

AMENDED IN ASSEMBLY APRIL 12, 2023

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Ward

December 8, 2022

An act to amend Section 65585 of, to add Sections 65040.18, 65914.7.5, and 66425.5 to, and to add Chapter 4.3.1 (commencing with Section 65918.5) to Division 1 of Title 7 of, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as amended, Ward. Land use: streamlined housing approvals: density, subdivision, and utility approvals.

Existing law, the Planning and Zoning Law, authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards.

This bill would require a local government to approve a proposed housing development pursuant to a streamlined, ministerial approval process if the development meets certain objective planning standards, including, but not limited to, a requirement that the proposed parcel for the development be a climate-smart parcel, as described, or be included in the applicable region's sustainable communities strategy as a priority development area. The bill would set forth procedures for approving these developments and would set forth various limitations for these developments. The bill would authorize the Department of Housing

and Community Development to review, adopt, amend, and repeal guidelines, rules, and regulations to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth by this process.

Existing law requires the department to notify a city, county, or city and county, and authorizes the department to notify the office of the Attorney General, that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to the housing element does not substantially comply with specified provisions of the Planning and Zoning Law, or that the local government has taken action in violation of specified provisions of law relating to housing, including, among others, the Housing Accountability Act, the Density Bonus Law, and the Housing Crisis Act of 2019.

This bill would add the streamlining procedures added by the bill to the list of laws subject to this notification requirement.

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. Existing law also sets forth various procedures related to land use actions and utility service in local jurisdictions, including, but not limited to, a requirement that a tentative a final map be made for certain housing projects, including all subdivisions creating 5 or more parcels.

This bill would prohibit a county, or city if certain conditions are met, from increasing the planned density on climate resilient lands, as defined, from approving any tentative, final, or parcel maps for the subdivision of property within climate risk lands or climate refugia lands, as defined, and from approving an extension of water or sewer services on climate resilient lands unless specified planning requirements or conditions are met. The bill would require, as part of those requirements or conditions, the county or city to make certain findings that are confirmed by the Office of Planning and Research. The bill would set forth procedures for requesting those findings from the office. The bill would make conforming changes.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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

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

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

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

1 SECTION 1. Section 65040.18 is added to the Government
2 Code, to read:

3 65040.18. (a) A county may submit an application to the office,
4 in the form and manner prescribed by the office, for the following
5 purposes:

6 (1) Receiving findings from the office for purposes of
7 subparagraphs (A) and (B) of paragraph (3) of subdivision (c) of
8 Section 65918.5.03.

9 (2) Receiving findings from the office for purposes of
10 subparagraph (D) of paragraph (3) of subdivision (c) of Section
11 65918.5.03.

12 (b) The office shall, in consultation with the Department of
13 Housing and Community Development and the Natural Resources
14 Agency, review applications submitted by a county pursuant to
15 subdivision (a).

16 (c) (1) For applications submitted pursuant to paragraph (2) of
17 subdivision (a), the office shall issue findings in favor of the county
18 for purposes of subparagraph (D) of paragraph (3) of subdivision
19 (c) of Section 65918.5.03 if all of the following apply:

20 (A) There is a lack of sufficient acreage in existing communities
21 for the proposed residential development that is necessary to meet
22 the county's regional housing need.

23 (B) Acres that may be designated in existing communities for
24 the proposed residential development for purposes of meeting the
25 county's regional housing need are unlikely to be developed in the
26 required timeframe to meet the county's regional housing need.

27 (C) The county cannot redesignate sufficient acreage on lands
28 outside of climate resilient lands to meet the county's regional
29 housing need because the redesignation of land is infeasible or
30 because there is insufficient acreage available for redesignation.

(2) For purposes of this subdivision, “proposed residential development” means the development related to the county’s increase in planned density, subdivision of property, or extension of water or sewer service pursuant to Chapter 4.3.1 (commencing with Section 65918.5).

(d) The office 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.

