits an abuse of discretion, as defined in subdivision~~
14 ~~(b) of Section 65589.5.1 if all of the conditions in Section~~
15 ~~65589.5.1 are satisfied.~~

16 ~~(ii) This subparagraph shall become inoperative on January 1,~~
17 ~~2031.~~

18 ~~(J) (i) Fails to adopt a negative declaration or addendum for~~
19 ~~the project, to certify an environmental impact report for the~~
20 ~~project, or to approve another comparable environmental document,~~
21 ~~such as a sustainable communities environmental assessment~~
22 ~~pursuant to Section 21155.2 of the Public Resources Code, as~~
23 ~~required pursuant to the California Environmental Quality Act~~
24 ~~(Division 13 (commencing with Section 21000) of the Public~~
25 ~~Resources Code), if all of the conditions in Section 65589.5.2 are~~
26 ~~satisfied.~~

27 ~~(ii) This subparagraph shall become inoperative on January 1,~~
28 ~~2031.~~

29 ~~(7) (A) For purposes of this section and Sections 65589.5.1 and~~
30 ~~65589.5.2, "lawful determination" means any final decision about~~
31 ~~whether to approve or disapprove a statutory or categorical~~
32 ~~exemption or a negative declaration, addendum, environmental~~
33 ~~impact report, or comparable environmental review document~~
34 ~~under the California Environmental Quality Act (Division 13~~
35 ~~(commencing with Section 21000) of the Public Resources Code)~~
36 ~~that is not an abuse of discretion, as defined in subdivision (b) of~~
37 ~~Section 65589.5.1 or subdivision (b) of Section 65589.5.2.~~

38 ~~(B) This paragraph shall become inoperative on January 1, 2031.~~

39 ~~(8) "Lower density" includes any conditions that have the same~~
40 ~~effect or impact on the ability of the project to provide housing.~~

~~(9) Until January 1, 2030, “objective” means involving no personal or subjective judgment by a public official and being 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.~~

~~(10) Notwithstanding any other law, until January 1, 2030, “determined to be complete” means that the applicant has submitted a complete application pursuant to Section 65943.~~

~~(11) “Builder’s remedy project” means a project that meets all of the following criteria:~~

~~(A) The project is a housing development project that provides housing for very low, low-, or moderate-income households.~~

~~(B) On or after the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have a housing element that was in substantial compliance with this article.~~

~~(C) The project has a density such that the number of units, as calculated before the application of a density bonus pursuant to Section 65915, complies with all of the following conditions:~~

~~(i) The density does not exceed the greatest of the following densities:~~

~~(I) Fifty percent greater than the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.~~

~~(II) Three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater.~~

~~(III) The density that is consistent with the density specified in the housing element.~~

~~(ii) Notwithstanding clause (i), the greatest allowable density shall be 35 units per acre more than the amount allowable pursuant to clause (i), if any portion of the site is located within any of the following:~~

~~(I) One-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.~~

~~(II) A very low vehicle travel area, as defined in subdivision (h).~~

~~(III) A high or highest resource census tract, as identified by the latest edition of the “CTCAC/HCD Opportunity Map”~~

published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

(D) (i) On sites that have a minimum density requirement and are located within one-half mile of a commuter rail station or a heavy rail station, the density of the project shall not be less than the minimum density required on the site.

(I) For purposes of this subparagraph, “commuter rail” means a railway that is not a light rail, streetcar, trolley, or tramway and that is for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburb with service operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas, or between urbanized areas and outlying areas, using either locomotive-hauled or self-propelled railroad passenger cars, with multitrip tickets and specific station-to-station fares.

(II) For purposes of this subparagraph, “heavy rail” means an electric railway with the capacity for a heavy volume of traffic using high speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(ii) On all other sites with a minimum density requirement, the density of the project shall not be less than the local agency’s minimum density or one-half of the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is lower.

(E) The project site does not abut a site where more than one-third of the square footage on the site has been used, within the past three years, by a heavy industrial use, or a Title V industrial use, as those terms are defined in Section 65913.16.

(12) “Condition approval” includes imposing on the housing development project, or attempting to subject it to, development standards, conditions, or policies.

(13) “Unit type” means the form of ownership and the kind of residential unit, including, but not limited to, single-family detached, single-family attached, for-sale, rental, multifamily, townhouse, condominium, apartment, manufactured homes and mobilehomes, factory-built housing, and residential hotel.

