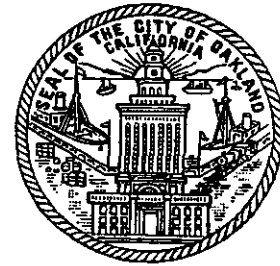


CITY OF OAKLAND

BILL ANALYSIS



Date: March 29, 2007

2007 MAR 15 PM 3:26

Bill Number: SB2

Bill Author: Cedillo

DEPARTMENT INFORMATION

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RECOMMENDED POSITION: (SUPPORT, SUPPORT IF AMENDED, NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

Watch and oppose current version. Over-concentration of such facilities and other important local context factors in a community must be taken into account. Local discretion is critical. The current "by right" provisions would eliminate or severely restrict Oakland's discretion.

Summary of the Bill

(1) Currently the State's Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters, transitional housing, and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right.

The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. The bill would also delete multifamily residential use from these provisions.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income

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households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add special needs facilities and emergency shelters to these provisions and would revise the conditions upon which a denial or a conditional approval of a special needs facility or an emergency shelter is based. The bill would define “special needs facility” as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly.

Positive Factors for Oakland

This bill would require all cities to include within their Housing Elements plans and specific sites to accommodate shelter, transitional housing or special needs housing. This would be consistent with the City Council’s policy to encourage all cities to do their share to meet regional needs for affordable housing, including housing for homeless families and individuals.

Negative Factors for Oakland

This bill would require the City to identify specific sites where emergency shelters and transitional housing would be permitted “by right.” The City would not be able to require a conditional use permit for such facilities on these sites, although it would be able to impose development standards and management standards, provided such standards do not render a project infeasible. This would limit the City’s ability to regulate the siting of such facilities.

The bill would also limit the City’s ability to disapprove or approve conditionally emergency shelters and special needs facilities. The City would be required to approve such projects unless a very narrow set of findings can be made.

Both these provisions would eliminate the City’s ability to account for over-concentration of such facilities and other important, intervening factors such as public safety concerns. It is unfortunate this proposal, in its present form, is aimed at those communities that have not accepted their local and regional responsibilities at the expense of communities that have incorporated these facilities into their neighborhoods. By limiting local discretion, those cities that have such facilities would be denied regulatory tools that are an important part of assuring successful integration into neighborhoods. Factors such as public safety, over-concentration of facilities in one area, site security, proximity to schools, etc. are all important considerations.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
 Very Important (priority for City lobbyist, city position necessary)
 Somewhat Important (City position desirable if time and resources are available)
 Minimal or **None** (do not review with City Council, position not required)

Known support:

None identified yet

Known Opposition:

None identified yet

Attach bill text and state/federal legislative committee analysis, if available.

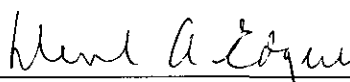
See attachment

Respectfully Submitted,



Claudia Cappio
Development Director
Community and Economic Development
Agency

Approved for Forwarding to
Rules Committee



Office of City Administrator

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AMENDED IN SENATE MARCH 8, 2007
AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL

No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters, transitional housing, and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. The bill would also delete multifamily

residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add special needs facilities and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a special needs facility or an emergency shelter is based. The bill would define “special needs facility” as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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.

~~(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs, including an inventory of adequate sites for residential development, and an inventory of resources and constraints relevant to the meeting of these needs.~~

~~This bill would add emergency shelters and transitional housing to these provisions and would add provisions by which a local government may satisfy the requirement to identify sites suitable for the development of emergency shelters as a use by right, as defined.~~

~~(2) The Planning and Zoning Law also provides that any amendment to the statutory provisions governing the housing element and the~~

locality's existing and projected need for housing that alters the required content of the housing element shall apply to any housing element or housing element amendment prepared pursuant to specified provisions where the city, county, or city and county submits the first draft to the department for review more than 90 days after the effective date of the amendment or fails to submit the first draft before a specified date.

This bill would revise these provisions:

~~(3) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.~~

~~This bill would, in addition, add emergency shelters, transitional housing, and rental multifamily residential developments to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would delete multifamily residential use from these provisions. The bill would also require a local agency to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.~~

~~(4) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households, a special needs facility or an emergency shelter, or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.~~

~~This bill would make technical changes to these provisions:~~

~~(5) 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. The Legislature finds and declares all of the
2 following:

3 (a) Homelessness is a statewide problem that affects many cities
4 and counties. There are an estimated 360,000 homeless individuals
5 and families in California. In some counties, like Los Angeles, an
6 estimated 254,000 men, women, and children experience
7 homelessness over the course of each year. Some of the causes of
8 homelessness are mental illness, substance abuse, prison release,
9 and lack of affordable housing.

10 (b) Because homelessness affects people of all races, gender,
11 age, and geographic location there is a growing need for every city
12 and county to plan for the location of adequate emergency shelters
13 and special needs facilities. Many people experiencing
14 homelessness, primarily youth and single individuals, need shelter
15 but also have a need for residential substance abuse and mental
16 health services.

17 (c) The lack or shortage of emergency shelters and special needs
18 facilities for homeless individuals and families in cities and
19 counties across the state leads to the concentration of services in
20 inner cities and poor communities, like skid row area in downtown
21 Los Angeles.

22 (d) In order to ensure access to services in every city and county
23 for homeless individuals and families, it is important that cities
24 and counties plan for these services to address the special needs
25 and circumstances of this threatened population.

26 (e) It is the responsibility of cities and counties to plan and
27 identify areas to locate special needs facilities. Cities and counties
28 should include this as part of their planning process and locate
29 these facilities where most appropriate in their community. The
30 state should not dictate where these residential special needs
31 facilities should be located.

32 (f) It is the responsibility of the Legislature to promote strong
33 communities and ensure that housing and residential services are
34 available in all communities.

1 SEC. 2. ~~Section 65582 of the Government Code is amended~~
2 ~~to read:~~

3 ~~65582. As used in this article, the following definitions apply:~~

4 (a) ~~“Community,” “locality,” “local government,” or~~
5 ~~“jurisdiction” means a city, city and county, or county.~~

6 (b) ~~“Council of governments” means a single or multicounty~~
7 ~~council created by a joint powers agreement pursuant to Chapter~~
8 ~~5 (commencing with Section 6500) of Division 1 of Title 1.~~

9 (c) ~~“Department” means the Department of Housing and~~
10 ~~Community Development.~~

11 (d) ~~“Emergency shelter” has the same meaning as defined in~~
12 ~~subdivision (c) of Section 50801 of the Health and Safety Code.~~

13 (e) ~~“Housing element” or “element” means the housing element~~
14 ~~of the community’s general plan, as required pursuant to this article~~
15 ~~and subdivision (c) of Section 65302.~~

16 (f) ~~“Transitional housing” has the same meaning as defined in~~
17 ~~subdivision (i) of Section 50801 of the Health and Safety Code.~~

18 SEC. 3. ~~Section 65583 of the Government Code is amended~~
19 ~~to read:~~

20 ~~65583. The housing element shall consist of an identification~~
21 ~~and analysis of existing and projected housing needs and a~~
22 ~~statement of goals, policies, quantified objectives, financial~~
23 ~~resources, and scheduled programs for the preservation,~~
24 ~~improvement, and development of housing. The housing element~~
25 ~~shall identify adequate sites for housing, including rental housing,~~
26 ~~factory-built housing, mobilehomes, and emergency shelters, and~~
27 ~~shall make adequate provision for the existing and projected needs~~
28 ~~of all economic segments of the community. The element shall~~
29 ~~contain all of the following:~~

30 (a) ~~An assessment of housing needs and an inventory of~~
31 ~~resources and constraints relevant to the meeting of these needs.~~
32 ~~The assessment and inventory shall include all of the following:~~

33 (1) ~~An analysis of population and employment trends and~~
34 ~~documentation of projections and a quantification of the locality’s~~
35 ~~existing and projected housing needs for all income levels,~~
36 ~~including extremely low income households, as defined in~~
37 ~~subdivision (b) of Section 50105 and Section 50106 of the Health~~
38 ~~and Safety Code. These existing and projected needs shall include~~
39 ~~the locality’s share of the regional housing need in accordance~~
40 ~~with Section 65584. Local agencies shall calculate the subset of~~

1 very low income households allotted under Section 65584 that
2 qualify as extremely low income households. The local agency
3 may either use available census data to calculate the percentage
4 of very low income households that qualify as extremely low
5 income households or presume that 50 percent of the very low
6 income households qualify as extremely low income households.
7 The number of extremely low income households and very low
8 income households shall equal the jurisdiction's allocation of very
9 low income households pursuant to Section 65584.

