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AMENDED IN SENATE FEBRUARY 21, 2017

**SENATE BILL**

**No. 35**

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**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

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An act to amend Sections 65400 and 65582.1 of, and to add and repeal Section 65913.4 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, 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:*

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

3 65400. (a) After the legislative body has adopted all or part  
4 of a general plan, the planning agency shall do both of the  
5 following:

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

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

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

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

23 The housing element portion of the annual report, as required  
24 by this paragraph, shall be prepared through the use of standards,  
25 forms, and definitions adopted by the Department of Housing and  
26 Community Development. The department may review, adopt,  
27 amend, and repeal the standards, forms, or definitions, to  
28 implement this article. Any standards, forms, or definitions adopted  
29 to implement this article shall not be subject to Chapter 3.5  
30 (commencing with Section 11340) or Part 1 of Division 3 of Title  
31 2. Before and after adoption of the forms, the housing element  
32 portion of the annual report shall include a section that describes  
33 the actions taken by the local government towards completion of  
34 the programs and status of the local government's compliance with  
35 the deadlines in its housing element. That report shall be considered  
36 at an annual public meeting before the legislative body where  
37 members of the public shall be allowed to provide oral testimony  
38 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, or has a general plan designation that  
24 allows residential use or a mix of residential and nonresidential  
25 uses, with at least two-thirds of the square footage of the  
26 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 one  
7 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 *described in clause (i) or*  
38 *(ii)* that were issued building permits than were required for the  
39 regional housing needs assessment cycle for that reporting period,

1 the project seeking approval may choose between utilizing clause  
2 (i) or (ii).

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

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

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

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

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

35 (B) Either prime farmland or farmland of statewide importance,  
36 as defined pursuant to United States Department of Agriculture  
37 land inventory and monitoring criteria, as modified for California,  
38 and designated on the maps prepared by the Farmland Mapping  
39 and Monitoring Program of the Department of Conservation, or  
40 land zoned or designated for agricultural protection or preservation

1 by a local ballot measure that was approved by the voters of that  
2 jurisdiction.

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

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

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

22 (F) Within a delineated earthquake fault zone as determined by  
23 the State Geologist in any official maps published by the State  
24 Geologist, unless the development complies with applicable seismic  
25 protection building code standards adopted by the California  
26 Building Standards Commission under the California Building  
27 Standards Law (Part 2.5 (commencing with Section 18901) of  
28 Division 13 of the Health and Safety Code), and by any local  
29 building department under Chapter 12.2 (commencing with Section  
30 8875) of Division 1 of Title 2.

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

37 (H) Within a floodway as determined by maps promulgated by  
38 the Federal Emergency Management Agency, unless the  
39 development has received a no-rise certification in accordance

1 with Section 60.3(d)(3) of Title 44 of the Code of Federal  
2 Regulations.

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

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

18 (K) Lands under conservation easement.

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

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

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

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

28 (iii) Housing that has been occupied by tenants within the past  
29 10 years.

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

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

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

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

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

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

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

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

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

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

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



1 Code. If a civil wage and penalty assessment is issued, the  
2 contractor, subcontractor, and surety on a bond or bonds issued to  
3 secure the payment of wages covered by the assessment shall be  
4 liable for liquidated damages pursuant to Section 1742.1 of the  
5 Labor Code.

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

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

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

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

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

38 (III) On and after January 1, 2018, until December 31, 2019,  
39 the development consists of 75 or more units that are not 100  
40 percent subsidized affordable housing and will be located within

1 a jurisdiction with a population of fewer than 550,000 and that is  
2 not located in a coastal or bay county.

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

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

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

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

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

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

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

1 Penalties may be assessed by the Labor Commissioner within 18  
2 months of completion of the development using the same  
3 procedures for issuance of civil wage and penalty assessments  
4 pursuant to Section 1741 of the Labor Code, and may be reviewed  
5 pursuant to the same procedures in Section 1742 of the Labor  
6 Code. Penalties shall be paid to the State Public Works  
7 Enforcement Fund.

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

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

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

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

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

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

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

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

1 of Title 2 of Part 2 of Division 2 of the Civil Code), the  
2 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)  
3 of Division 13 of the Health and Safety Code), or the Special  
4 Occupancy Parks Act (Part 2.3 (commencing with Section 18860)  
5 of Division 13 of the Health and Safety Code).

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

13 (A) Within 60 days of submittal of the development to the local  
14 government pursuant to this section if the development contains  
15 150 or fewer housing units.

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

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

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

37 (1) Within 90 days of submittal of the development to the local  
38 government pursuant to this section if the development contains  
39 150 or fewer housing units.

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

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

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

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

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

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

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

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

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

35 (3) If a local government approves a development pursuant to  
36 this section, that approval shall remain valid for three years from  
37 the date of the final action establishing that approval and shall  
38 remain valid thereafter for a project so long as vertical construction  
39 of the development has begun and is in progress. Additionally, the  
40 development proponent may request, and the local government

1 shall have discretion to grant, an additional one-year extension to  
2 the original three-year period. The local government’s action and  
3 discretion in determining whether to grant the foregoing extension  
4 shall be limited to considerations and process set forth in this  
5 section.

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

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

15 (h) For purposes of this section:

16 (1) “Department” means the Department of Housing and  
17 Community Development.

18 (2) “Development proponent” means the developer who submits  
19 an application for streamlined approval pursuant to this section.

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

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

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

33 (7) “Reporting period” means either of the following:

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

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

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

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

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

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

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

19 SEC. 6. (a) Section 1.5 of this bill incorporates amendments  
20 to Section 65400 of the Government Code proposed by both this  
21 bill and Assembly Bill 879. That section shall only become  
22 operative if (1) both bills are enacted and become effective on or  
23 before January 1, 2018, (2) each bill amends Section 65400 of the  
24 Government Code, and (3) this bill is enacted after Assembly Bill  
25 879, in which case Section 1 of this bill shall not become operative.

26 (b) Section 2.5 of this bill incorporates amendments to Section  
27 65582.1 of the Government Code proposed by both this bill and  
28 Assembly Bill 73. That section shall only become operative if (1)  
29 both bills are enacted and become effective on or before January  
30 1, 2019, (2) each bill amends Section 65582.1 of the Government  
31 Code, and (3) this bill is enacted after Assembly Bill 73, in which  
32 case Section 2 of this bill shall not become operative.

33 SEC. 7. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 a local agency or school district has the authority to levy service  
36 charges, fees, or assessments sufficient to pay for the program or  
37 level of service mandated by this act, within the meaning of Section  
38 17556 of the Government Code.

O