1 ~~(14) “Proposed by the applicant” means the plans and designs~~
2 ~~as submitted by the applicant, including, but not limited to, density,~~
3 ~~unit size, unit type, site plan, building massing, floor area ratio,~~
4 ~~amenity areas, open space, parking, and ancillary commercial uses.~~

5 ~~(i) If any city, county, or city and county denies approval or~~
6 ~~imposes conditions, including design changes, lower density, or~~
7 ~~a reduction of the percentage of a lot that may be occupied by a~~
8 ~~building or structure under the applicable planning and zoning in~~
9 ~~force at the time the housing development project’s application is~~
10 ~~complete, that have a substantial adverse effect on the viability or~~
11 ~~affordability of a housing development for very low, low-, or~~
12 ~~moderate-income households, and the denial of the development~~
13 ~~or the imposition of conditions on the development is the subject~~
14 ~~of a court action which challenges the denial or the imposition of~~
15 ~~conditions, then the burden of proof shall be on the local legislative~~
16 ~~body to show that its decision is consistent with the findings as~~
17 ~~described in subdivision (d), and that the findings are supported~~
18 ~~by a preponderance of the evidence in the record, and with the~~
19 ~~requirements of subdivision (o).~~

20 ~~(j) (1) When a proposed housing development project complies~~
21 ~~with applicable, objective general plan, zoning, and subdivision~~
22 ~~standards and criteria, including design review standards, in effect~~
23 ~~at the time that the application was deemed complete, but the local~~
24 ~~agency proposes to disapprove the project or to impose a condition~~
25 ~~that the project be developed at a lower density, the local agency~~
26 ~~shall base its decision regarding the proposed housing development~~
27 ~~project upon written findings supported by a preponderance of the~~
28 ~~evidence on the record that both of the following conditions exist:~~

29 ~~(A) The housing development project would have a specific,~~
30 ~~adverse impact upon the public health or safety unless the project~~
31 ~~is disapproved or approved upon the condition that the project be~~
32 ~~developed at a lower density. As used in this paragraph, a “specific,~~
33 ~~adverse impact” means a significant, quantifiable, direct, and~~
34 ~~unavoidable impact, based on objective, identified written public~~
35 ~~health or safety standards, policies, or conditions as they existed~~
36 ~~on the date the application was deemed complete.~~

37 ~~(B) There is no feasible method to satisfactorily mitigate or~~
38 ~~avoid the adverse impact identified pursuant to paragraph (1), other~~
39 ~~than the disapproval of the housing development project or the~~

1 approval of the project upon the condition that it be developed at
2 a lower density.

3 ~~(2) (A) If the local agency considers a proposed housing~~
4 ~~development project to be inconsistent, not in compliance, or not~~
5 ~~in conformity with an applicable plan, program, policy, ordinance,~~
6 ~~standard, requirement, or other similar provision as specified in~~
7 ~~this subdivision, it shall provide the applicant with written~~
8 ~~documentation identifying the provision or provisions, and an~~
9 ~~explanation of the reason or reasons it considers the housing~~
10 ~~development to be inconsistent, not in compliance, or not in~~
11 ~~conformity as follows:~~

12 ~~(i) Within 30 days of the date that the application for the housing~~
13 ~~development project is determined to be complete, if the housing~~
14 ~~development project contains 150 or fewer housing units:~~

15 ~~(ii) Within 60 days of the date that the application for the~~
16 ~~housing development project is determined to be complete, if the~~
17 ~~housing development project contains more than 150 units:~~

18 ~~(B) If the local agency fails to provide the required~~
19 ~~documentation pursuant to subparagraph (A), the housing~~
20 ~~development project shall be deemed consistent, compliant, and~~
21 ~~in conformity with the applicable plan, program, policy, ordinance,~~
22 ~~standard, requirement, or other similar provision:~~

23 ~~(3) For purposes of this section, the receipt of a density bonus,~~
24 ~~incentive, concession, waiver, or reduction of development~~
25 ~~standards pursuant to Section 65915 shall not constitute a valid~~
26 ~~basis on which to find a proposed housing development project is~~
27 ~~inconsistent, not in compliance, or not in conformity, with an~~
28 ~~applicable plan, program, policy, ordinance, standard, requirement,~~
29 ~~or other similar provision specified in this subdivision:~~