10 ~~(2) An analysis and documentation of household characteristics,~~
11 ~~including level of payment compared to ability to pay, housing~~
12 ~~characteristics, including overcrowding, and housing stock~~
13 ~~condition.~~

14 ~~(3) An inventory of land suitable for residential development,~~
15 ~~including vacant sites and sites having potential for redevelopment,~~
16 ~~and an analysis of the relationship of zoning and public facilities~~
17 ~~and services to these sites.~~

18 ~~(4) An analysis of potential and actual governmental constraints~~
19 ~~upon the maintenance, improvement, or development of housing~~
20 ~~for all income levels, including the types of housing identified in~~
21 ~~paragraph (1) of subdivision (c), and for persons with disabilities~~
22 ~~as identified in the analysis pursuant to paragraph (6), including~~
23 ~~land use controls, building codes and their enforcement, site~~
24 ~~improvements, fees and other exactions required of developers,~~
25 ~~and local processing and permit procedures. The analysis shall~~
26 ~~also demonstrate local efforts to remove governmental constraints~~
27 ~~that hinder the locality from meeting its share of the regional~~
28 ~~housing need in accordance with Section 65584 and from meeting~~
29 ~~the need for housing for persons with disabilities identified~~
30 ~~pursuant to paragraph (6).~~

31 ~~(5) An analysis of potential and actual nongovernmental~~
32 ~~constraints upon the maintenance, improvement, or development~~
33 ~~of housing for all income levels, including the availability of~~
34 ~~financing, the price of land, and the cost of construction.~~

35 ~~(6) An analysis of any special housing needs, such as those of~~
36 ~~the elderly, persons with disabilities, large families, farmworkers,~~
37 ~~families with female heads of households, and families and persons~~
38 ~~in need of emergency shelter and transitional housing.~~

39 ~~(7) An inventory of sites suitable for the development within~~
40 ~~the planning period of emergency shelters that are zoned to permit~~

1 the development of these shelters as a use by right, as defined in
2 subdivision (i) of Section 65583.2. The sites shall be zoned with
3 appropriate development and management standards and served
4 with appropriate infrastructure to accommodate the community's
5 need for emergency shelters identified pursuant to paragraph (6).

6 ~~(8) An analysis of opportunities for energy conservation with
7 respect to residential development.~~

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

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

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

37 ~~(C) The analysis shall identify public and private nonprofit
38 corporations known to the local government which have legal and
39 managerial capacity to acquire and manage these housing
40 developments.~~

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

13 ~~(b) (1) A statement of the community's goals, quantified~~
14 ~~objectives, and policies relative to the maintenance, preservation,~~
15 ~~improvement, and development of housing.~~

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

26 ~~(c) A program which sets forth a five-year schedule of actions~~
27 ~~the local government is undertaking or intends to undertake to~~
28 ~~implement the policies and achieve the goals and objectives of the~~
29 ~~housing element through the administration of land use and~~
30 ~~development controls, provision of regulatory concessions and~~
31 ~~incentives, and the utilization of appropriate federal and state~~
32 ~~financing and subsidy programs when available and the utilization~~
33 ~~of moneys in a low- and moderate-income housing fund of an~~
34 ~~agency if the locality has established a redevelopment project area~~
35 ~~pursuant to the Community Redevelopment Law (Division 24~~
36 ~~(commencing with Section 33000) of the Health and Safety Code).~~
37 ~~In order to make adequate provision for the housing needs of all~~
38 ~~economic segments of the community, the program shall do all of~~
39 ~~the following:~~

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

14 ~~(A) Where the inventory of sites, pursuant to paragraph (3) of~~
15 ~~subdivision (a), does not identify adequate sites to accommodate~~
16 ~~the need for groups of all household income levels pursuant to~~
17 ~~Section 65584, the program shall identify sites that can be~~
18 ~~developed for housing within the planning period pursuant to~~
19 ~~subdivision (h) of Section 65583.2.~~

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

28 ~~(C) Where the inventory of sites pursuant to paragraph (7) of~~
29 ~~subdivision (a) does not identify adequate sites to accommodate~~
30 ~~the need for emergency shelters identified pursuant to paragraph~~
31 ~~(6) of subdivision (a), the program shall identify actions that will~~
32 ~~be taken to make available adequate sites that can be developed~~
33 ~~within the planning period to meet the need for emergency shelters.~~
34 ~~The sites shall be zoned to permit the development of shelters as~~
35 ~~a use by right, as defined in subdivision (i) of Section 65583.2,~~
36 ~~and shall be zoned with appropriate development and management~~
37 ~~standards and served with appropriate infrastructure to~~
38 ~~accommodate the community's need for emergency shelters.~~

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

4 ~~(3) Address and, where appropriate and legally possible, remove~~
5 ~~governmental constraints to the maintenance, improvement, and~~
6 ~~development of housing, including housing for all income levels~~
7 ~~and housing for persons with disabilities. The program shall remove~~
8 ~~constraints to, or provide reasonable accommodations for housing~~
9 ~~designed for, intended for occupancy by, or with supportive~~
10 ~~services for, persons with disabilities.~~

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 housing opportunities for all persons regardless of~~
16 ~~race, religion, sex, marital status, ancestry, national origin, color,~~
17 ~~familial status, or disability.~~

18 ~~(6) (A) Preserve for lower income households the assisted~~
19 ~~housing developments identified pursuant to paragraph (9) of~~
20 ~~subdivision (a). The program for preservation of the assisted~~
21 ~~housing developments shall utilize, to the extent necessary, all~~
22 ~~available federal, state, and local financing and subsidy programs~~
23 ~~identified in paragraph (8) of subdivision (a), except where a~~
24 ~~community has other urgent needs for which alternative funding~~
25 ~~sources are not available. The program may include strategies that~~
26 ~~involve local regulation and technical assistance.~~

27 ~~(B) The program shall include an identification of the agencies~~
28 ~~and officials responsible for the implementation of the various~~
29 ~~actions and the means by which consistency will be achieved with~~
30 ~~other general plan elements and community goals. The local~~
31 ~~government shall make a diligent effort to achieve public~~
32 ~~participation of all economic segments of the community in the~~
33 ~~development of the housing element, and the program shall~~
34 ~~describe this effort.~~

35 ~~(d) A local government may satisfy the requirements to identify~~
36 ~~sites suitable for the development of emergency shelters pursuant~~
37 ~~to paragraph (7) of subdivision (a) and to include a program to~~
38 ~~identify sufficient sites for these shelters pursuant to subparagraph~~
39 ~~(C) of paragraph (1) of subdivision (c) by adopting and~~
40 ~~implementing a multijurisdictional agreement with adjacent~~

1 communities that commits the participating jurisdictions to identify
2 sufficient sites suitable for development within the planning period
3 of emergency shelters that are zoned to permit the development
4 of these shelters as a use by right, as defined in subdivision (i) of
5 Section 65583.2. The sites shall be zoned with appropriate
6 development and management standards and served with
7 appropriate infrastructure to accommodate the combined need for
8 emergency shelters of all the participating jurisdictions, as
9 identified by each jurisdiction pursuant to paragraph (6) of
10 subdivision (a).

11 (e) Except as otherwise provided in this article, amendments to
12 this article that alter the required content of a housing element or
13 housing element amendment shall apply to both of the following:

14 (1) A housing element or housing element amendment prepared
15 pursuant to subdivision (c) of Section 65588 or Section 65584.02,
16 where a city, county, or city and county submits a first draft to the
17 department for review pursuant to Section 65585 more than 90
18 days after the effective date of the amendment to this section.

