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SENATE BILL

No. 35

Introduced by Senator Wiener

(Principal coauthor: Senator Atkins)

(Coauthors: Senators Allen and Vidak)

(Coauthors: Assembly Members *Bocanegra*, Caballero, Gloria, Grayson, Santiago, Arambula, Bonta, and Gipson)

December 5, 2016

An act to amend Sections 65400 and 65582.1 of, and to add and repeal Section 65913.4 to, of, the Government Code, relating to housing.

legislative counsel's digest

SB 35, as amended, Wiener. Planning and zoning: affordable housing: streamlined approval process.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The Planning and

Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. Existing law requires the housing element portion of the annual report to be prepared through the use of forms and definitions adopted by the department pursuant to the Administrative Procedure Act.

This bill would require the housing element portion of the annual report to be prepared through the use of standards, forms, and definitions adopted by the department. The bill would eliminate the requirement that the forms and definitions be adopted by the department pursuant to the Administrative Procedure Act and would instead authorize the department to review, adopt, amend, and repeal the standards, forms, or definitions, as provided. The bill would also require the planning agency to include in its annual report specified information regarding units of net new housing, including rental housing and for-sale housing that have been issued a completed entitlement, building permit, or certificate of occupancy. The bill would also require the Department of Housing and Community Development to post an annual report submitted pursuant to the requirement described above on its Internet Web site, as provided.

(2) Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would authorize a development proponent to submit an application for a multifamily housing ~~development~~ *development*, which satisfies specified planning objective standards, *that* is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit. The bill would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards by a specified time; otherwise, the development is deemed

to comply with those standards. The bill would limit the authority of a local government to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that if a local government approves a project pursuant to that process, that approval will not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expire automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for three years and remain valid thereafter so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local government from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions. The bill would repeal these provisions as of January 1, 2026.

(3) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern and declare that its provisions would apply to all cities and counties, including a charter city, a charter county, or a charter city and county.

(4) By imposing new duties upon local agencies with respect to the streamlined approval process and reporting requirement described above, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would incorporate additional changes to Section 65400 of the Government Code proposed by AB 879 to be operative only if this bill and AB 879 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 65582.1 of the Government Code proposed by AB 73 to be operative only if this bill and AB 73 are enacted and this bill is enacted last.

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

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

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

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

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

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

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

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

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) or Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

1 The report may include the number of units that have been
2 substantially rehabilitated, converted from nonaffordable to
3 affordable by acquisition, and preserved consistent with the
4 standards set forth in paragraph (2) of subdivision (c) of Section
5 65583.1. The report shall document how the units meet the
6 standards set forth in that subdivision.

7 (C) The degree to which its approved general plan complies
8 with the guidelines developed and adopted pursuant to Section
9 65040.2 and the date of the last revision to the general plan.

10 (D) The number of net new units of housing, including both
11 rental housing and for-sale housing, that have been issued a
12 completed entitlement, a building permit, or a certificate of
13 occupancy, thus far in the housing element cycle, and the income
14 category, by area median income category, that each unit of
15 housing, including both rental housing and housing designated for
16 home ownership, satisfies. That production report shall, for each
17 income category described in this subparagraph, distinguish
18 between the number of rental housing units and the number of
19 for-sale housing units that satisfy each income category. The
20 production report shall include, for each entitlement, building
21 permit, or certificate of occupancy, a unique site identifier, which
22 must include an assessor's parcel number, but may also include
23 street address or other identifiers.

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

32 (F) The Department of Housing and Community Development
33 shall post a report submitted pursuant to this paragraph on its
34 Internet Web site within a reasonable time of receiving the report.

35 (b) If a court finds, upon a motion to that effect, that a city,
36 county, or city and county failed to submit, within 60 days of the
37 deadline established in this section, the housing element portion
38 of the report required pursuant to subparagraph (B) of paragraph
39 (2) of subdivision (a) that substantially complies with the
40 requirements of this section, the court shall issue an order or

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

15 SEC. 1.5. Section 65400 of the Government Code is amended
16 to read:

17 65400. (a) After the legislative body has adopted all or part
18 of a general plan, the planning agency shall do both of the
19 following:

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

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

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

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

37 The housing element portion of the annual report, as required
38 by this paragraph, shall be prepared through the use of standards,
39 forms, and definitions adopted by the Department of Housing and
40 Community Development. The department may review, adopt,

1 amend, and repeal the standards, forms, or definitions, to
2 implement this article. Any standards, forms, or definitions adopted
3 to implement this article shall not be subject to Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2. Before and after adoption of the forms, the housing element
6 portion of the annual report shall include a section that describes
7 the actions taken by the local government towards completion of
8 the programs and status of the local government's compliance with
9 the deadlines in its housing element. That report shall be considered
10 at an annual public meeting before the legislative body where
11 members of the public shall be allowed to provide oral testimony
12 and written comments.