30 ~~(4) For purposes of this section, a proposed housing development~~
31 ~~project is not inconsistent with the applicable zoning standards~~
32 ~~and criteria, and shall not require a rezoning, if the housing~~
33 ~~development project is consistent with the objective general plan~~
34 ~~standards and criteria but the zoning for the project site is~~
35 ~~inconsistent with the general plan. If the local agency has complied~~
36 ~~with paragraph (2), the local agency may require the proposed~~
37 ~~housing development project to comply with the objective~~
38 ~~standards and criteria of the zoning which is consistent with the~~
39 ~~general plan, however, the standards and criteria shall be applied~~
40 ~~to facilitate and accommodate development at the density allowed~~

1 on the site by the general plan and proposed by the proposed
2 housing development project.

3 (k) (1) (A) (i) The applicant, a person who would be eligible
4 to apply for residency in the housing development project or
5 emergency shelter, or a housing organization may bring an action
6 to enforce this section. If, in any action brought to enforce this
7 section, a court finds that any of the following are met, the court
8 shall issue an order pursuant to clause (ii):

9 (I) The local agency, in violation of subdivision (d), disapproved
10 a housing development project or conditioned its approval in a
11 manner rendering it infeasible for the development of an emergency
12 shelter, or housing for very low, low-, or moderate-income
13 households, including farmworker housing, without making the
14 findings required by this section.

15 (II) The local agency, in violation of subdivision (j), disapproved
16 a housing development project complying with applicable,
17 objective general plan and zoning standards and criteria, or imposed
18 a condition that the project be developed at a lower density, without
19 making the findings required by this section.

20 (III) (ia) Subject to sub-subclause (ib), the local agency, in
21 violation of subdivision (o), required or attempted to require a
22 housing development project to comply with an ordinance, policy,
23 or standard not adopted and in effect when a preliminary
24 application was submitted.

25 (ib) This subclause shall become inoperative on January 1, 2030.

26 (IV) The local agency violated a provision of this section
27 applicable to a builder's remedy project.

28 (ii) If the court finds that one of the conditions in clause (i) is
29 met, the court shall issue an order or judgment compelling
30 compliance with this section within a time period not to exceed
31 60 days, including, but not limited to, an order that the local agency
32 take action on the housing development project or emergency
33 shelter. The court may issue an order or judgment directing the
34 local agency to approve the housing development project or
35 emergency shelter if the court finds that the local agency acted in
36 bad faith when it disapproved or conditionally approved the
37 housing development or emergency shelter in violation of this
38 section. The court shall retain jurisdiction to ensure that its order
39 or judgment is carried out and shall award reasonable attorney's
40 fees and costs of suit to the plaintiff or petitioner, provided,

1 however, that the court shall not award attorney's fees in either of
2 the following instances:

3 (I) The court finds, under extraordinary circumstances, that
4 awarding fees would not further the purposes of this section:

5 (H) (ia) In a case concerning a disapproval within the meaning
6 of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the
7 court finds that the local agency acted in good faith and had
8 reasonable cause to disapprove the housing development project
9 due to the existence of a controlling question of law about the
10 application of the California Environmental Quality Act (Division
11 13 (commencing with Section 21000) of the Public Resources
12 Code) or implementing guidelines as to which there was a
13 substantial ground for difference of opinion at the time of the
14 disapproval:

15 (ib) This subclause shall become inoperative on January 1, 2031.

16 (B) Upon a determination that the local agency has failed to
17 comply with the order or judgment compelling compliance with
18 this section within the time period prescribed by the court, the
19 court shall impose fines on a local agency that has violated this
20 section and require the local agency to deposit any fine levied
21 pursuant to this subdivision into a local housing trust fund. The
22 local agency may elect to instead deposit the fine into the Building
23 Homes and Jobs Trust Fund. The fine shall be in a minimum
24 amount of ten thousand dollars (\$10,000) per housing unit in the
25 housing development project on the date the application was
26 deemed complete pursuant to Section 65943. In determining the
27 amount of the fine to impose, the court shall consider the local
28 agency's progress in attaining its target allocation of the regional
29 housing need pursuant to Section 65584 and any prior violations
30 of this section. Fines shall not be paid out of funds already
31 dedicated to affordable housing, including, but not limited to, Low
32 and Moderate Income Housing Asset Funds, funds dedicated to
33 housing for very low, low-, and moderate-income households, and
34 federal HOME Investment Partnerships Program and Community
35 Development Block Grant Program funds. The local agency shall
36 commit and expend the money in the local housing trust fund
37 within five years for the sole purpose of financing newly
38 constructed housing units affordable to extremely low, very low,
39 or low-income households. After five years, if the funds have not
40 been expended, the money shall revert to the state and be deposited

1 in the Building Homes and Jobs Trust Fund for the sole purpose
2 of financing newly constructed housing units affordable to
3 extremely low, very low, or low-income households.