(e) For purposes of this section, the definitions in Chapter 4.3.1 (commencing with Section 65918.5) apply.

(f) References to “county” in this section shall also refer to a city when related to lands subject to Section 65918.5.04.

SEC. 2. Section 65585 of the Government Code is amended to read:

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

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

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to

1 each member of the legislative body before it adopts the housing
2 element.

3 (3) The department shall review the draft and report its written
4 findings to the planning agency within 90 days of its receipt of the
5 first draft submittal for each housing element revision pursuant to
6 subdivision (e) of Section 65588 or within 60 days of its receipt
7 of a subsequent draft amendment or an adopted revision or adopted
8 amendment to an element. The department shall not review the
9 first draft submitted for each housing element revision pursuant
10 to subdivision (e) of Section 65588 until the local government has
11 made the draft available for public comment for at least 30 days
12 and, if comments were received, has taken at least 10 business
13 days to consider and incorporate public comments pursuant to
14 paragraph (1).

15 (c) In the preparation of its findings, the department may consult
16 with any public agency, group, or person. The department shall
17 receive and consider any written comments from any public
18 agency, group, or person regarding the draft or adopted element
19 or amendment under review.

20 (d) In its written findings, the department shall determine
21 whether the draft element or draft amendment substantially
22 complies with this article.

23 (e) Prior to the adoption of its draft element or draft amendment,
24 the legislative body shall consider the findings made by the
25 department. If the department's findings are not available within
26 the time limits set by this section, the legislative body may act
27 without them.

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

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

33 (2) Adopt the draft element or draft amendment without changes.
34 The legislative body shall include in its resolution of adoption
35 written findings which explain the reasons the legislative body
36 believes that the draft element or draft amendment substantially
37 complies with this article despite the findings of the department.

38 (g) Promptly following the adoption of its element or
39 amendment, the planning agency shall submit a copy to the
40 department.

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

4 (i) (1) (A) The department shall review any action or failure
5 to act by the city, county, or city and county that it determines is
6 inconsistent with an adopted housing element or Section 65583,
7 including any failure to implement any program actions included
8 in the housing element pursuant to Section 65583. The department
9 shall issue written findings to the city, county, or city and county
10 as to whether the action or failure to act substantially complies
11 with this article, and provide a reasonable time no longer than 30
12 days for the city, county, or city and county to respond to the
13 findings before taking any other action authorized by this section,
14 including the action authorized by subparagraph (B).

15 (B) If the department finds that the action or failure to act by
16 the city, county, or city and county does not substantially comply
17 with this article, and if it has issued findings pursuant to this section
18 that an amendment to the housing element substantially complies
19 with this article, the department may revoke its findings until it
20 determines that the city, county, or city and county has come into
21 compliance with this article.

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

28 (j) The department shall notify the city, county, or city and
29 county and may notify the office of the Attorney General that the
30 city, county, or city and county is in violation of state law if the
31 department finds that the housing element or an amendment to this
32 element, or any action or failure to act described in subdivision
33 (i), does not substantially comply with this article or that any local
34 government has taken an action in violation of the following:

35 (1) Housing Accountability Act (Section 65589.5).

36 (2) Section 65863.

37 (3) Chapter 4.3 (commencing with Section 65915).

38 (4) Section 65008.

39 (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019,
40 Sections 65941.1, 65943, and 66300).

- 1 (6) Section 8899.50.
- 2 (7) Section 65913.4.
- 3 (8) Article 11 (commencing with Section 65650).
- 4 (9) Article 12 (commencing with Section 65660).
- 5 (10) Section 65913.11.
- 6 (11) Section 65400.
- 7 (12) Section 65863.2.
- 8 (13) Chapter 4.1 (commencing with Section 65912.100).
- 9 (14) Section 65914.7.5.