13 The report may include the number of units that have been
14 substantially rehabilitated, converted from nonaffordable to
15 affordable by acquisition, and preserved consistent with the
16 standards set forth in paragraph (2) of subdivision (c) of Section
17 65583.1. The report shall document how the units meet the
18 standards set forth in that subdivision.

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

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

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

25 (F) The degree to which its approved general plan complies
26 with the guidelines developed and adopted pursuant to Section
27 65040.2 and the date of the last revision to the general plan.

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

35 (H) The number of net new units of housing, including both
36 rental housing and for-sale housing, that have been issued a
37 completed entitlement, a building permit, or a certificate of
38 occupancy, thus far in the housing element cycle, and the income
39 category, by area median income category, that each unit of
40 housing satisfies. That production report shall, for each income

1 category described in this subparagraph, distinguish between the
2 number of rental housing units and the number of for-sale units
3 that satisfy each income category. The production report shall
4 include, for each entitlement, building permit, or certificate of
5 occupancy, a unique site identifier which must include the
6 assessor's parcel number, but may include street address, or other
7 identifiers.

8 (I) The number of applications submitted pursuant to subdivision
9 (a) of Section 65913.4, the location and the total number of
10 developments approved pursuant to subdivision (b) of Section
11 65913.4, the total number of building permits issued pursuant to
12 subdivision (b) of Section 65913.4, the total number of units
13 including both rental housing and for-sale housing by area median
14 income category constructed using the process provided for in
15 subdivision (b) of Section 65913.4.

16 (J) The Department of Housing and Community Development
17 shall post a report submitted pursuant to this paragraph on its
18 Internet Web site within a reasonable time of receiving the report.

19 (b) If a court finds, upon a motion to that effect, that a city,
20 county, or city and county failed to submit, within 60 days of the
21 deadline established in this section, the housing element portion
22 of the report required pursuant to subparagraph (B) of paragraph
23 (2) of subdivision (a) that substantially complies with the
24 requirements of this section, the court shall issue an order or
25 judgment compelling compliance with this section within 60 days.
26 If the city, county, or city and county fails to comply with the
27 court's order within 60 days, the plaintiff or petitioner may move
28 for sanctions, and the court may, upon that motion, grant
29 appropriate sanctions. The court shall retain jurisdiction to ensure
30 that its order or judgment is carried out. If the court determines
31 that its order or judgment is not carried out within 60 days, the
32 court may issue further orders as provided by law to ensure that
33 the purposes and policies of this section are fulfilled. This
34 subdivision applies to proceedings initiated on or after the first
35 day of October following the adoption of forms and definitions by
36 the Department of Housing and Community Development pursuant
37 to paragraph (2) of subdivision (a), but no sooner than six months
38 following that adoption.

39 SEC. 2. Section 65582.1 of the Government Code is amended
40 to read:

1 65582.1. The Legislature finds and declares that it has provided
2 reforms and incentives to facilitate and expedite the approval and
3 construction of affordable housing. Those reforms and incentives
4 can be found in the following provisions:

5 (a) Housing element law (Article 10.6 (commencing with
6 Section 65580) of Chapter 3).

7 (b) Extension of statute of limitations in actions challenging the
8 housing element and brought in support of affordable housing
9 (subdivision (d) of Section 65009).

10 (c) Restrictions on disapproval of housing developments
11 (Section 65589.5).

12 (d) Priority for affordable housing in the allocation of water and
13 sewer hookups (Section 65589.7).

14 (e) Least cost zoning law (Section 65913.1).

15 (f) Density bonus law (Section 65915).

16 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).

17 (h) By-right housing, in which certain multifamily housing are
18 designated a permitted use (Section 65589.4).

19 (i) No-net-loss-in zoning density law limiting downzonings and
20 density reductions (Section 65863).

21 (j) Requiring persons who sue to halt affordable housing to pay
22 attorney fees (Section 65914) or post a bond (Section 529.2 of the
23 Code of Civil Procedure).

24 (k) Reduced time for action on affordable housing applications
25 under the approval of development permits process (Article 5
26 (commencing with Section 65950) of Chapter 4.5).

27 (l) Limiting moratoriums on multifamily housing (Section
28 65858).

29 (m) Prohibiting discrimination against affordable housing
30 (Section 65008).