4 (C) If the court determines that its order or judgment has not
5 been carried out within 60 days, the court may issue further orders
6 as provided by law to ensure that the purposes and policies of this
7 section are fulfilled, including, but not limited to, an order to vacate
8 the decision of the local agency and to approve the housing
9 development project, in which case the application for the housing
10 development project, as proposed by the applicant at the time the
11 local agency took the initial action determined to be in violation
12 of this section, along with any standard conditions determined by
13 the court to be generally imposed by the local agency on similar
14 projects, shall be deemed to be approved unless the applicant
15 consents to a different decision or action by the local agency.

16 (D) Nothing in this section shall limit the court's inherent
17 authority to make any other orders to compel the immediate
18 enforcement of any writ brought under this section, including the
19 imposition of fees and other sanctions set forth under Section 1097
20 of the Code of Civil Procedure.

21 (2) For purposes of this subdivision, "housing organization"
22 means a trade or industry group whose local members are primarily
23 engaged in the construction or management of housing units or a
24 nonprofit organization whose mission includes providing or
25 advocating for increased access to housing for low-income
26 households and have filed written or oral comments with the local
27 agency prior to action on the housing development project. A
28 housing organization may only file an action pursuant to this
29 section to challenge the disapproval of a housing development by
30 a local agency. A housing organization shall be entitled to
31 reasonable attorney's fees and costs if it is the prevailing party in
32 an action to enforce this section.

33 (I) If the court finds that the local agency (1) acted in bad faith
34 when it violated this section and (2) failed to carry out the court's
35 order or judgment within the time period prescribed by the court,
36 the court, in addition to any other remedies provided by this
37 section, shall multiply the fine determined pursuant to subparagraph
38 (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
39 has previously found that the local agency violated this section
40 within the same planning period, the court shall multiply the fines

1 by an additional factor for each previous violation. For purposes
2 of this section, “bad faith” includes, but is not limited to, an action
3 or inaction that is frivolous, pretextual, intended to cause
4 unnecessary delay, or entirely without merit.

5 (m) (1) Any action brought to enforce the provisions of this
6 section shall be brought pursuant to Section 1094.5 of the Code
7 of Civil Procedure, and the local agency shall prepare and certify
8 the record of proceedings in accordance with subdivision (c) of
9 Section 1094.6 of the Code of Civil Procedure no later than 30
10 days after the petition is served, provided that the cost of
11 preparation of the record shall be borne by the local agency, unless
12 the petitioner elects to prepare the record as provided in subdivision
13 (n) of this section. A petition to enforce the provisions of this
14 section shall be filed and served no later than 90 days from the
15 later of (1) the effective date of a decision of the local agency
16 imposing conditions on, disapproving, or any other final action on
17 a housing development project or (2) the expiration of the time
18 periods specified in subparagraph (B) of paragraph (5) of
19 subdivision (h). Upon entry of the trial court’s order, a party may,
20 in order to obtain appellate review of the order, file a petition
21 within 20 days after service upon it of a written notice of the entry
22 of the order, or within such further time not exceeding an additional
23 20 days as the trial court may for good cause allow, or may appeal
24 the judgment or order of the trial court under Section 904.1 of the
25 Code of Civil Procedure. If the local agency appeals the judgment
26 of the trial court, the local agency shall post a bond, in an amount
27 to be determined by the court, to the benefit of the plaintiff if the
28 plaintiff is the project applicant.

29 (2) (A) A disapproval within the meaning of subparagraph (I)
30 of paragraph (6) of subdivision (h) shall be final for purposes of
31 this subdivision, if the local agency did not make a lawful
32 determination within the time period set forth in paragraph (5) of
33 subdivision (a) of Section 65589.5.1 after the applicant’s timely
34 written notice.

35 (B) This paragraph shall become inoperative on January 1, 2031.