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

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

37 (1) If the jurisdiction has not complied with the order or
38 judgment after 12 months, the court shall conduct a status
39 conference. Following the status conference, upon a determination
40 that the jurisdiction failed to comply with the order or judgment

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

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

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

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

1 jurisdiction's failure to pay. The intercept of the funds by the
2 Controller for this purpose shall not violate any provision of the
3 California Constitution.

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

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

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

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

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

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

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

SEC. 3. Section 65914.7.5 is added to the Government Code, to read:

65914.7.5. (a) For purposes of this section, the following definitions apply:

(1) “Climate smart parcel” means a parcel located in a highest resource, ~~high resource, or moderate resource~~ *high-resource, or moderate-resource* area, as categorized by the California Tax Credit Allocation Committee’s opportunity maps, that ~~meets~~ *satisfies at least one of the following mobility indicators: mobility indicator.*

~~(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop.~~

~~(B) The parcel is located in a very low vehicle travel area.~~

~~(C) The parcel is located within a mile from a cluster of six or more of the following:~~

~~(i) Restaurants.~~

~~(ii) Bars.~~

~~(iii) Coffee shops.~~

~~(iv) Supermarkets.~~

~~(v) Grocery stores.~~

~~(vi) Hardware stores.~~

~~(vii) Parks.~~

~~(viii) Pharmacy.~~

~~(ix) Drugstore.~~

(2) “High-quality transit corridor” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(3) “Housing development” has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(4) “Local agency” means a city, county, or city and county, whether general law or chartered.

(5) “Major transit stop” has the same meaning as defined in ~~Section 21064.3~~ *subdivision (b) of Section 21155* of the Public Resources Code.

(6) “Mobility indicator” means any of the following:

(A) *The parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop.*

(B) *The parcel is located in a very low vehicle travel area.*

(C) *The parcel is located within one mile from a cluster of six or more of the following:*

(i) *Restaurant.*

(ii) *Bar.*

(iii) *Coffee shop.*

(iv) *Supermarket.*

(v) *Grocery store.*

(vi) *Hardware store.*

(vii) *Park.*

(viii) *Pharmacy.*

(ix) *Drugstore.*

~~(6)~~

(7) “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 local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

~~(7)~~

(8) “Priority development area” means an area identified under the region’s most recent sustainable communities strategy as prime locations for additional growth. These areas may include job centers, transit priority areas, or other characteristics where mobility options support achieving greenhouse gas emissions reduction.

~~(8)~~

(9) (A) “Very low vehicle travel area” means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita, *or county vehicle miles per capita.*

(B) For purposes of this subdivision, “area” may include a travel analysis zone, hexagon, or grid.

(C) For purposes of determining “regional vehicle miles traveled per capita” pursuant to this subdivision, a “region” is the entirety

1 of incorporated and unincorporated areas governed by a
2 multicounty or single-county metropolitan planning organization,
3 or the entirety of the incorporated and unincorporated areas of an
4 individual county that is not part of a metropolitan planning
5 organization.

6 (b) A proposed housing development shall be subject to a
7 streamlined, ministerial approval process in subdivision (c) without
8 discretionary review or hearing, if the proposed housing
9 development *consists of multiple units and* satisfies all of the
10 following objective planning standards:

11 (1) (A) ~~For incorporated areas, the proposed housing~~
12 ~~development is proposed to be developed on a legal parcel or~~
13 ~~parcels that includes at least a portion of an~~ *It is a legal parcel or*
14 *parcels located in a city if, and only if, the city boundaries include*
15 *some portion of either* urbanized area or urban cluster, as
16 designated by the United States Census Bureau.

17 (B) For unincorporated areas, the proposed housing development
18 is proposed to be developed on a legal parcel or parcels wholly
19 within the boundaries of an urbanized area or urban cluster, as
20 designated by the United States Census Bureau.

