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Legislative History of

CALIFORNIA GOVERNMENT CODE § 65589.5

As Amended By
Statutes of 2007, Chapter 633, § 4
Senate Bill 2 – Cedillo

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Authentication of the Records and Table of Contents

Legislative History Research Report Regarding:
CALIFORNIA GOVERNMENT CODE § 65589.5
As Amended By Statutes of 2007, Chapter 633, § 4, SB 2 – Cedillo

I, Lisa Hampton, declare that this report includes:

- *Historical documents relating to the above legislation.* These documents were obtained by the staff of LRI History LLC, or under their direction, and are true and correct copies of the originals obtained from the designated official, public sources in California unless another source is indicated, with the following exceptions: In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, paging and relevant identification have been inserted.

  Since 1983 LRI has specialized in the historical research surrounding the adoption, amendment and/or repeal of California statutes, regulations and constitutional provisions pursuant to California Code of Civil Procedure § 1859 which states in pertinent part: "In the construction of a statute the intention of the Legislature ... is to be pursued, if possible ...." Our research and expert witness services have assisted the courts in understanding and applying the underlying purpose of enactments in countless cases, such as *Redlands Community Hospital v. New England Mutual Life Insurance Co*, 23 Cal. App.4th 899 at 906 (1994). LRI also provides similar research for other states and at the federal level. (Formerly Legislative Research Institute, Legislative Research, Incorporated, and Legislative Research & Intent LLC).

- *A table of contents itemizing the documents.* This table of contents cites the sources of the documents.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and that I could and would so testify in a court of law if called to be a witness.

Executed March 4, 2020.

Lisa Hampton, President

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General Enactment History

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SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as introduced, Cedillo. Local planning.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of land suitable for residential development in meeting the jurisdiction's share of the regional housing need, including an analysis of population and employment trends and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households.

This bill would delete the provisions relating to extremely low income households.

(2) The Planning and Zoning Law also provides that any amendment to the statutory provisions governing the housing element and the locality's existing and projected need for housing that alters the required content of the housing element shall apply to any housing element or housing element amendment prepared pursuant to specified provisions where the city, county, or city and county submits the first draft to the department for review more than 90 days after the effective date of the amendment or fails to submit the first draft before a specified date.

This bill would delete these provisions.

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(3) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would delete supportive housing single-room occupancy units from these provisions. The bill would also require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(4) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define “special needs facility” as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in

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other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(5) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate

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these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, *the following definitions apply*:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) *"Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.*

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.

SEC. 3. 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, ~~and~~ 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's

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owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the *use for an emergency shelter or an* owner-occupied or *rental* multifamily residential ~~use~~ *development* may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

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(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters *and* housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval, *including through the use of design review standards,* in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter~~, including through the use of design review standards,~~ unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for

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the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by

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land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, *in accordance with Section 65583.2,* to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

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(e) ~~This~~ *Nothing in this* section ~~does not~~ *shall be construed to* relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~ *Neither shall anything in this* section ~~does not~~ *be construed to* relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~This~~ *Nothing in this* section ~~also does not~~ *shall be construed to* prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by ~~the~~ housing development project, special needs facility, or emergency shelter. ~~This~~ *Nothing in this* section ~~does not~~ *shall be construed to* prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to ~~the~~ housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

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(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal

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commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) *"Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.*

(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its

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decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited

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to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

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AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs, *including an inventory of adequate sites for residential development,* and an inventory of ~~land suitable for residential development in meeting the jurisdiction's share of the regional housing need, including an analysis of population and employment trends and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households~~ *resources and constraints relevant to the meeting of these needs*.

This bill would ~~delete the provisions relating to extremely low income households~~ *add emergency shelters and transitional housing to these provisions and would add provisions by which a local government may satisfy the requirement to identify sites suitable for the development of emergency shelters as a use by right, as defined*.

(2) The Planning and Zoning Law also provides that any amendment to the statutory provisions governing the housing element and the locality's existing and projected need for housing that alters the required

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content of the housing element shall apply to any housing element or housing element amendment prepared pursuant to specified provisions where the city, county, or city and county submits the first draft to the department for review more than 90 days after the effective date of the amendment or fails to submit the first draft before a specified date.

This bill would ~~delete~~ *revise* these provisions.