19 (2) A housing element or housing element amendment prepared
20 pursuant to subdivision (c) of Section 65588 or Section 65584.02,
21 where the city, county, or city and county fail to submit the first
22 draft to the department before the due date specified in Section
23 65588 or 65584.02.

24 SEC. 4. Section 65583.2 of the Government Code is amended
25 to read:

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

34 (1) Vacant sites zoned for residential use.

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

37 (3) Residentially zoned sites that are capable of being developed
38 at a higher density.

39 (4) Sites zoned for nonresidential use that can be redeveloped
40 for, and as necessary, rezoned for, residential use.

- 1 ~~(b) The inventory of land shall include all of the following:~~
2 ~~(1) A listing of properties by parcel number or other unique~~
3 ~~reference.~~
4 ~~(2) The size of each property listed pursuant to paragraph (1),~~
5 ~~and the general plan designation and zoning of each property.~~
6 ~~(3) For nonvacant sites, a description of the existing use of each~~
7 ~~property.~~
8 ~~(4) A general description of any environmental constraints to~~
9 ~~the development of housing within the jurisdiction, the~~
10 ~~documentation for which has been made available to the~~
11 ~~jurisdiction. This information need not be identified on a~~
12 ~~site-specific basis.~~
13 ~~(5) A general description of existing or planned water, sewer,~~
14 ~~and other dry utilities supply, including the availability and access~~
15 ~~to distribution facilities. This information need not be identified~~
16 ~~on a site-specific basis.~~
17 ~~(6) Sites identified as available for housing for above-moderate~~
18 ~~income households in areas not served by public sewer systems.~~
19 ~~This information need not be identified on a site-specific basis.~~
20 ~~(7) A map that shows the location of the sites included in the~~
21 ~~inventory, such as the land use map from the jurisdiction's general~~
22 ~~plan for reference purposes only.~~
23 ~~(c) Based on the information provided in subdivision (b), a city~~
24 ~~or county shall determine whether each site in the inventory can~~
25 ~~accommodate some portion of its share of the regional housing~~
26 ~~need by income level during the planning period, as determined~~
27 ~~pursuant to Section 65584. The analysis shall determine whether~~
28 ~~the inventory can provide for a variety of types of housing,~~
29 ~~including multifamily rental housing, factory-built housing,~~
30 ~~mobilehomes, housing for agricultural employees, emergency~~
31 ~~shelters, and transitional housing. The city or county shall~~
32 ~~determine the number of housing units that can be accommodated~~
33 ~~on each site as follows:~~
34 ~~(1) If local law or regulations require the development of a site~~
35 ~~at a minimum density, the department shall accept the planning~~
36 ~~agency's calculation of the total housing unit capacity on that site~~
37 ~~based on the established minimum density. If the city or county~~
38 ~~does not adopt a law or regulations requiring the development of~~
39 ~~a site at a minimum density, then it shall demonstrate how the~~

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

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

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

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

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

17 ~~(i) For incorporated cities within nonmetropolitan counties and~~
18 ~~for nonmetropolitan counties that have micropolitan areas: sites~~
19 ~~allowing at least 15 units per acre.~~

20 ~~(ii) For unincorporated areas in all nonmetropolitan counties~~
21 ~~not included in clause (i): sites allowing at least 10 units per acre.~~

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

24 ~~(iv) For jurisdictions in metropolitan counties: sites allowing~~
25 ~~at least 30 units per acre.~~

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

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

1 considered suburban unless they are in a MSA of 2,000,000 or
2 greater in population in which case they are considered
3 metropolitan.

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

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

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

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

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

11 SEC. 5. Section 65589.5 of the Government Code is amended
12 to read:

13 65589.5. (a) The Legislature finds and declares all of the
14 following:

15 (1) The lack of housing and emergency shelters is a critical
16 problem that threatens the economic, environmental, and social
17 quality of life in California.

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

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

29 (4) Many local governments do not give adequate attention to
30 the economic, environmental, and social costs of decisions that
31 result in disapproval of housing projects and emergency shelters,
32 reduction in density of housing projects, and excessive standards
33 for housing projects.

34 (b) It is the policy of the state that a local government not reject
35 or make infeasible emergency shelters and housing developments
36 that contribute to meeting the housing need determined pursuant
37 to this article without a thorough analysis of the economic, social,
38 and environmental effects of the action and without complying
39 with subdivision (d).

1 ~~(c) The Legislature also recognizes that premature and~~
2 ~~unnecessary development of agricultural lands for urban uses~~
3 ~~continues to have adverse effects on the availability of those lands~~
4 ~~for food and fiber production and on the economy of the state.~~
5 ~~Furthermore, it is the policy of the state that development should~~
6 ~~be guided away from prime agricultural lands; therefore, in~~
7 ~~implementing this section, local jurisdictions should encourage,~~
8 ~~to the maximum extent practicable, in filling existing urban areas.~~

9 ~~(d) A local agency shall not disapprove a housing development~~
10 ~~project, including farmworker housing as defined in subdivision~~
11 ~~(d) of Section 50199.50 of the Health and Safety Code, for very~~
12 ~~low, low-, or moderate-income households, a special needs facility,~~
13 ~~an emergency shelter, or condition approval, in a manner that~~
14 ~~renders the project infeasible for development for the use of very~~
15 ~~low, low-, or moderate-income households, including through the~~
16 ~~use of design review standards, unless it makes written findings,~~
17 ~~based upon substantial evidence in the record, as to one of the~~
18 ~~following:~~

19 ~~(1) The jurisdiction has adopted a housing element pursuant to~~
20 ~~this article that has been revised in accordance with Section 65588,~~
21 ~~is in substantial compliance with this article, and the jurisdiction~~
22 ~~has met or exceeded its share of the regional housing need~~
23 ~~allocation pursuant to Section 65584 for the planning period for~~
24 ~~the income category proposed for the housing development project,~~
25 ~~provided that any disapproval or conditional approval shall not be~~
26 ~~based on any of the reasons prohibited by Section 65008. If the~~
27 ~~housing development project includes a mix of income categories,~~
28 ~~and the jurisdiction has not met or exceeded its share of the regional~~
29 ~~housing need for one or more of those categories, then this~~
30 ~~paragraph shall not be used to disapprove or conditionally approve~~
31 ~~the project. The share of the regional housing need met by the~~
32 ~~jurisdiction shall be calculated consistently with the forms and~~
33 ~~definitions that may be adopted by the Department of Housing and~~
34 ~~Community Development pursuant to Section 65400. In the case~~
35 ~~of transitional housing or an emergency shelter, the jurisdiction~~
36 ~~shall have met or exceeded the need for transitional housing or~~
37 ~~emergency shelter, as identified pursuant to paragraph (6) of~~
38 ~~subdivision (a) of Section 65583. Any disapproval or conditional~~
39 ~~approval pursuant to this paragraph shall be in accordance with~~
40 ~~applicable law, rule, or standards.~~

1 ~~(2) The development project, special needs facility, or~~
2 ~~emergency shelter as proposed would have a specific, adverse~~
3 ~~impact upon the public health or safety, and there is no feasible~~
4 ~~method to satisfactorily mitigate or avoid the specific adverse~~
5 ~~impact without rendering the development unaffordable to low-~~
6 ~~and moderate-income households or rendering the development~~
7 ~~of the special needs facility or emergency shelter financially~~
8 ~~infeasible. As used in this paragraph, a “specific, adverse impact”~~
9 ~~means a significant, quantifiable, direct, and unavoidable impact,~~
10 ~~based on objective, identified written public health or safety~~
11 ~~standards, policies, or conditions as they existed on the date the~~
12 ~~application was deemed complete. Inconsistency with the zoning~~
13 ~~ordinance or general plan land use designation shall not constitute~~
14 ~~a specific, adverse impact upon the public health or safety.~~

15 ~~(3) The denial of the project or imposition of conditions is~~
16 ~~required in order to comply with specific state or federal law, and~~
17 ~~there is no feasible method to comply without rendering the~~
18 ~~development unaffordable to low- and moderate-income~~
19 ~~households or rendering the development of the special needs~~
20 ~~facility or emergency shelter financially infeasible.~~