21 (2) The proposed parcel for the proposed housing development
22 is zoned for residential use or residential mixed-use development,
23 or has a general plan designation that allows residential use or a
24 mix of residential and nonresidential uses, and at least two-thirds
25 of the square footage of the development is designated for
26 residential use. Additional density, floor area, and units, and any
27 other concession, incentive, or waiver of development standards
28 granted pursuant to the Density Bonus Law in Section 65915 shall
29 be included in the square footage calculation. The square footage
30 of the development shall not include underground space, such as
31 basements or underground parking garages.

32 (3) (A) The proposed parcel for the proposed housing
33 development satisfies the requirements specified in subparagraphs
34 (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section
35 65913.4.

36 (B) The proposed parcel is not in an area projected to experience
37 flooding at less than or equal to sea level rise of five feet according
38 to information from the National Oceanic and Atmospheric
39 Administration or according to the best available science.

1 (C) The proposed parcel is not on natural lands within 100
2 meters width of streams or rivers, including, but not limited to,
3 streams or rivers mapped in the United States Environmental
4 Protection Agency National Hydrography Dataset NHDPlus, and
5 not on natural lands mapped by the United States Forest Service,
6 Pacific Southwest Region, existing Vegetation CALVEG, or best
7 available science.

8 (4) The development on the proposed parcel would not require
9 the demolition or alteration of either of the following types of
10 housing:

11 (A) Housing that is subject to a recorded covenant, ordinance,
12 or law that restricts rents to levels affordable to persons and
13 families of moderate, low, or very low income, as defined in
14 Sections 50093 and 50105 of the Health and Safety Code.

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

17 (5) The development on the proposed parcel would not require
18 the demolition of a historic structure that was placed on a national
19 or state historic register.

20 (6) (A) Subject to subparagraph (B), the proposed parcel is
21 included in the applicable region's sustainable communities
22 strategy as a priority development area or is a climate-smart parcel.

23 (B) If the parcel is included in the applicable region's sustainable
24 communities strategy as a priority development area or is part of
25 a master environmental impact report pursuant to the California
26 Environmental Quality Act (Division 13 (commencing with Section
27 21000) of the Public Resources Code), meets one of the mobility
28 indicators defined in paragraph (1) of subdivision (a), and the
29 proposed development would not be eligible for ministerial
30 approval under Section 65913.4 because it does not meet the
31 requirements of subparagraph (5) of subdivision (a) of that section,
32 then it shall be treated ~~it shall be treated~~ as a climate-smart parcel
33 for purposes of this section.

34 (7) If the proposed housing development is ____ units or more,
35 the development proponent certifies to the locality that it will
36 comply with the requirements of Section 65912.130 or 65912.131
37 of the Government Code.

38 (8) The proposed development dedicates a minimum of ____
39 percent of the total number of units, before calculating any density
40 bonus, to deed-restricted affordable housing.

(c) (1) If a local agency determines that a development submitted pursuant to this section is consistent with the objective planning standards specified in subdivision (b) and pursuant to paragraph (3), it shall approve the development. If a local agency determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (b), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

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

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

(2) If the local agency fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (b).

(3) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (b) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local agency shall not determine that a development, including an application for a modification under subdivision (b), is in conflict with the objective planning standards on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(d) (1) (A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (c) if that request is submitted to the local agency before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local agency shall approve a modification if it determines that the modification is

1 consistent with the objective planning standards specified in
2 subdivision (b) that were in effect when the original development
3 application was first submitted.

4 (C) The local agency shall evaluate any modifications requested
5 pursuant to this subdivision for consistency with the objective
6 planning standards using the same assumptions and analytical
7 methodology that the local agency originally used to assess
8 consistency for the development that was approved for streamlined,
9 ministerial approval pursuant to subdivision (c).

10 (D) A guideline that was adopted or amended by the department
11 pursuant to subdivision (f) after a development was approved
12 through the streamlined, ministerial approval process described in
13 subdivision (c) shall not be used as a basis to deny proposed
14 modifications.