(3) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and ~~rental~~ multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would, in addition, add emergency shelters ~~and~~, transitional housing*, and rental multifamily residential developments* to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would delete ~~supportive housing single-room occupancy units~~ *multifamily residential use* from these provisions. The bill would also require *a* local ~~governments~~ *agency* to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

~~The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.~~

(4) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households, *a special needs facility or an emergency shelter,* or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

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~~This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.~~

This bill would make technical changes to these provisions.

(5) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in

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inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.

SEC. 3. 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,

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constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in

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implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, ~~or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the~~ *an emergency shelter, or condition approval, in a manner that renders the* project infeasible for development for the use of very low, low-, or moderate-income households, ~~a special needs facility, or an emergency shelter~~ *including through the use of design review standards,* unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse

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impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is

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inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted

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on the site and proposed by housing development project, special needs facility, or emergency shelter. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance

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with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.~~

~~(7)~~

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied

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by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the

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development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith"

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shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

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a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters, transitional housing, and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. The bill would also delete multifamily

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residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add special needs facilities and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a special needs facility or an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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.

~~(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs, including an inventory of adequate sites for residential development, and an inventory of resources and constraints relevant to the meeting of these needs.~~

~~This bill would add emergency shelters and transitional housing to these provisions and would add provisions by which a local government may satisfy the requirement to identify sites suitable for the development of emergency shelters as a use by right, as defined.~~

~~(2) The Planning and Zoning Law also provides that any amendment to the statutory provisions governing the housing element and the~~

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~~locality's existing and projected need for housing that alters the required content of the housing element shall apply to any housing element or housing element amendment prepared pursuant to specified provisions where the city, county, or city and county submits the first draft to the department for review more than 90 days after the effective date of the amendment or fails to submit the first draft before a specified date.~~

~~This bill would revise these provisions.~~

~~(3) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.~~

~~This bill would, in addition, add emergency shelters, transitional housing, and rental multifamily residential developments to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would delete multifamily residential use from these provisions. The bill would also require a local agency to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.~~

~~(4) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households, a special needs facility or an emergency shelter, or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.~~

~~This bill would make technical changes to these provisions.~~

~~(5) 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.~~

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

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~~SEC. 2. Section 65582 of the Government Code is amended to read:~~

~~65582. As used in this article, the following definitions apply:~~

~~(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.~~

~~(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.~~

~~(c) "Department" means the Department of Housing and Community Development.~~

~~(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.~~

~~(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.~~

~~(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.~~

~~SEC. 3. 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:~~

~~(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of~~

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~~Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.~~

~~(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.~~

~~(o) This section shall be known, and may be cited, as the Housing Accountability Act.~~

~~SEC. 6. Section 65852.12 is added to the Government Code, to read:~~

~~65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.~~

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, *the following definitions apply*:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

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with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, *including special needs facilities and emergency shelters,* is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible *emergency shelters and* housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands

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for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter,* or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter,* including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. *In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.* Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, *special needs facility, or emergency shelter* as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible

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method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households *or rendering the development of the special needs facility or emergency shelter financially infeasible*. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households *or rendering the development of the special needs facility or emergency shelter financially infeasible*.

(4) The development project, *special needs facility, or emergency shelter* is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, *special needs facility, or emergency shelter* is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. *This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as*

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suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed *in accordance with Section 65583.2,* to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) ~~This~~ *Nothing in this* section ~~does not~~ *shall be construed to* relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~ *Neither shall anything in this* section ~~also does not~~ *be construed to* relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~This~~ *Nothing in this* section ~~does not~~ *shall be construed to* prohibit a local agency from requiring the development project, *special needs facility, or emergency shelter* to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. *A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards.* However, the development standards, conditions, and policies shall be applied to facilitate

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and accommodate development at the density permitted on the site and proposed by the development project. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project, *special needs facility, or emergency shelter*.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, *including special needs facilities and emergency shelter,* is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance

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with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

~~(4)~~

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(5)~~

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development

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is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, *special needs facility, or emergency shelter* may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of *a special needs facility, or emergency shelter, or* housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60

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days, including, but not limited to, an order that the local agency take action on the development project, *special needs facility, or emergency shelter*. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, *special needs facility, or emergency shelter*, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, *special needs facility, or emergency shelter* in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6

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of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

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

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AMENDED IN SENATE MARCH 19, 2007

AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters~~, transitional housing,~~ and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and