36 (3) (A) A disapproval within the meaning of subparagraph (J)
37 of paragraph (6) of subdivision (h) shall be final for purposes of
38 this subdivision, if the local agency did not make a lawful
39 determination within 90 days of the applicant’s timely written
40 notice.

1 ~~(B) This paragraph shall become inoperative on January 1, 2031.~~

2 ~~(n) In any action, the record of the proceedings before the local~~
3 ~~agency shall be filed as expeditiously as possible and,~~
4 ~~notwithstanding Section 1094.6 of the Code of Civil Procedure or~~
5 ~~subdivision (m) of this section, all or part of the record may be~~
6 ~~prepared (1) by the petitioner with the petition or petitioner's points~~
7 ~~and authorities, (2) by the respondent with respondent's points and~~
8 ~~authorities, (3) after payment of costs by the petitioner, or (4) as~~
9 ~~otherwise directed by the court. If the expense of preparing the~~
10 ~~record has been borne by the petitioner and the petitioner is the~~
11 ~~prevailing party, the expense shall be taxable as costs.~~

12 ~~(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision~~
13 ~~(d) of Section 65941.1, a housing development project shall be~~
14 ~~subject only to the ordinances, policies, and standards adopted and~~
15 ~~in effect when a preliminary application including all of the~~
16 ~~information required by subdivision (a) of Section 65941.1 was~~
17 ~~submitted.~~

18 ~~(2) Paragraph (1) shall not prohibit a housing development~~
19 ~~project from being subject to ordinances, policies, and standards~~
20 ~~adopted after the preliminary application was submitted pursuant~~
21 ~~to Section 65941.1 in the following circumstances:~~

22 ~~(A) In the case of a fee, charge, or other monetary exaction, to~~
23 ~~an increase resulting from an automatic annual adjustment based~~
24 ~~on an independently published cost index that is referenced in the~~
25 ~~ordinance or resolution establishing the fee or other monetary~~
26 ~~exaction.~~

27 ~~(B) A preponderance of the evidence in the record establishes~~
28 ~~that subjecting the housing development project to an ordinance,~~
29 ~~policy, or standard beyond those in effect when a preliminary~~
30 ~~application was submitted is necessary to mitigate or avoid a~~
31 ~~specific, adverse impact upon the public health or safety, as defined~~
32 ~~in subparagraph (A) of paragraph (1) of subdivision (j), and there~~
33 ~~is no feasible alternative method to satisfactorily mitigate or avoid~~
34 ~~the adverse impact.~~

35 ~~(C) Subjecting the housing development project to an ordinance,~~
36 ~~policy, standard, or any other measure, beyond those in effect when~~
37 ~~a preliminary application was submitted is necessary to avoid or~~
38 ~~substantially lessen an impact of the project under the California~~
39 ~~Environmental Quality Act (Division 13 (commencing with Section~~
40 ~~21000) of the Public Resources Code).~~

1 ~~(D) The housing development project has not commenced~~
2 ~~construction within two and one-half years, or three and one-half~~
3 ~~years for an affordable housing project, following the date that the~~
4 ~~project received final approval. For purposes of this subparagraph:~~

5 ~~(i) “Affordable housing project” means a housing development~~
6 ~~that satisfies both of the following requirements:~~

7 ~~(I) Units within the development are subject to a recorded~~
8 ~~affordability restriction for at least 55 years for rental housing and~~
9 ~~45 years for owner-occupied housing, or the first purchaser of each~~
10 ~~unit participates in an equity sharing agreement as described in~~
11 ~~subparagraph (C) of paragraph (2) of subdivision (c) of Section~~
12 ~~65945.~~

13 ~~(II) All of the units within the development, excluding managers’~~
14 ~~units, are dedicated to lower income households, as defined by~~
15 ~~Section 50079.5 of the Health and Safety Code.~~

16 ~~(ii) “Final approval” means that the housing development project~~
17 ~~has received all necessary approvals to be eligible to apply for,~~
18 ~~and obtain, a building permit or permits and either of the following~~
19 ~~is met:~~

20 ~~(I) The expiration of all applicable appeal periods, petition~~
21 ~~periods, reconsideration periods, or statute of limitations for~~
22 ~~challenging that final approval without an appeal, petition, request~~
23 ~~for reconsideration, or legal challenge having been filed.~~

24 ~~(II) If a challenge is filed, that challenge is fully resolved or~~
25 ~~settled in favor of the housing development project.~~