15 (2) Upon receipt of the development proponent's application
16 requesting a modification, the local agency shall determine if the
17 requested modification is consistent with the objective planning
18 standard and either approve or deny the modification request within
19 60 days after submission of the modification, or within 90 days if
20 design review is required.

21 (3) Notwithstanding paragraph (1), the local agency may apply
22 objective planning standards adopted after the development
23 application was first submitted to the requested modification in
24 any of the following instances:

25 (A) The development is revised such that the total number of
26 residential units or total square footage of construction changes
27 by 15 percent or more. The calculation of the square footage of
28 construction changes shall not include underground space.

29 (B) The development is revised such that the total number of
30 residential units or total square footage of construction changes
31 by 5 percent or more and it is necessary to subject the development
32 to an objective standard beyond those in effect when the
33 development application was submitted in order to mitigate or
34 avoid a specific, adverse impact, as that term is defined in
35 subparagraph (A) of paragraph (1) of subdivision (j) of Section
36 65589.5, upon the public health or safety and there is no feasible
37 alternative method to satisfactorily mitigate or avoid the adverse
38 impact. The calculation of the square footage of construction
39 changes shall not include underground space.

(C) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modification applications that are submitted prior to the first building permit application. Those standards may be applied to modification applications submitted after the first building permit application if agreed to by the development proponent.

(4) The local agency's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(e) (1) For ~~multifamily~~ housing developments *that consist of multiple units* on a climate-smart parcel that are submitted pursuant to this section, the following shall apply:

(A) A local agency shall not ~~require~~ *impose* a setback greater than four feet from the side, rear, and front lot lines.

~~(B) The height limit applicable to the housing development shall not exceed 50 feet, unless the base density allows a greater height, in which case the larger of the two shall be used.~~

~~(B) A local agency shall not impose a height limit on a housing development that is less than 50 feet.~~

~~(C) The~~ A local agency shall not impose requirements that preclude a development project that has a maximum lot coverage of 60 percent. *applicable to the housing development of less than 60 percent.*

~~(D) The~~ A local agency shall not impose or enforce a minimum parking requirement.

(E) Depending on the number of mobility ~~indicators~~ *indicators*, the local agency shall ~~impose the following floor area ratios:~~ *not do any of the following:*

(i) For a housing development project on a parcel with one mobility indicator, *impose* a floor area ratio that is less than 1.0.

(ii) For a housing development project on a parcel with two mobility indicators, *impose* a floor area ratio that is less than 1.25.

(iii) For a housing development project on a parcel with all three mobility indicators, *impose* a floor area ratio that is less than 1.5.

1 (2) A development proposed pursuant to this section shall be
2 eligible for a density bonus, incentives or concessions, waivers or
3 reductions of development standards, and parking ratios pursuant
4 to Section 65915.

5 (3) A local agency may impose objective zoning standards,
6 objective subdivision standards, and objective design review
7 standards that do not conflict with this section. However, the local
8 agency shall not do the following:

9 (A) Impose standards that would have the effect of physically
10 precluding the construction of projects that meet or exceed the
11 density standards described in subparagraph (B) of paragraph (3)
12 of subdivision (c) of Section 65583.2.

13 (B) Adopt or impose any requirement that applies to a
14 development project solely or partially on the basis that the project
15 is eligible to receive streamlined, ministerial review pursuant to
16 this section, including, but not limited to, increased fees or
17 inclusionary housing requirements.

18 (f) The Department of Housing and Community Development
19 may review, adopt, amend, and repeal guidelines, rules, and
20 regulations to implement uniform standards or criteria that
21 supplement or clarify the terms, references, or standards set forth
22 in this section.

23 SEC. 4. Chapter 4.3.1 (commencing with Section 65918.5) is
24 added to Division 1 of Title 7 of the Government Code, to read:

25
26 CHAPTER 4.3.1. DENSITY, SUBDIVISIONS, AND UTILITIES ON
27 CLIMATE RESILIENT, RISK, AND REFUGIA LANDS
28

29 65918.5. For purposes of this chapter, the following definitions
30 apply:

31 (a) “Climate resilient lands” means lands that are not existing
32 communities and that are not excluded lands.