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transitional housing are a permitted use, either by right or subject to a conditional use permit. The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add special needs facilities and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a special needs facility or an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of

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homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

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local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including special needs facilities and emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject ~~or make infeasible emergency shelters and housing developments~~ *or make infeasible housing developments, including special needs facilities and emergency shelters,* that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

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(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of ~~transitional housing~~ *a special needs facility* or an emergency shelter, the jurisdiction shall have met or exceeded the need for ~~transitional~~ *special needs facilities* housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this

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paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent

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with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed ~~in accordance with Section 65583.2,~~ to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the

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jurisdiction's share of the regional housing need pursuant to Section ~~65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development~~ *65574. However, the development* standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. *A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to, and consistent with, meeting the jurisdiction's need for special needs facilities and emergency shelters, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.* This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including special needs facilities and emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income

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households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

~~(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:~~

~~(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.~~

~~(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.~~

~~(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.~~

(4) "Special needs facility" has the same meaning as defined in subdivision (f) of Section 65582.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing

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with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

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(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, or emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility, or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in ~~paragraph~~ *subdivision* (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for

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affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency, *including a charter city, county, or city and county,* shall designate zones where special needs facilities, as defined in Section ~~65589.5~~ *65582*, and transitional housing, as

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defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

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AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE MARCH 19, 2007

AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, ~~65583.2,~~ and 65589.5 of~~,~~ ~~and to add Section 65852.12 to,~~ the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory *of* land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify ~~sites suitable for the development of~~ *a zone or zones where* emergency shelters under these provisions ~~as a use by right~~ *are allowed as a permitted use without*

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a conditional use or other discretionary permit. ~~The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.~~ The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add ~~special needs facilities and~~ *supportive housing, transitional housing, and* emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of ~~a special needs facility or~~ *a housing development project or* an emergency shelter is based. The bill would define ~~"special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly~~ *supportive housing and transitional housing*. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

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(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters ~~and special needs facilities~~. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters ~~and special needs facilities~~ for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas ~~to locate special needs facilities~~ *for emergency shelters*. Cities and counties should include this as part of their planning process and locate ~~these facilities~~ *emergency shelters* where most appropriate in their community. The state should not dictate where these ~~residential special needs facilities~~ *emergency shelters* should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

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~~low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.~~

~~(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.~~

~~SEC. 5.~~

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including ~~special needs facilities and~~ emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that

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result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including ~~special needs facilities and~~ emergency shelters, that contribute to meeting the ~~housing~~ need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, ~~a special needs facility,~~ or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, ~~a special needs facility,~~ or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and

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definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of ~~a special needs facility or~~ an emergency shelter, the jurisdiction shall have met or exceeded the need for ~~special needs facilities housing or~~ emergency shelter, as identified pursuant to paragraph ~~(6)~~ *(7)* of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project~~, special needs facility,~~ or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the ~~special needs facility or~~ emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the ~~special needs facility or~~ emergency shelter financially infeasible.

(4) The development project~~, special needs facility,~~ or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project~~, special needs facility,~~ or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted

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a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. ~~This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.~~

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can realistically accommodate at least one emergency shelter of a feasible size, as required by paragraph (4) of subdivision (a)

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of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project~~, special needs facility,~~ or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section ~~65574~~ *65584*. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the~~ development project. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to, and consistent with, meeting the jurisdiction's need for special needs facilities and emergency shelters, as identified pursuant to paragraph (6) of~~ *development. Developments standards, conditions, and policies related to the development of emergency shelters shall be consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of* subdivision (a) of Section 65583. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide

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necessary public services and facilities to the development project~~,~~ ~~special needs facility,~~ or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including ~~special needs facilities and~~ emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of ~~either~~ *any* of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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~~(4) "Special needs facility" has the same meaning as defined in subdivision (f) of Section 65582.~~

~~(5)~~

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(6)~~

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be

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developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development~~, special needs facility,~~ or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of ~~a special needs facility, or~~ *an* emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project~~, special needs facility,~~ or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development~~, special needs facility,~~ or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes

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and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development~~, special needs facility,~~ or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

~~SEC. 6. Section 65852.12 is added to the Government Code, to read:~~

~~65852.12. A local agency, including a charter city, county, or city and county, shall designate zones where special needs facilities, as defined in Section 65582, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.~~

~~SEC. 7.~~

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

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AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE MARCH 19, 2007

AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify a zone or zones where emergency shelters under these provisions are allowed as

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a permitted use without a conditional use or other discretionary permit. The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a housing development project or an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

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(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

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(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social,

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and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or

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conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it

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is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can realistically accommodate at least one emergency shelter of a feasible size, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the

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local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Developments standards, conditions, and policies related to the development of emergency shelters shall be consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty

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stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied

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by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter,

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or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

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(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

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AMENDED IN ASSEMBLY JULY 2, 2007

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE MARCH 19, 2007

AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters and rental multifamily residential development to these provisions, as specified, and would

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add provisions by which a local government may identify a zone or zones where emergency shelters under these provisions are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a housing development project or an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of

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homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like *the* skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

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(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that

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limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need

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allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural

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or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or

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zones can realistically accommodate at least one emergency shelter of a feasible size, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) *(1)* Nothing in this section shall be construed to prohibit a local agency from requiring the development project ~~or emergency shelter~~ to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and ~~proposed by the development. Developments standards, conditions, and policies related to the development of emergency shelters shall be~~ *proposed by the development.*

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. ~~This~~ *However, the development standards, conditions, and*

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policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median

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income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its

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decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted

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at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or

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subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

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AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY JULY 2, 2007

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE MARCH 19, 2007

AMENDED IN SENATE MARCH 8, 2007

AMENDED IN SENATE JANUARY 22, 2007

SENATE BILL No. 2

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

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This bill would add emergency shelters ~~and rental multifamily residential development~~ to these provisions, as specified, and would add provisions ~~by which~~ *to the housing element that would require* a local government ~~may~~ *to* identify a zone or zones where emergency shelters ~~under these provisions~~ are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also *authorize a local government to satisfy all or part of this requirement by adopting and implementing a multijurisdictional agreement, as specified, and would* delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of ~~a housing development project or~~ an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

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(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

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emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

~~(d)~~

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

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(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

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(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income

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households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without

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a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to ~~reasonably~~ accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can ~~realistically~~ accommodate at least one emergency shelter ~~of a feasible size~~, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as

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identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of

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moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the

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project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including,

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but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

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Volume 4

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

2007

Constitution of 1879 as Amended

General Laws, Amendments to the Codes,
and Resolutions passed by the
California Legislature

2007–08 Regular Session
2007–08 First Extraordinary Session
2007–08 Second Extraordinary Session

Compiled by
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pursuant to Section 320 of the Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the combined interest and loan service rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a combined interest and loan service rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Subchapter VI (commencing with Section 601) of the federal act (33 U.S.C.A. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

CHAPTER 633

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

[Approved by Governor October 13, 2007. Filed with Secretary of State October 13, 2007.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

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(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient

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capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones 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 zones 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 are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(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.

(B) 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).

(C) 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 for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only

describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, 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 annual and seasonal need. 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.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that

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were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

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(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing

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designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

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(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy

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of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning

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ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the

need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

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(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

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(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the

development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency.

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Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

CHAPTER 634

An act to add and repeal Section 44099 of the Health and Safety Code, relating to air pollution.

[Approved by Governor October 13, 2007. Filed with Secretary of State October 13, 2007.]

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

SECTION 1. Section 44099 is added to the Health and Safety Code, to read:

44099. (a) As used in this section, "district" means the San Joaquin Valley Unified Air Pollution Control District.

(b) The district shall develop and administer, in consultation with the state board, a voluntary program to improve air quality by exchanging

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 2
AUTHOR : Cedillo
TOPIC : Local planning.