26 ~~(E) The housing development project is revised following~~
27 ~~submission of a preliminary application pursuant to Section 65941.1~~
28 ~~such that the number of residential units or square footage of~~
29 ~~construction changes by 20 percent or more, exclusive of any~~
30 ~~increase resulting from the receipt of a density bonus, incentive,~~
31 ~~concession, waiver, or similar provision, including any other locally~~
32 ~~authorized program that offers additional density or other~~
33 ~~development bonuses when affordable housing is provided. For~~
34 ~~purposes of this subdivision, “square footage of construction”~~
35 ~~means the building area, as defined by the California Building~~
36 ~~Standards Code (Title 24 of the California Code of Regulations).~~

37 ~~(3) This subdivision does not prevent a local agency from~~
38 ~~subjecting the additional units or square footage of construction~~
39 ~~that result from project revisions occurring after a preliminary~~
40 ~~application is submitted pursuant to Section 65941.1 to the~~

1 ordinances, policies, and standards adopted and in effect when the
2 preliminary application was submitted.

3 (4) For purposes of this subdivision, “ordinances, policies, and
4 standards” includes general plan, community plan, specific plan,
5 zoning, design review standards and criteria, subdivision standards
6 and criteria, and any other rules, regulations, requirements, and
7 policies of a local agency, as defined in Section 66000, including
8 those relating to development impact fees, capacity or connection
9 fees or charges, permit or processing fees, and other exactions.

10 (5) This subdivision shall not be construed in a manner that
11 would lessen the restrictions imposed on a local agency, or lessen
12 the protections afforded to a housing development project, that are
13 established by any other law, including any other part of this
14 section.

15 (6) This subdivision shall not restrict the authority of a public
16 agency or local agency to require mitigation measures to lessen
17 the impacts of a housing development project under the California
18 Environmental Quality Act (Division 13 (commencing with Section
19 21000) of the Public Resources Code).

20 (7) With respect to completed residential units for which the
21 project approval process is complete and a certificate of occupancy
22 has been issued, nothing in this subdivision shall limit the
23 application of later enacted ordinances, policies, and standards
24 that regulate the use and occupancy of those residential units, such
25 as ordinances relating to rental housing inspection, rent
26 stabilization, restrictions on short-term renting, and business
27 licensing requirements for owners of rental housing.

28 (8) (A) This subdivision shall apply to a housing development
29 project that submits a preliminary application pursuant to Section
30 65941.1 before January 1, 2030.

31 (B) This subdivision shall become inoperative on January 1,
32 2034.

33 (p) (1) Upon any motion for an award of attorney’s fees
34 pursuant to Section 1021.5 of the Code of Civil Procedure, in a
35 case challenging a local agency’s approval of a housing
36 development project, a court, in weighing whether a significant
37 benefit has been conferred on the general public or a large class
38 of persons and whether the necessity of private enforcement makes
39 the award appropriate, shall give due weight to the degree to which
40 the local agency’s approval furthers policies of this section,

1 including, but not limited to, subdivisions (a), (b), and (c), the
2 suitability of the site for a housing development, and the
3 reasonableness of the decision of the local agency. It is the intent
4 of the Legislature that attorney's fees and costs shall rarely, if ever,
5 be awarded if a local agency, acting in good faith, approved a
6 housing development project that satisfies conditions established
7 in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
8 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

9 ~~(2) This subdivision shall become inoperative on January 1,~~
10 ~~2031.~~

11 ~~(q) This section shall be known, and may be cited, as the~~
12 ~~Housing Accountability Act.~~

13 ~~(r) The provisions of this section are severable. If any provision~~
14 ~~of this section or its application is held invalid, that invalidity shall~~
15 ~~not affect other provisions or applications that can be given effect~~
16 ~~without the invalid provision or application.~~

17 SEC. 8. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of Section
22 17556 of the Government Code.

O

SB 423 Streamlined Ministerial Approval Process (SMAP) Determination

10% List – Subject to streamlining for qualifying developments with at least 10% affordability

Any of the following:

- Insufficient progress toward their Above-Moderate RHNA
- Housing element out of compliance
- Have not submitted latest Annual Progress Report (APR)

50% List – Subject to streamlining for qualifying developments with at least 50% affordability

- Insufficient progress toward their Lower (Very Low and Low) RHNA