33 (b) “Climate risk lands” mean lands within climate resilient
34 lands that have been identified as lands within very high and high
35 fire severity zones, lands identified as flood zones, or lands
36 identified as having a sea level rise risk *of five feet* according to
37 the latest science.

38 (c) “Climate refugia lands” means lands within Terrestrial
39 Connectivity categories 3, 4, and 5 of the Department of Fish and
40 Wildlife’s Area of Conservation Emphasis.

(d) “Existing communities” means the following:

(1) For incorporated areas, lands within municipal boundaries as of January 1, 2024.

(2) For unincorporated areas, an urbanized area or urban cluster, as designated by the United States Census Bureau.

(e) “Excluded lands” are lands that meet one of the following criteria:

(1) Parcels with vested rights.

(2) Lands within specific plans with an environmental impact report adopted on or before January 1, 2024.

(3) Lands zoned for agriculture, rural, or rangeland ~~succession~~ reasons to accommodate agricultural workforce that result in uses that remain accessory to the primary use.

(f) “Planned density” means the density of housing that is planned for the land or parcel, as set on January 1, 2024, in the county’s general plan.

65918.5.01. The Legislature finds and declares that the purpose of this chapter is to protect the public health and safety by preserving high value natural and working lands for the benefit of climate resilience, equitable access to open space, biodiversity, wildlife corridors, and food security.

65918.5.02. (a) Notwithstanding any law, a county shall not increase the planned density on climate resilient lands unless the planning requirements or conditions set forth in Section 65918.5.03 are met.

(b) Notwithstanding any law, a county shall not approve any tentative, final, or parcel maps pursuant to Division 2 (commencing with Section 66410) for the subdivision of property within climate risk lands or climate refugia lands unless the planning requirements or conditions set forth in Section 65918.5.03 are met.

(c) Notwithstanding any law, a county shall not approve an extension of water or sewer services on climate resilient lands unless the planning requirements or conditions set forth in Section 65918.5.03 are met or the extension of these services are to meet public health and safety requirements for existing residents.

(d) *This section does not apply to a town or existing community that has a population fewer than 5,000, is unincorporated, and*

_____.

1 65918.5.03. A county is not subject to Section 65918.5.02 if
2 *all of* the following planning requirements~~or~~ *and* conditions are
3 met:

4 (a) The county has a housing element that is approved by the
5 Department of Housing and Community Development.

6 (b) The county's board of supervisors makes a finding, based
7 on a preponderance of the evidence, of housing necessity.

8 (c) Following the finding in subdivision (b), the county's board
9 of supervisors does the following:

10 (1) Amends its general plan, pursuant to procedures required
11 by law, including Article 6 (commencing with Section 65350), to
12 increase the planned density on climate resilient lands, to authorize
13 the subdivision of property within climate risk lands or climate
14 refugia lands, or to authorize the extension of water or sewer
15 services on climate resilient lands, as applicable.

16 (2) In addition to notice required by Article 6 (commencing
17 with Section 65350), provides at least 30 days' notice of the public
18 hearing on the proposed amendments to the general plan to the
19 owners of properties adjacent to the area affected by the proposed
20 planned density increase, subdivision of property, or extension of
21 water or sewer services, as applicable, to the applicable local
22 agency formation commission, to any city in whose sphere of
23 influence the proposed planned density increase, subdivision of
24 property, or extension of water or sewer services, as applicable,
25 is located, and any other party that requests notice from the county
26 by submitting their name and contact information with the county
27 clerk.

28 (3) Makes, in conjunction with the amendment of the general
29 plan, *all of* the following findings:

30 (A) The proposed development requiring the increase in planned
31 density, subdivision of property, or extension of water or sewer
32 services is necessary to comply with state housing requirements,
33 as confirmed by the Office of Planning and Research.