TYPE OF BILL :
Inactive
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
Oct. 13 Chaptered by Secretary of State. Chapter 633, Statutes of 2007.
Oct. 13 Approved by Governor.
Sept. 19 Enrolled. To Governor at 11:45 a.m.
Sept. 12 Senate concurs in Assembly amendments. (Ayes 26. Noes 12. Page 2663.) To enrollment.
Sept. 11 In Senate. To unfinished business.
Sept. 10 Read third time. Passed. (Ayes 42. Noes 31. Page 3204.) To Senate.
Sept. 6 Withdrawn from committee. Ordered placed on third reading.
Aug. 31 Read second time. Amended. Re-referred to Com. on RLS.
Aug. 30 From committee: Do pass as amended, but first amend, and re-refer to Com. on RLS. (Ayes 10. Noes 6.)
Aug. 22 Set, first hearing. Referred to APPR. suspense file.
July 11 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 4. Noes 2.) Re-referred to Com. on APPR.
July 2 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on H. & C.D.
June 28 From committee: Do pass, but first be re-referred to Com. on H. & C.D. (Ayes 5. Noes 2.) Re-referred to Com. on H. & C.D.
June 19 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
June 13 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
May 24 To Coms. on L. GOV. and H. & C.D.
May 17 In Assembly. Read first time. Held at Desk.
May 17 Read third time. Passed. (Ayes 27. Noes 11. Page 987.) To Assembly.
Apr. 24 Read second time. To third reading.
Apr. 23 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.
Apr. 16 Hearing postponed by committee. Set for hearing April 23.
Mar. 29 Set for hearing April 16.
Mar. 28 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 7. Noes 0. Page 414.) Re-referred to Com. on APPR.
Mar. 19 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.
Mar. 8 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.
Mar. 5 Set for hearing March 27.
Jan. 22 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.
Jan. 18 To Com. on T. & H.
2006
Dec. 5 From print. May be acted upon on or after January 4.
Dec. 4 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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Documents Generated During Senate Deliberations

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

Measure: **SB 2**

Author: **Cedillo**

Contact: **Nadia Leal/Megan Garcia**

1) **What does the bill do?**
Please see the attached fact sheet for more information.

2) **Why is the bill needed?**

Please see the attached fact sheet.

3) **Similar legislation: Has a similar bill been previously introduced? Identify author, session, bill #, and disposition of bill.**

SB 1322 (Cedillo 2007) vetoed by the Governor.

4) **Source: What person, organization, or governmental entity is sponsoring or requested introduction? Include name and phone number of contact person.**

Senator Cedillo is the sponsor of the bill.

5) **Please attach any of the following that are applicable:**
   - **Copies of background material in explanation of the bill, or state where such material is available.**
     For Assembly bills, please include policy, fiscal, and floor analyses.
   - **Copies of letters of support and opposition.**

It is imperative that you complete this worksheet and return it via email, along with all requested attachments as soon as possible to the appropriate consultant.

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SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 3048
Sacramento, CA 95814
(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

SB 2 Fair Share Zoning

What is the problem?

Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

Because homelessness affects people of all races, gender, age and geographic location there is a growing need for every city and county to plan for the location of adequate housing and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services. Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.

The disproportioned availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the concentration of services in inner cities and poor communities like Skid Row in Downtown Los Angeles.

What does SB 2 do?

SB 2 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such service in the community. Cities and Counties also have the option of meeting this requirement as a region. Cities would need to comply with this requirement at their next regular update cycle.

In addition, the bill requires cities and counties to designate areas that allow with conditional use if necessary special needs facilities and transitional housing. SB 2 also amends the anti-NIMBY law to include emergency shelters, transitional housing, and special needs facilities.

Who supports SB 2?

Senator Cedillo (sponsor)

For more information on this bill, please contact Nadia Leal at 916-651-4022 in the office of Senator Cedillo.

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 2
AUTHOR: CEDILLO
VERSION: 3/19/07
FISCAL: YES

Analysis by: Mark Stivers
Hearing date: March 27, 2007

SUBJECT:

Emergency shelters and special needs facilities

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;

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- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.
- Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.
- Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.
- Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.
- Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

The bill also amends the Housing Accountability Act to:

- Apply the law to emergency shelters and special needs facilities.
- Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.
- Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

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The bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

   This bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. The bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of facilities in many communities has the same effect by forcing people in need of shelter and residential care across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide housing and residential care for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to address the needs it self-identifies by zoning appropriate sites.

4. Regional approach encouraged. The goal of requiring each and every community to make sites available to address their own emergency shelters needs ensures equity across all communities. In areas with numerous small jurisdictions, however, regional or subregional approaches may be a more efficient way to provide shelter facilities. If adjacent communities can agree on a common strategy for identifying sites, the same objective is achieved. This bill allows communities to meet the site identification requirement for homeless shelters through a regional agreement adopted and implemented by all the participating jurisdictions that accommodates the combined shelter need. This approach has the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Veto message. This bill is identical in substance to SB 1322 (Cedillo) of 2006, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

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Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

6. Technical amendment. On page 18, line 4 strike "65574" and insert "65584".

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 21, 2007)

SUPPORT: AFSCME
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
Eimago, Inc.
Jericho
Moller International
National Association of Social Workers
Progressive Jewish Alliance
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSED: None received.