21 ~~(4) The development project, special needs facility, or~~
22 ~~emergency shelter is proposed on land zoned for agriculture or~~
23 ~~resource preservation that is surrounded on at least two sides by~~
24 ~~land being used for agricultural or resource preservation purposes,~~
25 ~~or which does not have adequate water or wastewater facilities to~~
26 ~~serve the project.~~

27 ~~(5) The development project, special needs facility, or~~
28 ~~emergency shelter is inconsistent with both the jurisdiction’s zoning~~
29 ~~ordinance and general plan land use designation as specified in~~
30 ~~any element of the general plan as it existed on the date the~~
31 ~~application was deemed complete, and the jurisdiction has adopted~~
32 ~~a revised housing element in accordance with Section 65588 that~~
33 ~~is in substantial compliance with this article.~~

34 ~~(A) This paragraph cannot be utilized to disapprove or~~
35 ~~conditionally approve a housing development project if the~~
36 ~~development project is proposed on a site that is identified as~~
37 ~~suitable or available for very low, low-, or moderate-income~~
38 ~~households in the jurisdiction’s housing element, and consistent~~
39 ~~with the density specified in the housing element, even though it~~
40 ~~is inconsistent with both the jurisdiction’s zoning ordinance and~~

1 general plan land use designation. This paragraph cannot be utilized
2 to disapprove or conditionally approve an emergency shelter if the
3 shelter is proposed on a site that is identified as suitable for
4 emergency shelters in the housing element, even though it is
5 inconsistent with both the jurisdiction's zoning ordinance and
6 general plan land use designation.

7 (B) If the local agency has failed, in accordance with Section
8 65583.2, to identify in the inventory of land in its housing element
9 sites that can be developed for housing within the planning period
10 and that are sufficient to provide for the jurisdiction's share of the
11 regional housing need for all income levels pursuant to Section
12 65584, then this paragraph shall not be utilized to disapprove or
13 conditionally approve a housing development project proposed
14 for a site designated in any element of the general plan for
15 residential uses or designated in any element of the general plan
16 for commercial uses if residential uses are permitted or
17 conditionally permitted within commercial designations. In any
18 action in court, the burden of proof shall be on the local agency to
19 show that its housing element does identify adequate sites with
20 appropriate zoning and development standards and with services
21 and facilities to accommodate the local agency's share of the
22 regional housing need for the very low and low-income categories.

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

34 (f) Nothing in this section shall be construed to prohibit a local
35 agency from requiring the housing development project, special
36 needs facility, or emergency shelter to comply with objective,
37 quantifiable, written development standards, conditions, and
38 policies appropriate to, and consistent with, meeting the
39 jurisdiction's share of the regional housing need pursuant to Section
40 65584. A local agency may also require special needs facilities

1 and emergency shelters to comply with objective, quantifiable,
2 written management standards. However, the development and
3 management standards, conditions, and policies shall be applied
4 to facilitate and accommodate development at the density permitted
5 on the site and proposed by housing development project, special
6 needs facility, or emergency shelter. Nothing in this section shall
7 be construed to prohibit a local agency from imposing fees and
8 other exactions otherwise authorized by law that are essential to
9 provide necessary public services and facilities to housing
10 development project, special needs facility, or emergency shelter.

11 (g) This section shall be applicable to charter cities because the
12 Legislature finds that the lack of housing is a critical statewide
13 problem.

14 (h) The following definitions apply for the purposes of this
15 section:

16 (1) "Feasible" means capable of being accomplished in a
17 successful manner within a reasonable period of time, taking into
18 account economic, environmental, social, and technological factors.

19 (2) "Housing development project" means a use consisting of
20 either of the following:

21 (A) Residential units only.

22 (B) Mixed-use developments consisting of residential and
23 nonresidential uses in which nonresidential uses are limited to
24 neighborhood commercial uses and to the first floor of buildings
25 that are two or more stories. As used in this paragraph,
26 "neighborhood commercial" means small-scale general or specialty
27 stores that furnish goods and services primarily to residents of the
28 neighborhood.

29 (3) "Housing for very low, low-, or moderate-income
30 households" means that either (A) at least 20 percent of the total
31 units shall be sold or rented to lower income households, as defined
32 in Section 50079.5 of the Health and Safety Code, or (B) 100
33 percent of the units shall be sold or rented to moderate-income
34 households as defined in Section 50093 of the Health and Safety
35 Code, or middle-income households, as defined in Section 65008
36 of this code. Housing units targeted for lower income households
37 shall be made available at a monthly housing cost that does not
38 exceed 30 percent of 60 percent of area median income with
39 adjustments for household size made in accordance with the
40 adjustment factors on which the lower income eligibility limits

1 are based. Housing units targeted for persons and families of
2 moderate income shall be made available at a monthly housing
3 cost that does not exceed 30 percent of 100 percent of area median
4 income with adjustments for household size made in accordance
5 with the adjustment factors on which the moderate income
6 eligibility limits are based.

7 (4) ~~“Special needs facility” includes all of the following if the~~
8 ~~facility is licensed and serves seven or more persons:~~

9 (A) ~~A “community care facility,” “residential facility,” “social~~
10 ~~rehabilitation facility,” “community treatment facility,”~~
11 ~~“transitional shelter care facility,” and “transitional housing~~
12 ~~placement facility,” as those terms are defined in Section 1502 of~~
13 ~~the Health and Safety Code.~~

14 (B) ~~A “residential care facility,” as defined in Section 1568.01~~
15 ~~of the Health and Safety Code.~~

16 (C) ~~A “residential care facility for the elderly,” as defined in~~
17 ~~Section 1569.2 of the Health and Safety Code.~~

18 (5) ~~“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. The developer shall provide sufficient legal~~
22 ~~commitments to ensure continued availability of units for very low~~
23 ~~or low-income households in accordance with the provisions of~~
24 ~~this subdivision for 30 years.~~

25 (6) ~~“Disapprove the development project” includes any instance~~
26 ~~in which a local agency does either of the following:~~

27 (A) ~~Votes on a proposed housing development project~~
28 ~~application and the application is disapproved.~~

29 (B) ~~Fails to comply with the time periods specified in~~
30 ~~subparagraph (B) of paragraph (1) of subdivision (a) of Section~~
31 ~~65950. An extension of time pursuant to Article 5 (commencing~~
32 ~~with Section 65950) shall be deemed to be an extension of time~~
33 ~~pursuant to this paragraph.~~

34 (i) ~~If any city, county, or city and county denies approval or~~
35 ~~imposes restrictions, including design changes, a reduction of~~
36 ~~allowable densities or the percentage of a lot that may be occupied~~
37 ~~by a building or structure under the applicable planning and zoning~~
38 ~~in force at the time the application is deemed complete pursuant~~
39 ~~to Section 65943, that have a substantial adverse effect on the~~
40 ~~viability or affordability of a housing development for very low,~~

1 ~~low-, or moderate-income households, and the denial of the~~
2 ~~development or the imposition of restrictions on the development~~
3 ~~is the subject of a court action which challenges the denial, then~~
4 ~~the burden of proof shall be on the local legislative body to show~~
5 ~~that its decision is consistent with the findings as described in~~
6 ~~subdivision (d) and that the findings are supported by substantial~~
7 ~~evidence in the record.~~

8 ~~(j) When a proposed housing development project complies~~
9 ~~with applicable, objective general plan and zoning standards and~~
10 ~~criteria, including design review standards, in effect at the time~~
11 ~~that the housing development project's application is determined~~
12 ~~to be complete, but the local agency proposes to disapprove the~~
13 ~~project or to approve it upon the condition that the project be~~
14 ~~developed at a lower density, the local agency shall base its~~
15 ~~decision regarding the proposed housing development project upon~~
16 ~~written findings supported by substantial evidence on the record~~
17 ~~that both of the following conditions exist:~~

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

26 ~~(2) There is no feasible method to satisfactorily mitigate or~~
27 ~~avoid the adverse impact identified pursuant to paragraph (1), other~~
28 ~~than the disapproval of the housing development project or the~~
29 ~~approval of the project upon the condition that it be developed at~~
30 ~~a lower density.~~

