

Introduced by Senator Wahab

February 21, 2025

An act to amend Section 65400 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 681, as introduced, Wahab. Planning and zoning: annual progress report: density bonus ordinances.

Existing law, known as the Density Bonus Law, requires a city, county, or city and county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city, county, or city and county with a density bonus and other incentives or concessions for the production of lower income housing units, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Existing law requires a city, county, or city and county to adopt an ordinance that specifies how compliance with the Density Bonus Law will be implemented.

The Planning and Zoning Law requires each county and each city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that includes, among other specified mandatory elements, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Office of Land Use and Climate Innovation, formerly known as the Office of Planning and Research, and the Department of Housing and Community Development that includes, among other specified information, data from all projects approved to receive a density bonus from the city or county, as specified.

This bill would require a city or county that has a local density bonus ordinance to submit as part of their annual report a copy of the text of that ordinance. By increasing the scope of data required to be reported in the annual report, the bill would impose a state-mandated local program. The bill would also make a nonsubstantive change to update a reference to the Office of Land Use and Climate Innovation in these provisions.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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, as
- 2 amended by Section 1.3 of Chapter 723 of the Statutes of 2024, is
- 3 amended to read:
- 4 65400. (a) After the legislative body has adopted all or part
- 5 of a general plan, the planning agency shall do both of the
- 6 following:
- 7 (1) Investigate and make recommendations to the legislative
- 8 body regarding reasonable and practical means for implementing
- 9 the general plan or element of the general plan so that it will serve
- 10 as an effective guide for orderly growth and development,
- 11 preservation and conservation of open-space land and natural
- 12 resources, and the efficient expenditure of public funds relating to
- 13 the subjects addressed in the general plan.
- 14 (2) Provide by April 1 of each year an annual report to the
- 15 legislative body, the Office of ~~Planning and Research~~, *Land Use*
- 16 *and Climate Innovation*, and the Department of Housing and
- 17 Community Development that includes all of the following:
- 18 (A) The status of the plan and progress in its implementation.
- 19 (B) (i) (I) The progress in meeting its share of regional housing
- 20 needs determined pursuant to Section 65584, including the need
- 21 for extremely low income households, as determined pursuant to

1 Section 65583, and local efforts to remove governmental
2 constraints to the maintenance, improvement, and development of
3 housing pursuant to paragraph (3) of subdivision (c) of Section
4 65583.

5 (II) The annual report shall include the progress in meeting the
6 city's or county's progress in meeting its share of regional housing
7 need, as described in subclause (I), for the sixth and previous
8 revisions of the housing element.

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

25 (iii) The report may include the number of units that have been
26 completed pursuant to subdivision (c) of Section 65583.1. For
27 purposes of this paragraph, committed assistance may be executed
28 throughout the planning period, and the program under paragraph
29 (1) of subdivision (c) of Section 65583.1 shall not be required.
30 The report shall document how the units meet the standards set
31 forth in that subdivision.

32 (iv) The planning agency shall include the number of units in
33 a student housing development for lower income students for which
34 the developer of the student housing development was granted a
35 density bonus pursuant to subparagraph (F) of paragraph (1) of
36 subdivision (b) of Section 65915.

37 (C) The number of housing development applications received
38 in the prior year, including whether each housing development
39 application is subject to a ministerial or discretionary approval
40 process.

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

3 (E) (i) The number of units approved and disapproved in the
4 prior year, which shall include all of the following subcategories:

5 (I) The number of units located within an opportunity area.

6 (II) For the seventh and each subsequent revision of the housing
7 element, the number of units approved and disapproved for acutely
8 low income households within each opportunity area.

9 (III) For the seventh and each subsequent revision of the housing
10 element, the number of units approved and disapproved for
11 extremely low income households within each opportunity area.

12 (IV) The number of units approved and disapproved for very
13 low income households within each opportunity area.

14 (V) The number of units approved and disapproved for lower
15 income households within each opportunity area.

16 (VI) The number of units approved and disapproved for
17 moderate-income households within each opportunity area.

18 (VII) The number of units approved and disapproved for above
19 moderate-income households within each opportunity area.

20 (ii) For purposes of this subparagraph, “opportunity area” means
21 a highest, high, moderate, or low resource area pursuant to the
22 most recent “CTCAC/HCD Opportunity Map” published by the
23 California Tax Credit Allocation Committee and the Department
24 of Housing and Community Development.

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 Section 65583 and Section 65584.09. The listing of sites shall also
33 include any additional sites that may have been required to be
34 identified by Section 65863.

35 (H) (i) The number of units of housing demolished and new
36 units of housing, including both rental housing and for-sale housing
37 and any units that the County of Napa or the City of Napa may
38 report pursuant to an agreement entered into pursuant to Section
39 65584.08, that have been issued a completed entitlement, a building
40 permit, or a certificate of occupancy, thus far in the housing

1 element cycle, and the income category, by area median income
2 category, that each unit of housing satisfies. That production report
3 shall do the following:

4 (I) For each income category described in this subparagraph,
5 distinguish between the number of rental housing units and the
6 number of for-sale units that satisfy each income category.