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File Item #
SB 2 (Cedillo)
Oppose

Senate Transportation & Housing: X-X (3/27/07)
(AYE: NO: ABS:)
Senate Appropriations: X-X
(AYE: NO: ABS:)
Vote requirement: 21
Version Date: 3/19/07

Quick Summary
Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters. Requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made

Analysis
Arguments in Support:
According to the author, "homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year."

SB 2 requires a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of that service.

Every community should take responsibility for housing its citizens, including the homeless. This bill therefore requires each community to take the responsibility of appropriate planning for the homeless seriously rather than sloughing it off on other communities.

Arguments in Opposition:
Constricting Local Control. Local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a third of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the

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behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility necessary to craft local plans that best suits local needs.

SB 2 further limits local control by limiting the authority of local governments to condition or deny certain projects as would otherwise be allowed by law.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, members may wish to consider whether or not this is appropriate method for meeting the needs of the homeless across the entire state.

Governor's Veto. Last year Governor Schwarzenegger vetoed SB 1322 (Cedillo, 2006) which was nearly identical to SB 2, the veto message in part stated:

> *Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.*

Other Issues:

Local Control. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law.

At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Digest

Defines "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law that are licensed and serve seven or more persons.

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Requires local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

Requires local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

Requires cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

Allows adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all participating cities and counties.

Amends the Housing Accountability Act to:
Apply the law to emergency shelters and special needs facilities.

Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

Amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Background

Housing Element Law. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Provided by LRI History LLC **2007-633 Page 137 of 1377**

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right. If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Previous Legislation.
SB 1322 (Cedillo, 2006) Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made. *Senate Floor Vote: 25-11 (NO: All Republicans, except; ABS: Margett, McClintock).*

Support & Opposition Received

Support: AFSCME; California Rural Legal Assistance Foundation; Central City Association of Los Angeles; Eimago, Inc.; Jericho; Moller International; National Association of Social Workers; Progressive Jewish Alliance; Shelter Partnership; Union Rescue Mission; Western Center on Law and Poverty

Opposition: None on File.

Senate Republican Office of Policy/*Ryan Eisberg*

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DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

Honorable Gilbert Cedillo
Member of the Senate
State Capitol, Room 5100
Sacramento, CA 95814

Dear Senator Cedillo:

Our office has reviewed SB 2, and on the basis of our attached analysis of available information, we regret that we must oppose your legislation. If you feel that we may have overlooked factors that may be important in evaluating your legislation, please call me at 445-8610 and we will arrange any assistance necessary.

Sincerely,

TOM SHEEHY
Deputy Director

Attachment

Provided by LRI History LLC

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 19, 2007
POSITION: Oppose

BILL NUMBER: SB 2
AUTHOR: G. Cedillo

BILL SUMMARY: Local Planning: Development By Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends an oppose position for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal	Date	Program Budget Manager	Date
(0740) K. Amann	4/5/07	Mark Hill	4/5/07
Department Deputy Director			Date
Original Signed By: Thomas L. Sheehy			
Governor's Office: By:		Date: APR 11 2007 ORIGINAL SIGNED BY CURT AUGUSTINE	Position Approved ✓ Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

Provided by LRI History LLC

ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right." A special needs facility is defined to include any of the following if licensed and serving seven or more people: community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Related Bills:

SB 1322 (Cedillo) from last year was essentially identical to this bill. The veto message indicated that the bill would deny impacted groups from having imput on proposed developments and would lead to an increase in litigation brought against cities and counties that would deplete local government resources, rather than helping improve the availability of special needs housing.

Chapter 891, Statutes of 2006 requires local governments to analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites when developing the local housing element.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$0	C	$73	C	$145	0001

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 2

THIRD READING

Bill No: SB 2
Author: Cedillo (D)
Amended: 3/19/07
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Emergency shelters and special needs facilities

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at

CONTINUED

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appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

CONTINUED

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This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, this bill amends housing element law to:

1. Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.

2. Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

3. Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

4. Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

5. Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

This bill also amends the Housing Accountability Act to:

1. Apply the law to emergency shelters and special needs facilities.

CONTINUED

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2. Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

3. Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

This bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

> "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.
>
> "Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/16/07)

American Federation of State, County and Municipal Employees

CONTINUED

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California Council of Community Mental Health Agencies
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
EIMAGO, Inc.
Gray Panthers
Housing California
Jericho
Mayor Antonio Villaraigosa, City of Los Angeles
MCR Public Affairs
Moller International
National Association of Social Workers
Northeast Democratic Club
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 4/24/07)

Department of Finance

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

CONTINUED

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ARGUMENTS IN OPPOSITION: The Department of Finance states in opposition:

"Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

"It many not be feasible to implement approval 'by right' of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions."

JJA:mw 4/24/07 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
**** END ****

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File Item #
SB 2 (Cedillo)
Oppose

Senate Transportation & Housing: 7-0 (3/27/07)
(ABS: McClintock, Ashburn, Dutton, Harman)
Senate Appropriations: (Senate Rule 28.8)
Vote requirement: 21
Version Date: 3/19/07

Quick Summary
Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters. Requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

Fiscal Effect 8-31-07 CD

SIGNIFICANT COSTS
State. The bill would result in costs of approximately $200,000 for additional resources within the Department of Housing and Community Development for workload associated with reviewing local housing element plans.

Local. Increased local government costs associated with additional data elements required as part of each local housing element plan. These additional costs would be borne by local governments, as the state does not reimburse local governments for workload associated with housing element plans.

Fiscal Consultant: Chantele Denny

Analysis
Arguments in Support:
According to the author, "homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year."

SB 2 requires a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted.

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The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of that service.

Every community should take responsibility for housing its citizens, including the homeless. This bill therefore requires each community to take the responsibility of appropriate planning for the homeless seriously rather than sloughing it off on other communities.

Arguments in Opposition:
Constricting Local Control. Local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a third of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility necessary to craft local plans that best suits local needs.

SB 2 further limits local control by limiting the authority of local governments to condition or deny certain projects as would otherwise be allowed by law.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, members may wish to consider whether or not this is appropriate method for meeting the needs of the homeless across the entire state.

Governor's Veto. Last year Governor Schwarzenegger vetoed SB 1322 (Cedillo, 2006) which was nearly identical to SB 2, the veto message in part stated:

> *Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.*

Other Issues:
Local Control. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being

said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law.

At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Digest
Defines "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law that are licensed and serve seven or more persons.

Requires local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

Requires local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

Requires cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

Allows adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all participating cities and counties.

Amends the Housing Accountability Act to:
Apply the law to emergency shelters and special needs facilities.

Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards

appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

Amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Background

Housing Element Law. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right. If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Previous Legislation.

SB 1322 (Cedillo, 2006) Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made. *Senate Floor Vote: 25-11 (NO: All Republicans, except; ABS: Margett, McClintock).*

Support & Opposition Received

Support: AFSCME; California Rural Legal Assistance Foundation; Central City Association of Los Angeles; Eimago, Inc.; Jericho; Moller International; National Association of Social Workers; Progressive

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Jewish Alliance; Shelter Partnership; Union Rescue Mission; Western Center on Law and Poverty

Opposition: None on File.

Senate Republican Office of Policy/*Ryan Eisberg*

Provided by LRI History LLC

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Documents Generated During Assembly Deliberations

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

RETURN IMMEDIATELY

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
ANNA CABALLERO, CHAIR

MEASURE: SB 2 Fair Share Zoning
AUTHOR: Senator Gil Cedillo

STAFF CONTACT: Megan Garcia
PHONE: 651-4022

NOTE: To allow adequate time for committee staff to analyze the bill, all committee worksheets shall be returned to the committee no later than five (5) legislative days after delivery to the author's office (*Committee Rule 1*).

1. Origin of the bill:

   a) **Who is the sponsor of this bill?** What is the source of the bill? (What person, organization, or government entity requested introduction?)
   SB 2 is self-sponsored by Senator Gil Cedillo.

   b.) Has a similar bill been previously introduced (by any author)? If so, please identify the session, bill number and disposition of the bill.
   SB 1322 Fair Share Zoning was self-sponsored last year (2005-2006) by Senator Gil Cedillo. SB 1322 would have required a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters, residential service facilities and transitional housing are allowed to locate without the ability of the local governing body to change the plan once it is adopted.

2. Please provide a statement of the author's purpose for the bill, which may be used in the Committee's analysis, including ***in detail*** the problem or deficiency in the present law that the bill seeks to remedy, and how the bill resolves the problem?
   See attached information.