31 (n) California Fair Employment and Housing Act (Part 2.8
32 (commencing with Section 12900) of Division 3).

33 (o) Community redevelopment law (Part 1 (commencing with
34 Section 33000) of Division 24 of the Health and Safety Code, and
35 in particular Sections 33334.2 and 33413).

36 (p) Streamlining housing approvals during a housing shortage
37 (Section 65913.4).

38 SEC. 2.5. Section 65582.1 of the Government Code is amended
39 to read:

1 65582.1. The Legislature finds and declares that it has provided
2 reforms and incentives to facilitate and expedite the construction
3 of affordable housing. Those reforms and incentives can be found
4 in the following provisions:

5 (a) Housing element law (Article 10.6 (commencing with
6 Section 65580) of Chapter 3).

7 (b) Extension of statute of limitations in actions challenging the
8 housing element and brought in support of affordable housing
9 (subdivision (d) of Section 65009).

10 (c) Restrictions on disapproval of housing developments
11 (Section 65589.5).

12 (d) Priority for affordable housing in the allocation of water and
13 sewer hookups (Section 65589.7).

14 (e) Least cost zoning law (Section 65913.1).

15 (f) Density bonus law (Section 65915).

16 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).

17 (h) By-right housing, in which certain multifamily housing are
18 designated a permitted use (Section 65589.4).

19 (i) No-net-loss-in zoning density law limiting downzonings and
20 density reductions (Section 65863).

21 (j) Requiring persons who sue to halt affordable housing to pay
22 attorney fees (Section 65914) or post a bond (Section 529.2 of the
23 Code of Civil Procedure).

24 (k) Reduced time for action on affordable housing applications
25 under the approval of development permits process (Article 5
26 (commencing with Section 65950) of Chapter 4.5).

27 (l) Limiting moratoriums on multifamily housing (Section
28 65858).

29 (m) Prohibiting discrimination against affordable housing
30 (Section 65008).

31 (n) California Fair Employment and Housing Act (Part 2.8
32 (commencing with Section 12900) of Division 3).

33 (o) Community redevelopment law (Part 1 (commencing with
34 Section 33000) of Division 24 of the Health and Safety Code, and
35 in particular Sections 33334.2 and 33413).

36 (p) Streamlining housing approvals during a housing shortage
37 (Section 65913.4).

38 (q) Housing sustainability districts (Chapter 11 (commencing
39 with Section 66200)).

1 SEC. 3. Section 65913.4 is added to the Government Code, to
2 read:

3 65913.4. (a) A development proponent may submit an
4 application for a development that is subject to the streamlined,
5 ministerial approval process provided by subdivision (b) and not
6 subject to a conditional use permit if the development satisfies all
7 of the following objective planning standards:

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

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

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

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

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

27 (3) If the development contains units that are subsidized, the
28 development proponent already has recorded, or is required by
29 law to record, a land use restriction for the following applicable
30 minimum durations:

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

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

33 (4) The development satisfies both of the following:

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

1 if it has not submitted an annual housing element report to the
2 department pursuant to paragraph (2) of subdivision (a) of Section
3 65400 for at least two consecutive years before the development
4 submitted an application for approval under this section.

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

8 (i) The locality did not submit its latest production report to the
9 department by the time period required by Section 65400, or that
10 production report reflects that there were fewer units of above
11 moderate-income housing approved than were required for the
12 regional housing needs assessment cycle for that reporting period.
13 In addition, if the project contains more than 10 units of housing,
14 the project seeking approval dedicates a minimum of 10 percent
15 of the total number of units to housing affordable to households
16 making below 80 percent of the area median income. If the locality
17 has adopted a local ordinance that requires that greater than 10
18 percent of the units be dedicated to housing affordable to
19 households making below 80 percent of the area median income,
20 that zoning ordinance applies.

21 (ii) The locality did not submit its latest production report to
22 the department by the time period required by Section 65400, or
23 that production report reflects that there were fewer units of
24 housing affordable to households making below 80 percent of the
25 area median income that were issued building permits than were
26 required for the regional housing needs assessment cycle for that
27 reporting period, and the project seeking approval dedicates 50
28 percent of the total number of units to housing affordable to
29 households making below 80 percent of the area median income,
30 unless the locality has adopted a local ordinance that requires that
31 greater than 50 percent of the units be dedicated to housing
32 affordable to households making below 80 percent of the area
33 median income, in which case that ordinance applies.