7 (II) For each entitlement, building permit, or certificate of
8 occupancy, include a unique site identifier that must include the
9 assessor's parcel number, but may also include street address, or
10 other identifiers.

11 (ii) For the County of Napa and the City of Napa, the production
12 report may report units identified in the agreement entered into
13 pursuant to Section 65584.08.

14 (I) The number of applications submitted pursuant to subdivision
15 (a) of Section 65913.4, the location and the total number of
16 developments approved pursuant to subdivision (c) of Section
17 65913.4, the total number of building permits issued pursuant to
18 subdivision (c) of Section 65913.4, the total number of units
19 including both rental housing and for-sale housing by area median
20 income category constructed using the process provided for in
21 subdivision (c) of Section 65913.4.

22 (J) If the city or county has received funding pursuant to the
23 Local Government Planning Support Grants Program (Chapter 3.1
24 (commencing with Section 50515) of Part 2 of Division 31 of the
25 Health and Safety Code), the information required pursuant to
26 subdivision (a) of Section 50515.04 of the Health and Safety Code.

27 (K) The progress of the city or county in adopting or amending
28 its general plan or local open-space element in compliance with
29 its obligations to consult with California Native American tribes,
30 and to identify and protect, preserve, and mitigate impacts to
31 places, features, and objects described in Sections 5097.9 and
32 5097.993 of the Public Resources Code, pursuant to Chapter 905
33 of the Statutes of 2004.

34 (L) *If the city or county has a density bonus ordinance pursuant*
35 *to Section 65915, a copy of the text of that ordinance.*

36 ~~(L)~~

37 (M) The following information with respect to density bonuses
38 granted in accordance with Section 65915:

39 (i) The number of density bonus applications received by the
40 city or county.

1 (ii) The number of density bonus applications approved by the
2 city or county.

3 (iii) Data from all projects approved to receive a density bonus
4 from the city or county, including, but not limited to, the percentage
5 of density bonus received, the percentage of affordable units in
6 the project, the number of other incentives or concessions granted
7 to the project, and any waiver or reduction of parking standards
8 for the project.

9 ~~(M)~~

10 (N) The following information with respect to each application
11 submitted pursuant to Chapter 4.1 (commencing with Section
12 65912.100):

13 (i) The location of the project.

14 (ii) The status of the project, including whether it has been
15 entitled, whether a building permit has been issued, and whether
16 or not it has been completed.

17 (iii) The number of units in the project.

18 (iv) The number of units in the project that are rental housing.

19 (v) The number of units in the project that are for-sale housing.

20 (vi) The household income category of the units, as determined
21 pursuant to subdivision (f) of Section 65584.

22 ~~(N)~~

23 (O) A list of all historic designations listed on the National
24 Register of Historic Places, the California Register of Historic
25 Resources, or a local register of historic places by the city or county
26 in the past year, and the status of any housing development projects
27 proposed for the new historic designations, including all of the
28 following:

29 (i) Whether the housing development project has been entitled.

30 (ii) Whether a building permit has been issued for the housing
31 development project.

32 (iii) The number of units in the housing development project.

33 (b) (1) (A) The department may request corrections to the
34 housing element portion of an annual report submitted pursuant
35 to paragraph (2) of subdivision (a) within 90 days of receipt. A
36 planning agency shall make the requested corrections within 30
37 days after which the department may reject the report if the report
38 is not in substantial compliance with the requirements of that
39 paragraph.

1 (B) If the department rejects the housing element portion of an
2 annual report as authorized by subparagraph (A), the department
3 shall provide the reasons the report is inconsistent with paragraph
4 (2) of subdivision (a) to the planning agency in writing.

5 (2) If a court finds, upon a motion to that effect, that a city,
6 county, or city and county failed to submit, within 60 days of the
7 deadline established in this section, the housing element portion
8 of the report required pursuant to subparagraph (B) of paragraph
9 (2) of subdivision (a) that substantially complies with the
10 requirements of this section, the court shall issue an order or
11 judgment compelling compliance with this section within 60 days.
12 If the city, county, or city and county fails to comply with the
13 court's order within 60 days, the plaintiff or petitioner may move
14 for sanctions, and the court may, upon that motion, grant
15 appropriate sanctions. The court shall retain jurisdiction to ensure
16 that its order or judgment is carried out. If the court determines
17 that its order or judgment is not carried out within 60 days, the
18 court may issue further orders as provided by law to ensure that
19 the purposes and policies of this section are fulfilled. This
20 subdivision applies to proceedings initiated on or after the first
21 day of October following the adoption of forms and definitions by
22 the Department of Housing and Community Development pursuant
23 to paragraph (2) of subdivision (a), but no sooner than six months
24 following that adoption.

25 (c) The Department of Housing and Community Development
26 shall post a report submitted pursuant to this section on its internet
27 website within a reasonable time of receiving the report.

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.