

Attachment 1:
Sections of AB 2339 Pertaining to Emergency Shelters

Assembly Bill No. 2339

CHAPTER 654

An act to amend Sections 65583 and 65863 of the Government Code, relating to land use.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2339, Bloom. Housing element: emergency shelters: regional housing need.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city that includes a housing element. Existing law requires that the housing element identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and make adequate provision for the existing and projected needs of all economic segments of a community. Existing law also requires that the housing element include an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels.

This bill would revise the requirements of the housing element, as described above, in connection with zoning designations that allow residential use, including mixed use, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The bill would delete language regarding emergency shelter standards structured in relation to residential and commercial developments and instead require that emergency shelters only be subject to specified written, objective standards. The bill would specify that emergency shelters for purposes of these provisions include other interim intervention, including, but not limited to, navigation centers, bridge housing, and respite or recuperative care.

The bill would require that identified zoning designations where emergency shelters are allowed to include sites that meet at least one of certain prescribed standards. In this regard, the bill would require those sites to be either (1) vacant and zoned for residential use; (2) vacant and zoned for nonresidential use if the local government can demonstrate how the sites are located near amenities and services that serve people experiencing homelessness; or (3) nonvacant if the site is suitable for use as a shelter in the current planning period, as specified. The bill would also authorize a local government to accommodate its need for emergency shelters on sites owned by the local government if it demonstrates that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities, as specified. The bill would require the identified zoning designations to include sufficient sites to accommodate the need for shelters, as specified. The bill would also require that the number of people experiencing homelessness that can be accommodated on each identified site under these provisions be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person, except as specified.

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(2) The Planning and Zoning Law requires a city, county, or city and county to ensure that its housing element inventory, as described, or its housing element program to make sites available, as described, can accommodate its share of the regional housing need at all times throughout the planning period.

This bill would require each city, county, or city and county to ensure that its housing element inventory or its housing element program can accommodate its remaining unmet share of the regional housing need and any remaining unaccommodated portion of the regional housing need, as defined, from the prior planning period, at all times throughout the planning period.

Existing law also prohibits a city, county, or city and county from reducing, requiring, or permitting the reduction of the residential density to a lower residential density that is below the density that was utilized by the Department of Housing and Community Development in determining compliance with housing element law, unless the city, county, or city and county makes specified written findings supported by substantial evidence.

The bill would instead prohibit a city, county, or city and county from reducing, requiring, or permitting the reduction of the residential density to a lower residential density for any parcel identified to meet its current share of the regional housing need or any unaccommodated portion of the regional housing need, as defined, from the prior planning period, unless the city, county, or city and county makes specified written findings supported by substantial evidence.

(3) By imposing various new duties on local governments with regard to the administration of housing elements, the 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.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Bill Text

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

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SECTION 1.

Section 65583 of the Government Code is amended to read:

65583.

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

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

(4) (A) The identification of one or more zoning designations that allow residential uses, including mixed uses, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit and that are suitable for residential uses. The identified zoning designations shall include sufficient sites meeting the requirements of subparagraph (H) with sufficient capacity, as described in subparagraph (I), to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zoning designation or designations that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zoning designation or designations with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zoning designations where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards that apply to emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

(B) Emergency shelters shall only be subject to the following written, objective standards:

- (i) The maximum number of beds or persons permitted to be served nightly by the facility.
- (ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.
- (iii) The size and location of exterior and interior onsite waiting and client intake areas.

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(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(C) For purposes of this paragraph, “emergency shelter” shall include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care.

(D) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(E) If a local government has adopted written, objective standards pursuant to subparagraph (B), the local government shall include an analysis of the standards in the analysis of constraints pursuant to paragraph (5).

(F) A local government that can demonstrate, to the satisfaction of the department, the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction’s need and the needs of the other jurisdictions that are a part of the agreement for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zoning designation where new emergency shelters are allowed with a conditional use permit.

(G) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zoning designations for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(H) The zoning designation or designations where emergency shelters are allowed, as described in subparagraph (A), shall include sites that meet at least one of the following standards:

(i) Vacant sites zoned for residential use.

(ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with this zoning designation that are being used to satisfy the requirements of paragraph (1) are located near

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amenities and services that serve people experiencing homelessness, which may include,

- health care,
- transportation,
- retail,
- employment, and
- social services,
- or that the local government will provide free transportation to services or offer services onsite.

(iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for the current uses, market conditions, and incentives or standards to encourage shelter development.

(I) The zoning designation or designations shall have **sufficient sites** meeting the requirements of subparagraph (H) to accommodate the need for shelters identified pursuant to paragraph (7). The number of people experiencing homelessness that can be accommodated on any site shall be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person, unless the locality can demonstrate that one or more shelters were developed on sites that have fewer square feet per person during the prior planning period or the locality provides similar evidence to the department demonstrating that the site can accommodate more people experiencing homelessness. Any standard applied pursuant to this subparagraph is intended only for calculating **site capacity** pursuant to this section, and shall not be constructed as establishing a development standard applicable to the siting, development, or approval of a shelter.

(J) Notwithstanding subparagraph (H), a local government may accommodate the need for emergency shelters identified pursuant to paragraph (7) on sites owned by the local government if it demonstrates with substantial evidence that

- the sites will be made available for emergency shelter during the planning period,
- they are suitable for residential use, and
- the sites are located near amenities and services that serve people experiencing homelessness, which may include
 - health care,
 - transportation,
 - retail,

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- employment, and
- social services, or
- that the local government will provide free transportation to services or offer services onsite.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on the **capacity** necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in **an adopted 10-year plan to end chronic homelessness** and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.