31 ~~(k) The applicant or any person who would be eligible to apply~~
32 ~~for residency in the development, special needs facility, or~~
33 ~~emergency shelter may bring an action to enforce this section. If~~
34 ~~in any action brought to enforce the provisions of this section, a~~
35 ~~court finds that the local agency disapproved a project or~~
36 ~~conditioned its approval in a manner rendering it infeasible for the~~
37 ~~development of a special needs facility, emergency shelter, or~~
38 ~~housing for very low, low-, or moderate-income households,~~
39 ~~including farmworker housing, without making the findings~~
40 ~~required by this section or without making sufficient findings~~

1 supported by substantial evidence, the court shall issue an order
2 or judgment compelling compliance with this section within 60
3 days, including, but not limited to, an order that the local agency
4 take action on the development project, special needs facility or
5 emergency shelter. The court shall retain jurisdiction to ensure
6 that its order or judgment is carried out and shall award reasonable
7 attorney's fees and costs of suit to the plaintiff or petitioner who
8 proposed the housing development, special needs facility, or
9 emergency shelter, except under extraordinary circumstances in
10 which the court finds that awarding fees would not further the
11 purposes of this section. If the court determines that its order or
12 judgment has not been carried out within 60 days, the court may
13 issue further orders as provided by law to ensure that the purposes
14 and policies of this section are fulfilled, including, but not limited
15 to, an order to vacate the decision of the local agency, in which
16 case the application for the project, as constituted at the time the
17 local agency took the initial action determined to be in violation
18 of this section, along with any standard conditions determined by
19 the court to be generally imposed by the local agency on similar
20 projects, shall be deemed approved unless the applicant consents
21 to a different decision or action by the local agency.

22 (l) If the court finds that the local agency (1) acted in bad faith
23 when it disapproved or conditionally approved the housing
24 development, special needs facility, or emergency shelter in
25 violation of this section and (2) failed to carry out the court's order
26 or judgment within 60 days as described in paragraph (k), the court
27 in addition to any other remedies provided by this section, may
28 impose fines upon the local agency that the local agency shall be
29 required to deposit into a housing trust fund. Fines shall not be
30 paid from funds that are already dedicated for affordable housing,
31 including, but not limited to, redevelopment or low- and
32 moderate-income housing funds and federal HOME and CDBG
33 funds. The local agency shall commit the money in the trust fund
34 within five years for the sole purpose of financing newly
35 constructed housing units affordable to extremely low, very low,
36 or low-income households. For purposes of this section, "bad faith"
37 shall mean an action that is frivolous or otherwise entirely without
38 merit.

39 (m) Any action brought to enforce the provisions of this section
40 shall be brought pursuant to Section 1094.5 of the Code of Civil

1 Procedure, and the local agency shall prepare and certify the record
2 of proceedings in accordance with subdivision (c) of Section 1094.6
3 of the Code of Civil Procedure no later than 30 days after the
4 petition is served, provided that the cost of preparation of the record
5 shall be borne by the local agency. Upon entry of the trial court's
6 order, a party shall, in order to obtain appellate review of the order,
7 file a petition within 20 days after service upon it of a written
8 notice of the entry of the order, or within such further time not
9 exceeding an additional 20 days as the trial court may for good
10 cause allow. If the local agency appeals the judgment of the trial
11 court, the local agency shall post a bond, in an amount to be
12 determined by the court, to the benefit of the plaintiff if the plaintiff
13 is the project applicant.

14 (n) In any action, the record of the proceedings before the local
15 agency shall be filed as expeditiously as possible and,
16 notwithstanding Section 1094.6 of the Code of Civil Procedure or
17 subdivision (m) of this section, all or part of the record may be
18 prepared (1) by the petitioner with the petition or petitioner's points
19 and authorities, (2) by the respondent with respondent's points and
20 authorities, (3) after payment of costs by the petitioner, or (4) as
21 otherwise directed by the court. If the expense of preparing the
22 record has been borne by the petitioner and the petitioner is the
23 prevailing party, the expense shall be taxable as costs.

24 (o) This section shall be known, and may be cited, as the
25 Housing Accountability Act.

26 SEC. 6. Section 65852.12 is added to the Government Code,
27 to read:

28 65852.12. A local agency shall designate zones where special
29 needs facilities, as defined in Section 65589.5, and transitional
30 housing, as defined in Section 50801 of the Health and Safety
31 Code, are a permitted use, either by right or subject to a conditional
32 use permit. A local agency shall not enact or enforce an ordinance,
33 regulation, or resolution that would prohibit special needs facilities
34 and transitional housing from locating within the jurisdiction.

35 SEC. 2. Section 65582 of the Government Code is amended to
36 read:

37 65582. As used in this article, the following definitions apply:

38 (a) "Community," "locality," "local government," or
39 "jurisdiction" means a city, city and county, or county.

1 (b) “Council of governments” means a single or multicounty
2 council created by a joint powers agreement pursuant to Chapter
3 5 (commencing with Section 6500) of Division 1 of Title 1.

4 (c) “Department” means the Department of Housing and
5 Community Development.

6 (d) *“Emergency shelter” has the same meaning as defined in*
7 *subdivision (e) of Section 50801 of the Health and Safety Code.*

8 (d)

9 (e) “Housing element” or “element” means the housing element
10 of the community’s general plan, as required pursuant to this article
11 and subdivision (c) of Section 65302.

12 (f) *“Transitional housing” has the same meaning as defined in*
13 *subdivision (i) of Section 50801 of the Health and Safety Code.*

14 SEC. 3. *Section 65583 of the Government Code is amended to*
15 *read:*

16 65583. The housing element shall consist of an identification
17 and analysis of existing and projected housing needs and a
18 statement of goals, policies, quantified objectives, financial
19 resources, and scheduled programs for the preservation,
20 improvement, and development of housing. The housing element
21 shall identify adequate sites for housing, including rental housing,
22 factory-built housing, ~~and~~ mobilehomes, *and emergency shelters,*
23 and shall make adequate provision for the existing and projected
24 needs of all economic segments of the community. The element
25 shall contain all of the following:

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

29 (1) An analysis of population and employment trends and
30 documentation of projections and a quantification of the locality’s
31 existing and projected housing needs for all income levels,
32 including extremely low income households, as defined in
33 subdivision (b) of Section 50105 and Section 50106 of the Health
34 and Safety Code. These existing and projected needs shall include
35 the locality’s share of the regional housing need in accordance
36 with Section 65584. ~~Local~~ *For the purposes of the analysis*
37 *required by paragraph (3) of this subdivision and paragraph (1)*
38 *of subdivision (c), local agencies shall calculate the subset of very*
39 *low income households allotted under Section 65584 that qualify*
40 *as extremely low income households. The local agency may either*

1 use available census data to calculate the percentage of very low
2 income households that qualify as extremely low income
3 households or presume that 50 percent of the very low income
4 households qualify as extremely low income households. The
5 number of extremely low income households and very low income
6 households shall equal the jurisdiction's allocation of very low
7 income households pursuant to Section 65584.

8 (2) An analysis and documentation of household characteristics,
9 including level of payment compared to ability to pay, housing
10 characteristics, including overcrowding, and housing stock
11 condition.

12 (3) An inventory of land suitable for residential development,
13 including vacant sites and sites having potential for redevelopment,
14 and an analysis of the relationship of zoning and public facilities
15 and services to these sites.

16 (4) An analysis of potential and actual governmental constraints
17 upon the maintenance, improvement, or development of housing
18 for all income levels, including the types of housing identified in
19 paragraph (1) of subdivision (c), and for persons with disabilities
20 as identified in the analysis pursuant to paragraph (6), including
21 land use controls, building codes and their enforcement, site
22 improvements, fees and other exactions required of developers,
23 and local processing and permit procedures. The analysis shall
24 also demonstrate local efforts to remove governmental constraints
25 that hinder the locality from meeting its share of the regional
26 housing need in accordance with Section 65584 and from meeting
27 the need for housing for persons with disabilities identified
28 pursuant to paragraph (6).