34 *(iii) The locality did not submit its latest production report to*
35 *the department by the time period required by Section 65400, or*
36 *if the production report reflects that there were fewer units of*
37 *housing affordable to any income level that were issued building*
38 *permits than were required for the regional housing needs*
39 *assessment cycle for that reporting period, the project seeking*
40 *approval may choose between utilizing clause (i) or (ii).*

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

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

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

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

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

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

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

3 (D) Within a very high fire hazard severity zone, as determined
4 by the Department of Forestry and Fire Protection pursuant to
5 Section 51178, or within a high or very high fire hazard severity
6 zone as indicated on maps adopted by the Department of Forestry
7 and Fire Protection pursuant to Section 4202 of the Public
8 Resources Code. This subparagraph does not apply to sites
9 excluded from the specified hazard zones by a local agency,
10 pursuant to subdivision (b) of Section 51179, or sites that have
11 adopted sufficient fire hazard mitigation measures ~~as may be~~
12 ~~determined by their local agency with land use authority, pursuant~~
13 ~~to existing building standards or state fire mitigation measures~~
14 ~~applicable to the development.~~

15 (E) A hazardous waste site that is listed pursuant to Section
16 65962.5 or a hazardous waste site designated by the Department
17 of Toxic Substances Control pursuant to Section 25356 of the
18 Health and Safety Code, unless the Department of Toxic
19 Substances Control has cleared the site for residential use or
20 residential mixed uses.

21 (F) Within a delineated earthquake fault zone as determined by
22 the State Geologist in any official maps published by the State
23 Geologist, unless the development complies with applicable seismic
24 protection building code standards adopted by the California
25 Building Standards Commission under the California Building
26 Standards Law (Part 2.5 (commencing with Section 18901) of
27 Division 13 of the Health and Safety Code), and by any local
28 building department under Chapter 12.2 (commencing with Section
29 8875) of Division 1 of Title 2.

30 (G) Within a flood plain as determined by maps promulgated
31 by the Federal Emergency Management Agency, unless the
32 development has been issued a flood plain development permit
33 pursuant to Part 59 (commencing with Section 59.1) and Part 60
34 (commencing with Section 60.1) of Subchapter B of Chapter I of
35 Title 44 of the Code of Federal Regulations.

36 (H) Within a floodway as determined by maps promulgated by
37 the Federal Emergency Management Agency, unless the
38 development has received a no-rise certification in accordance
39 with Section 60.3(d)(3) of Title 44 of the Code of Federal
40 Regulations.

1 (I) Lands identified for conservation in an adopted natural
2 community conservation plan pursuant to the Natural Community
3 Conservation Planning Act (Chapter 10 (commencing with Section
4 2800) of Division 3 of the Fish and Game Code), habitat
5 conservation plan pursuant to the federal Endangered Species Act
6 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
7 resource protection plan.

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

16 (K) Lands under conservation easement.

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

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

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

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

26 (iii) Housing that has been occupied by tenants within the past
27 10 years.

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

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

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

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

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

3 (i) The entirety of the development is a public work for purposes
4 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
5 2 of the Labor Code.

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

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

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

26 (III) Except as provided in subclause (V), all contractors and
27 subcontractors shall maintain and verify payroll records pursuant
28 to Section 1776 of the Labor Code and make those records
29 available for inspection and copying as provided in therein.

30 (IV) Except as provided in subclause (V), the obligation of the
31 contractors and subcontractors to pay prevailing wages may be
32 enforced by the Labor Commissioner through the issuance of a
33 civil wage and penalty assessment pursuant to Section 1741 of the
34 Labor Code, which may be reviewed pursuant to Section 1742 of
35 the Labor Code, within 18 months after the completion of the
36 development, by an underpaid worker through an administrative
37 complaint or civil action, or by a joint labor-management
38 committee through a civil action under Section 1771.2 of the Labor
39 Code. If a civil wage and penalty assessment is issued, the
40 contractor, subcontractor, and surety on a bond or bonds issued to

1 secure the payment of wages covered by the assessment shall be
2 liable for liquidated damages pursuant to Section 1742.1 of the
3 Labor Code.

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

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

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

26 (I) On and after January 1, 2018, until December 31, 2021, the
27 development consists of 75 or more units that are not 100 percent
28 subsidized affordable housing and will be located within a
29 jurisdiction located in a coastal or bay county with a population
30 of 225,000 or more.

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

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

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

5 (V) On and after January 1, 2022, until December 31, 2025, the
6 development consists of more than 25 units and will be located
7 within a jurisdiction with a population of fewer than 550,000 and
8 that is not located in a coastal bay county.