34 (B) The parcels requiring the increase in planned density,
35 subdivision of property, or extension of water or sewer service, as
36 applicable, will not exceed the minimum area necessary to comply
37 with state housing law, as confirmed by the Office of Planning
38 and Research.

39 (C) The proposed development requiring an increase in planned
40 density, subdivision of property, or extension of water or sewer

1 service is immediately adjacent to developed areas and housing
2 proponent has provided evidence to the county that the county's
3 departments, any applicable community services districts, and any
4 other districts providing utilities or services to the relevant parcel
5 have adequate capacity to accommodate the proposed development
6 for the succeeding 30 years. For purposes of this subparagraph,
7 the county's departments and other districts providing utilities and
8 services include, but are not limited to, the fire department, sheriff's
9 department, public works department, water and sewer districts,
10 and school districts.

11 (D) There is no other existing residential or commercial property
12 available to accommodate the proposed development on lands
13 outside of climate resilient lands and it is not feasible to
14 accommodate the proposed development by redesignating lands
15 outside of climate resilient lands, as confirmed by the Office of
16 Planning and Research.

17 65918.5.04. Notwithstanding any law, any land that is subject
18 to Section 65918.5.02 that is annexed by a city after January 1,
19 2024, shall still be subject to the prohibitions of this chapter unless
20 it is an excluded land. For purposes of land that is subject to this
21 section, references in this chapter to "county" shall also refer to
22 the city that annexed the land.

23 SEC. 5. Section 66425.5 is added to the Government Code, to
24 read:

25 66425.5. Notwithstanding any law, a county shall not approve
26 any tentative, final, or parcel maps for the subdivision of property
27 pursuant to this division unless the planning requirements or
28 conditions set forth in Section 65918.5.03 are met for the affected
29 parcels.

30 SEC. 6. The Legislature finds and declares that the provision
31 of adequate housing, in light of the severe shortage of housing at
32 all income levels in this state, and the preservation of high value
33 natural and working lands are matters of statewide concern and
34 are not municipal affairs as that term is used in Section 5 of Article
35 XI of the California Constitution. Therefore, Sections 2, 3, 4, and
36 5 of this act amending Section 65585 of, adding Sections 65914.7.5
37 and 66425.5 to, and adding Chapter 4.3.1 (commencing with
38 Section 65918.5) to Division 1 of Title 7 of, the Government Code
39 applies to all cities, including charter cities.

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

O



CITY OF HUNTINGTON BEACH
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648-2702

TONY STRICKLAND
MAYOR

May 3, 2023

The Honorable Buffy Wicks
California State Assembly
1021 O St.
Ste. 4240
Sacramento, CA 95814

SUBJECT: AB 68 (WARD) LAND USE: STREAMLINED HOUSING APPROVALS: DENSITY,
SUBDIVISION, AND UTILITY APPROVALS

Dear Chair Wicks and Members of the Housing and Community Development Committee:

The City of Huntington Beach respectfully **OPPOSES** AB 68 (Ward) because the bill proposes to strip local governments of their land use authority by permanently prohibiting all new housing construction in counties that the bill claims are not "climate smart parcels". It will prevent local governments from permitting new housing units in most of their jurisdictions and mandates exclusionary land use policies.

AB 68 may appear to be a climate bill. However, it is a mechanism for HCD to allow streamlined, by-right housing development, and it will give HCD total authority to interpret and strip local authority.

For these reasons, the City of Huntington Beach respectfully opposes AB 68.

Sincerely,

Tony Strickland
Mayor
City of Huntington Beach

Cc: Senator Janet Nguyen
Senator Dave Min
Assembly Member Diane Dixon
Assembly Member Tri Ta
ACC-OC Board of Directors (via email)
Bismarck Obando, Director of Public Affairs (bismarck@calcities.org)
League of California Cities (cityletters@calcities.org)