29 (5) An analysis of potential and actual nongovernmental
30 constraints upon the maintenance, improvement, or development
31 of housing for all income levels, including the availability of
32 financing, the price of land, and the cost of construction.

33 (6) An analysis of any special housing needs, such as those of
34 the elderly, persons with disabilities, large families, farmworkers,
35 families with female heads of households, and families and persons
36 in need of emergency shelter *and transitional housing*.

37 (7) *An inventory of sites suitable for the development within the*
38 *planning period of emergency shelters that are zoned to permit*
39 *the development of these shelters as a use by right, as defined in*
40 *subdivision (i) of Section 65583.2. The sites shall be zoned with*

1 *appropriate development and management standards and served*
2 *with appropriate infrastructure to accommodate the community's*
3 *need for emergency shelters identified pursuant to paragraph (6).*

4 ~~(7)~~

5 (8) An analysis of opportunities for energy conservation with
6 respect to residential development.

7 ~~(8)~~

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

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

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

37 (C) The analysis shall identify public and private nonprofit
38 corporations known to the local government which have legal and
39 managerial capacity to acquire and manage these housing
40 developments.

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

13 (b) (1) A statement of the community's goals, quantified
14 objectives, and policies relative to the maintenance, preservation,
15 *improvement, and development of housing.*

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

26 (c) A program which sets forth a five-year schedule of actions
27 the local government is undertaking or intends to undertake to
28 implement the policies and achieve the goals and objectives of the
29 housing element through the administration of land use and
30 development controls, provision of regulatory concessions and
31 incentives, and the utilization of appropriate federal and state
32 financing and subsidy programs when available and the utilization
33 of moneys in a low- and moderate-income housing fund of an
34 agency if the locality has established a redevelopment project area
35 pursuant to the Community Redevelopment Law (Division 24
36 (commencing with Section 33000) of the Health and Safety Code).
37 In order to make adequate provision for the housing needs of all
38 economic segments of the community, the program shall do all of
39 the following:

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

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

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

28 (C) *Where the inventory of sites pursuant to paragraph (7) of*
29 *subdivision (a) does not identify adequate sites to accommodate*
30 *the need for emergency shelters identified pursuant to paragraph*
31 *(6) of subdivision (a), the program shall identify actions that will*
32 *be taken to make available adequate sites that can be developed*
33 *within the planning period to meet the need for emergency shelters.*
34 *The sites shall be zoned to permit the development of shelters as*
35 *a use by right, as defined in subdivision (i) of Section 65583.2,*
36 *and shall be zoned with appropriate development and management*
37 *standards and served with appropriate infrastructure to*
38 *accommodate the community's need for emergency shelters.*

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

4 (3) Address and, where appropriate and legally possible, remove
5 governmental constraints to the maintenance, improvement, and
6 development of housing, including housing for all income levels
7 and housing for persons with disabilities. The program shall remove
8 constraints to, or provide reasonable accommodations for housing
9 designed for, intended for occupancy by, or with supportive
10 services for, persons with disabilities.

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 housing opportunities for all persons regardless of
16 race, religion, sex, marital status, ancestry, national origin, color,
17 familial status, or disability.

18 (6) Preserve for lower income households the assisted housing
19 developments identified pursuant to paragraph—(8) (9) of
20 subdivision (a). The program for preservation of the assisted
21 housing developments shall utilize, to the extent necessary, all
22 available federal, state, and local financing and subsidy programs
23 identified in paragraph—(8) (9) of subdivision (a), except where a
24 community has other urgent needs for which alternative funding
25 sources are not available. The program may include strategies that
26 involve local regulation and technical assistance.

27 (7) The program shall include an identification of the agencies
28 and officials responsible for the implementation of the various
29 actions and the means by which consistency will be achieved with
30 other general plan elements and community goals. The local
31 government shall make a diligent effort to achieve public
32 participation of all economic segments of the community in the
33 development of the housing element, and the program shall
34 describe this effort.

35 (d) *A local government may satisfy the requirements to identify*
36 *sites suitable for the development of emergency shelters pursuant*
37 *to paragraph (7) of subdivision (a) and to include a program to*
38 *identify sufficient sites for these shelters pursuant to subparagraph*
39 *(C) of paragraph (1) of subdivision (c) by adopting and*
40 *implementing a multijurisdictional agreement with adjacent*

1 communities that commits the participating jurisdictions to identify
2 sufficient sites suitable for development within the planning period
3 of emergency shelters that are zoned to permit the development of
4 these shelters as a use by right, as defined in subdivision (i) of
5 Section 65583.2. The sites shall be zoned with appropriate
6 development and management standards and served with
7 appropriate infrastructure to accommodate the combined need for
8 emergency shelters of all the participating jurisdictions, as
9 identified by each jurisdiction pursuant to paragraph (6) of
10 subdivision (a). Except as otherwise provided in this article,
11 amendments to this article that alter the required content of a
12 housing element shall apply to both of the following:

13 (1) A housing element or housing element amendment prepared
14 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
15 ~~where when~~ a city, county, or city and county submits a first draft
16 to the department for review pursuant to Section 65585 more than
17 90 days after the effective date of the amendment to this section.

18 (2) Any housing element or housing element amendment
19 prepared pursuant to subdivision (e) of Section 65588 or Section
20 65584.02, ~~where when~~ the city, county, or city and county fails to
21 submit the first draft to the department before the due date specified
22 in Section 65588 or 65584.02.

23 *SEC. 4. Section 65583.2 of the Government Code is amended*
24 *to read:*

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

33 (1) Vacant sites zoned for residential use.

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

36 (3) Residentially zoned sites that are capable of being developed
37 at a higher density.

38 (4) Sites zoned for nonresidential use that can be redeveloped
39 for, and as necessary, rezoned for, residential use.

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

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

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

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

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

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

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

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

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

33 (1) If local law or regulations require the development of a site
34 at a minimum density, the department shall accept the planning
35 agency's calculation of the total housing unit capacity on that site
36 based on the established minimum density. If the city or county
37 does not adopt a law or regulations requiring the development of
38 a site at a minimum density, then it shall demonstrate how the
39 number of units determined for that site pursuant to this subdivision
40 will be accommodated.

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

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

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

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

15 (i) For incorporated cities within nonmetropolitan counties and
16 for nonmetropolitan counties that have micropolitan areas: sites
17 allowing at least 15 units per acre.

18 (ii) For unincorporated areas in all nonmetropolitan counties
19 not included in clause (i): sites allowing at least 10 units per acre.

20 (iii) For suburban jurisdictions: sites allowing at least 20 units
21 per acre.

22 (iv) For jurisdictions in metropolitan counties: sites allowing
23 at least 30 units per acre.

24 (d) For purposes of this section, metropolitan counties,
25 nonmetropolitan counties, and nonmetropolitan counties with
26 micropolitan areas are as determined by the United States Census
27 Bureau. Nonmetropolitan counties with micropolitan areas include
28 the following counties: Del Norte, Humboldt, Lake Mendocino,
29 Nevada, Tehama, and Tuolumne and such other counties as may
30 be determined by the United States Census Bureau to be
31 nonmetropolitan counties with micropolitan areas in the future.

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

1 greater in population in which case they are considered
2 metropolitan.

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

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

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

34 (i) For purposes of this section and Section 65583, the phrase
35 “use by right” shall mean that the local government’s review of
36 the *use for an emergency shelter or an owner-occupied or rental*
37 *multifamily residential—use development* may not require a
38 conditional use permit, planned unit development permit, or other
39 discretionary local government review or approval that would
40 constitute a “project” for purposes of Division 13 (commencing

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

10 *SEC. 5. Section 65589.5 of the Government Code is amended*
11 *to read:*

12 65589.5. (a) The Legislature finds and declares all of the
13 following:

14 (1) The lack of housing, *including special needs facilities and*
15 *emergency shelters*, is a critical problem that threatens the
16 economic, environmental, and social quality of life in California.

17 (2) California housing has become the most expensive in the
18 nation. The excessive cost of the state’s housing supply is partially
19 caused by activities and policies of many local governments that
20 limit the approval of housing, increase the cost of land for housing,
21 and require that high fees and exactions be paid by producers of
22 housing.