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

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

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

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

22 (III) Except as provided in subclause (IV), the applicant shall
23 provide to the locality, on a monthly basis while the development
24 or contract is being performed, a report demonstrating compliance
25 with Chapter 2.9 (commencing with Section 2600) of Part 1 of
26 Division 2 of the Public Contract Code. A monthly report provided
27 to the locality pursuant to this subclause shall be a public record
28 under the California Public Records Act (Chapter 3.5 (commencing
29 with Section 6250) of Division 7 of Title 1) and shall be open to
30 public inspection. An applicant that fails to provide a monthly
31 report demonstrating compliance with Chapter 2.9 (commencing
32 with Section 2600) of Part 1 of Division 2 of the Public Contract
33 Code shall be subject to a civil penalty of ten thousand dollars
34 (\$10,000) per month for each month for which the report has not
35 been provided. Any contractor or subcontractor that fails to use a
36 skilled and trained workforce shall be subject to a civil penalty of
37 two hundred dollars (\$200) per day for each worker employed in
38 contravention of the skilled and trained workforce requirement.
39 Penalties may be assessed by the Labor Commissioner within 18
40 months of completion of the development using the same

1 procedures for issuance of civil wage and penalty assessments
2 pursuant to Section 1741 of the Labor Code, and may be reviewed
3 pursuant to the same procedures in Section 1742 of the Labor
4 Code. Penalties shall be paid to the State Public Works
5 Enforcement Fund.

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

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

18 (i) The project includes 10 or fewer units.

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

22 (9) The development did not or does not involve a subdivision
23 of a parcel that is, or, notwithstanding this section, would otherwise
24 be, subject to the Subdivision Map Act (Division 2 (commencing
25 with Section 66410)) or any other applicable law authorizing the
26 subdivision of land, unless either of the following apply:

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

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

34 (10) The development shall not be upon an existing parcel of
35 land or site that is governed under the Mobilehome Residency Law
36 (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2
37 of Division 2 of the Civil Code), the Recreational Vehicle Park
38 Occupancy Law (Chapter 2.6 (commencing with Section 799.20)
39 of Title 2 of Part 2 of Division 2 of the Civil Code), the
40 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)

1 of Division 13 of the Health and Safety Code), or the Special
2 Occupancy Parks Act (Part 2.3 (commencing with Section 18860)
3 of Division 13 of the Health and Safety Code).

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

11 (A) Within 60 days of submittal of the development to the local
12 government pursuant to this section if the development contains
13 150 or fewer housing units.

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

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

21 (c) Any design review or public oversight of the development
22 may be conducted by the local government's planning commission
23 or any equivalent board or commission responsible for review and
24 approval of development projects, or the city council or board of
25 supervisors, as appropriate. That design review or public oversight
26 shall be objective and be strictly focused on assessing compliance
27 with criteria required for streamlined projects, as well as any
28 reasonable objective design standards published and adopted by
29 ordinance or resolution by a local jurisdiction before submission
30 of a development application, and shall be broadly applicable to
31 development within the jurisdiction. That design review or public
32 oversight shall be completed as follows and shall not in any way
33 inhibit, chill, or preclude the ministerial approval provided by this
34 section or its effect, as applicable:

35 (1) Within 90 days of submittal of the development to the local
36 government pursuant to this section if the development contains
37 150 or fewer housing units.

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

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

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

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

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

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

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

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

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

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

1 shall be limited to considerations and process set forth in this
2 section.

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

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

12 (h) For purposes of this section:

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

15 ~~(1)~~

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

18 ~~(2)~~

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

22 ~~(3)~~

23 (4) "Locality" or "local government" means a city, including a
24 charter city, a county, including a charter county, or a city and
25 county, including a charter city and county.

26 ~~(4)~~

27 (5) "Production report" means the information reported pursuant
28 to subparagraph (D) of paragraph (2) of subdivision (a) of Section
29 65400.

30 ~~(5)~~

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

35 ~~(6)~~

36 (7) "Reporting period" means either of the following:

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

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

40 ~~(7)~~

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

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

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

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair. Therefore, the changes made by this act are applicable to a charter city, a charter county, and a charter city and county.

SEC. 5. Each provision of this measure is a material and integral part of this measure, and the provisions of this measure are not severable. If any provision of this measure or its application is held invalid, this entire measure shall be null and void.

SEC. 6. (a) Section 1.5 of this bill incorporates amendments to Section 65400 of the Government Code proposed by both this bill and Assembly Bill 879. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 65400 of the Government Code, and (3) this bill is enacted after Assembly Bill 879, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 65582.1 of the Government Code proposed by both this bill and Assembly Bill 73. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 65582.1 of the Government Code, and (3) this bill is enacted after Assembly Bill 73, in which case Section 2 of this bill shall not become operative.

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

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

O