23 (3) Among the consequences of those actions are discrimination
24 against low-income and minority households, lack of housing to
25 support employment growth, imbalance in jobs and housing,
26 reduced mobility, urban sprawl, excessive commuting, and air
27 quality deterioration.

28 (4) Many local governments do not give adequate attention to
29 the economic, environmental, and social costs of decisions that
30 result in disapproval of housing projects, reduction in density of
31 housing projects, and excessive standards for housing projects.

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

38 (c) The Legislature also recognizes that premature and
39 unnecessary development of agricultural lands for urban uses
40 continues to have adverse effects on the availability of those lands

1 for food and fiber production and on the economy of the state.
2 Furthermore, it is the policy of the state that development should
3 be guided away from prime agricultural lands; therefore, in
4 implementing this section, local jurisdictions should encourage,
5 to the maximum extent practicable, in filling existing urban areas.

6 (d) A local agency shall not disapprove a housing development
7 project, including farmworker housing as defined in subdivision
8 (d) of Section 50199.50 of the Health and Safety Code, for very
9 low, low-, or moderate-income households, *a special needs facility,*
10 *or an emergency shelter,* or condition approval in a manner that
11 renders the project infeasible for development for the use of very
12 low, low-, or moderate-income households, *a special needs facility,*
13 *or an emergency shelter,* including through the use of design
14 review standards, unless it makes written findings, based upon
15 substantial evidence in the record, as to one of the following:

16 (1) The jurisdiction has adopted a housing element pursuant to
17 this article that has been revised in accordance with Section 65588,
18 is in substantial compliance with this article, and the jurisdiction
19 has met or exceeded its share of the regional housing need
20 allocation pursuant to Section 65584 for the planning period for
21 the income category proposed for the housing development project,
22 provided that any disapproval or conditional approval shall not be
23 based on any of the reasons prohibited by Section 65008. If the
24 housing development project includes a mix of income categories,
25 and the jurisdiction has not met or exceeded its share of the regional
26 housing need for one or more of those categories, then this
27 paragraph shall not be used to disapprove or conditionally approve
28 the project. The share of the regional housing need met by the
29 jurisdiction shall be calculated consistently with the forms and
30 definitions that may be adopted by the Department of Housing and
31 Community Development pursuant to Section 65400. *In the case*
32 *of transitional housing or an emergency shelter, the jurisdiction*
33 *shall have met or exceeded the need for transitional housing or*
34 *emergency shelter, as identified pursuant to paragraph (6) of*
35 *subdivision (a) of Section 65583. Any disapproval or conditional*
36 *approval pursuant to this paragraph shall be in accordance with*
37 *applicable law, rule, or standards.*

38 (2) The development project, *special needs facility, or*
39 *emergency shelter* as proposed would have a specific, adverse
40 impact upon the public health or safety, and there is no feasible

1 method to satisfactorily mitigate or avoid the specific adverse
2 impact without rendering the development unaffordable to low-
3 and moderate-income households *or rendering the development*
4 *of the special needs facility or emergency shelter financially*
5 *infeasible*. As used in this paragraph, a “specific, adverse impact”
6 means a significant, quantifiable, direct, and unavoidable impact,
7 based on objective, identified written public health or safety
8 standards, policies, or conditions as they existed on the date the
9 application was deemed complete. Inconsistency with the zoning
10 ordinance or general plan land use designation shall not constitute
11 a specific, adverse impact upon the public health or safety.

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

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

24 (5) The development project, *special needs facility, or*
25 *emergency shelter* is inconsistent with both the jurisdiction’s zoning
26 ordinance and general plan land use designation as specified in
27 any element of the general plan as it existed on the date the
28 application was deemed complete, and the jurisdiction has adopted
29 a revised housing element in accordance with Section 65588 that
30 is in substantial compliance with this article.

31 (A) This paragraph cannot be utilized to disapprove or
32 conditionally approve a housing development project if the
33 development project is proposed on a site that is identified as
34 suitable or available for very low, low-, or moderate-income
35 households in the jurisdiction’s housing element, and consistent
36 with the density specified in the housing element, even though it
37 is inconsistent with both the jurisdiction’s zoning ordinance and
38 general plan land use designation. *This paragraph cannot be*
39 *utilized to disapprove or conditionally approve an emergency*
40 *shelter if the shelter is proposed on a site that is identified as*

1 *suitable for emergency shelters in the housing element, even though*
2 *it is inconsistent with both the jurisdiction's zoning ordinance and*
3 *general plan land use designation.*

4 (B) If the local agency has failed *in accordance with Section*
5 *65583.2*, to identify in the inventory of land in its housing element
6 sites that can be developed for housing within the planning period
7 and that are sufficient to provide for the jurisdiction's share of the
8 regional housing need for all income levels pursuant to Section
9 *65584*, then this paragraph shall not be utilized to disapprove or
10 conditionally approve a housing development project proposed
11 for a site designated in any element of the general plan for
12 residential uses or designated in any element of the general plan
13 for commercial uses if residential uses are permitted or
14 conditionally permitted within commercial designations. In any
15 action in court, the burden of proof shall be on the local agency to
16 show that its housing element does identify adequate sites with
17 appropriate zoning and development standards and with services
18 and facilities to accommodate the local agency's share of the
19 regional housing need for the very low and low-income categories.

20 (e) ~~This~~ *Nothing in this section does not shall be construed to*
21 *relieve the local agency from complying with the Congestion*
22 *Management Program required by Chapter 2.6 (commencing with*
23 *Section 65088) of Division 1 of Title 7 or the California Coastal*
24 *Act (Division 20 (commencing with Section 30000) of the Public*
25 *Resources Code). ~~This~~ Neither shall anything in this section also*
26 ~~does not be construed to~~ *relieve the local agency from making one*
27 *or more of the findings required pursuant to Section 21081 of the*
28 *Public Resources Code or otherwise complying with the California*
29 *Environmental Quality Act (Division 13 (commencing with Section*
30 *21000) of the Public Resources Code).*

31 (f) ~~This~~ *Nothing in this section does not shall be construed to*
32 *prohibit a local agency from requiring the development project,*
33 *special needs facility, or emergency shelter to comply with*
34 *objective, quantifiable, written development standards, conditions,*
35 *and policies appropriate to, and consistent with, meeting the*
36 *jurisdiction's share of the regional housing need pursuant to Section*
37 *65584. A local agency may also require special needs facilities*
38 *and emergency shelters to comply with objective, quantifiable,*
39 *written management standards. However, the development*
40 *standards, conditions, and policies shall be applied to facilitate*

1 and accommodate development at the density permitted on the site
2 and proposed by the development project. This section does not
3 prohibit a local agency from imposing fees and other exactions
4 otherwise authorized by law that are essential to provide necessary
5 public services and facilities to the development project, *special*
6 *needs facility, or emergency shelter.*

7 (g) This section shall be applicable to charter cities because the
8 Legislature finds that the lack of housing, *including special needs*
9 *facilities and emergency shelter,* is a critical statewide problem.

10 (h) The following definitions apply for the purposes of this
11 section:

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

15 (2) “Housing development project” means a use consisting of
16 either of the following:

17 (A) Residential units only.

18 (B) Mixed-use developments consisting of residential and
19 nonresidential uses in which nonresidential uses are limited to
20 neighborhood commercial uses and to the first floor of buildings
21 that are two or more stories. As used in this paragraph,
22 “neighborhood commercial” means small-scale general or specialty
23 stores that furnish goods and services primarily to residents of the
24 neighborhood.

25 (3) “Housing for very low, low-, or moderate-income
26 households” means that either (A) at least 20 percent of the total
27 units shall be sold or rented to lower income households, as defined
28 in Section 50079.5 of the Health and Safety Code, or (B) 100
29 percent of the units shall be sold or rented to moderate-income
30 households as defined in Section 50093 of the Health and Safety
31 Code, or middle-income households, as defined in Section 65008
32 of this code. Housing units targeted for lower income households
33 shall be made available at a monthly housing cost that does not
34 exceed 30 percent of 60 percent of area median income with
35 adjustments for household size made in accordance with the
36 adjustment factors on which the lower income eligibility limits
37 are based. Housing units targeted for persons and families of
38 moderate income shall be made available at a monthly housing
39 cost that does not exceed 30 percent of 100 percent of area median
40 income with adjustments for household size made in accordance

1 with the adjustment factors on which the moderate-income
2 eligibility limits are based.

3 (4) *“Special needs facility” includes all of the following if the*
4 *facility is licensed and serves seven or more persons:*

5 (A) *A “community care facility,” “residential facility,” “social*
6 *rehabilitation facility,” “community treatment facility,”*
7 *“transitional shelter care facility,” and “transitional housing*
8 *placement facility,” as those terms are defined in Section 1502 of*
9 *the Health and Safety Code.*

10 (B) *A “residential care facility,” as defined in Section 1568.01*
11 *of the Health and Safety Code.*

12 (C) *A “residential care facility for the elderly,” as defined in*
13 *Section 1569.2 of the Health and Safety Code.*

14 ~~(4)~~

15 (5) *“Area median income” means area median income as*
16 *periodically established by the Department of Housing and*
17 *Community Development pursuant to Section 50093 of the Health*
18 *and Safety Code. The developer shall provide sufficient legal*
19 *commitments to ensure continued availability of units for very low*
20 *or low-income households in accordance with the provisions of*
21 *this subdivision for 30 years.*

22 ~~(5)~~

23 (6) *“Disapprove the development project” includes any instance*
24 *in which a local agency does either of the following:*

25 (A) *Votes on a proposed housing development project*
26 *application and the application is disapproved.*

27 (B) *Fails to comply with the time periods specified in*
28 *subparagraph (B) of paragraph (1) of subdivision (a) of Section*
29 *65950. An extension of time pursuant to Article 5 (commencing*
30 *with Section 65950) shall be deemed to be an extension of time*
31 *pursuant to this paragraph.*

32 (i) *If any city, county, or city and county denies approval or*
33 *imposes restrictions, including design changes, a reduction of*
34 *allowable densities or the percentage of a lot that may be occupied*
35 *by a building or structure under the applicable planning and zoning*
36 *in force at the time the application is deemed complete pursuant*
37 *to Section 65943, that have a substantial adverse effect on the*
38 *viability or affordability of a housing development for very low,*
39 *low-, or moderate-income households, and the denial of the*
40 *development or the imposition of restrictions on the development*

1 is the subject of a court action which challenges the denial, then
2 the burden of proof shall be on the local legislative body to show
3 that its decision is consistent with the findings as described in
4 subdivision (d) and that the findings are supported by substantial
5 evidence in the record.

6 (j) When a proposed housing development project complies
7 with applicable, objective general plan and zoning standards and
8 criteria, including design review standards, in effect at the time
9 that the housing development project's application is determined
10 to be complete, but the local agency proposes to disapprove the
11 project or to approve it upon the condition that the project be
12 developed at a lower density, the local agency shall base its
13 decision regarding the proposed housing development project upon
14 written findings supported by substantial evidence on the record
15 that both of the following conditions exist:

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

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

29 (k) The applicant or any person who would be eligible to apply
30 for residency in the development, *special needs facility, or*
31 *emergency shelter* may bring an action to enforce this section. If
32 in any action brought to enforce the provisions of this section, a
33 court finds that the local agency disapproved a project or
34 conditioned its approval in a manner rendering it infeasible for the
35 development of a *special needs facility, or emergency shelter, or*
36 housing for very low, low-, or moderate-income households,
37 including farmworker housing, without making the findings
38 required by this section or without making sufficient findings
39 supported by substantial evidence, the court shall issue an order
40 or judgment compelling compliance with this section within 60

1 days, including, but not limited to, an order that the local agency
2 take action on the development project, *special needs facility*, or
3 *emergency shelter*. The court shall retain jurisdiction to ensure
4 that its order or judgment is carried out and shall award reasonable
5 attorney’s fees and costs of suit to the plaintiff or petitioner who
6 proposed the housing development, *special needs facility*, or
7 *emergency shelter*, except under extraordinary circumstances in
8 which the court finds that awarding fees would not further the
9 purposes of this section. If the court determines that its order or
10 judgment has not been carried out within 60 days, the court may
11 issue further orders as provided by law to ensure that the purposes
12 and policies of this section are fulfilled, including, but not limited
13 to, an order to vacate the decision of the local agency, in which
14 case the application for the project, as constituted at the time the
15 local agency took the initial action determined to be in violation
16 of this section, along with any standard conditions determined by
17 the court to be generally imposed by the local agency on similar
18 projects, shall be deemed approved unless the applicant consents
19 to a different decision or action by the local agency.

20 (l) If the court finds that the local agency (1) acted in bad faith
21 when it disapproved or conditionally approved the housing
22 development, *special needs facility*, or *emergency shelter* in
23 violation of this section and (2) failed to carry out the court’s order
24 or judgment within 60 days as described in paragraph (k), the court
25 in addition to any other remedies provided by this section, may
26 impose fines upon the local agency that the local agency shall be
27 required to deposit into a housing trust fund. Fines shall not be
28 paid from funds that are already dedicated for affordable housing,
29 including, but not limited to, redevelopment or low- and
30 moderate-income housing funds and federal HOME and CDBG
31 funds. The local agency shall commit the money in the trust fund
32 within five years for the sole purpose of financing newly
33 constructed housing units affordable to extremely low, very low,
34 or low-income households. For purposes of this section, “bad faith”
35 shall mean an action that is frivolous or otherwise entirely without
36 merit.

37 (m) Any action brought to enforce the provisions of this section
38 shall be brought pursuant to Section 1094.5 of the Code of Civil
39 Procedure, and the local agency shall prepare and certify the record
40 of proceedings in accordance with subdivision (c) of Section 1094.6

1 of the Code of Civil Procedure no later than 30 days after the
 2 petition is served, provided that the cost of preparation of the record
 3 shall be borne by the local agency. Upon entry of the trial court's
 4 order, a party shall, in order to obtain appellate review of the order,
 5 file a petition within 20 days after service upon it of a written
 6 notice of the entry of the order, or within such further time not
 7 exceeding an additional 20 days as the trial court may for good
 8 cause allow. If the local agency appeals the judgment of the trial
 9 court, the local agency shall post a bond, in an amount to be
 10 determined by the court, to the benefit of the plaintiff if the plaintiff
 11 is the project applicant.

12 (n) In any action, the record of the proceedings before the local
 13 agency shall be filed as expeditiously as possible and,
 14 notwithstanding Section 1094.6 of the Code of Civil Procedure or
 15 subdivision (m) of this section, all or part of the record may be
 16 prepared (1) by the petitioner with the petition or petitioner's points
 17 and authorities, (2) by the respondent with respondent's points and
 18 authorities, (3) after payment of costs by the petitioner, or (4) as
 19 otherwise directed by the court. If the expense of preparing the
 20 record has been borne by the petitioner and the petitioner is the
 21 prevailing party, the expense shall be taxable as costs.

22 (o) This section shall be known, and may be cited, as the
 23 Housing Accountability Act.

24 *SEC. 6. Section 65852.12 is added to the Government Code,*
 25 *to read:*

26 *65852.12. A local agency shall designate zones where special*
 27 *needs facilities, as defined in Section 65589.5, and transitional*
 28 *housing, as defined in Section 50801 of the Health and Safety*
 29 *Code, are a permitted use, either by right or subject to a*
 30 *conditional use permit. A local agency shall not enact or enforce*
 31 *an ordinance, regulation, or resolution that would prohibit special*
 32 *needs facilities and transitional housing from locating within the*
 33 *jurisdiction.*

34 *SEC. 7. No reimbursement is required by this act pursuant to*
 35 *Section 6 of Article XIII B of the California Constitution because*
 36 *a local agency or school district has the authority to levy service*
 37 *charges, fees, or assessments sufficient to pay for the program or*

1 level of service mandated by this act, within the meaning of Section
 2 17556 of the Government Code.