   Please attach copies of any background material, including any interim committee reports, in explanation of the bill; state where such material is available for reference by committee staff. (S.B.'s PLEASE ATTACH POLICY, FISCAL & FLOOR ANALYSES.)

3. Please attach copies of letters of support or opposition from any group, organization, or governmental agency. (PLEASE SUBMIT ONE ORIGINAL AND ONE COPY OF WORKSHEET WITH ATTACHMENTS.)

5. If you plan substantive amendments to this bill prior to hearing, please explain briefly the substance of the amendments to be prepared and bring what is taken to Legislative Counsel immediately to the committee office. **NOTE: ORIGINAL (SIGNED) PLUS 7 COPIES OF LEGISLATIVE COUNSEL AMENDMENTS MUST BE RECEIVED IN COMMITTEE OFFICE BY 5:00 P.M. OF THE MONDAY PRECEDING THE WEEK OF THE HEARING (*Committee Rule 6(b)*).**
   A working group has been meeting on a regular basis regarding amendments to SB 2 which we hope to deliver to Legislative Counsel by June 11, 2007. Members of the working group include:
   Department of Housing and Community Development
   Assembly Local Government Committee
   Office of the Governor Arnold Schwarzenegger, Office of Planning and Research
   California State Association of Counties

Provided by LRI History LLC

League of California Cities
Senate Transportation and Housing Committee
California Rural Legal Assistance Foundation

4. How much time do you think will be necessary to consider this bill in the committee?
Not sure at this time.

RETURN TO: ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
ROOM 157, 1020 N STREET (LOB) (PHONE: 319-3958)
ATTENTION: DIXIE PETTY FAX: 319-3959

Provided by LRI History LLC

Statement from Senator Gil Cedillo

SB2 would simply require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. Cities and counties have the ability of reaching this decision as a region. Cities would need to comply at their next regular update cycle.

SB 2 also requires cities and counties to designate areas that allow, with conditional use, special needs facilities and transitional housing. SB 2 further amends the anti-NIMBY law to include emergency shelters, transitional housing, and special needs facilities.

SB 2 does not require cities and counties to fund or build such facilities, it simply requires them to identify sites where emergency shelters are allowed as a use by-right and areas for special needs facilities and transitional housing all within the planning period.

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As the Walter Reed scandal reminds us, such facilities will prove vital as veterans return home from Iraq and need services like those provided in special needs facilities, emergency shelters and transitional housing. It is our responsibility to ensure there is a mechanism that allows services to locate where they are needed - anywhere in our state - for our veterans and others who are homeless or in need of support and services.

Historically, homelessness has been viewed as an urban problem. The reality is that homelessness, mental illness, and substance- abuse affect people of all races, gender, age, and geographic location. It is appropriate that cities and counties identify their local need for services and identify where those services could locate should a provider wish open a facility.

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SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 3048
Sacramento, CA 95814
(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

SB 2 Fair Share Zoning

What is the problem?

Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

Because homelessness affects people of all races, gender, age and geographic location there is a growing need for every city and county to plan for the location of adequate housing and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services. Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.

The disproportioned availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the concentration of services in inner cities and poor communities like Skid Row in Downtown Los Angeles.

What does SB 2 do?

SB 2 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The location of sites within the jurisdiction is at the total discretion of the governing body. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such service in the community. Cities and Counties also have the option of meeting this requirement as a region. Cities would need to comply with this requirement at their next regular update cycle.

In addition, the bill requires cities and counties to designate areas that allow, with conditional use, special needs facilities and transitional housing. SB 2 also amends the anti-NIMBY law to include emergency shelters, transitional housing, and special needs facilities.

For more information on this bill, please contact Megan Garcia at 916-651-4022 in the office of Senator Cedillo.

Supporters
California Rural Legal Assistance Foundation
Central City Association
AFSCME (American Federation State County Municipal Employees)
National Association of Social Workers, California Chapter
Progressive Jewish Alliance
MCR Public Affairs
EIMAGO Inc – The Center for Human, Economic, and Community Development
Union Rescue Mission
Shelter Partnership
Western Center for Law and Poverty
Housing California
Northeast Democratic Club
Mayor of LA Antonio R. Villaraigosa
Gray Panthers
San Diego Housing Federation
California Council of Community Mental Health Agencies
ACLU – American Civil Liberties Union
Senator Edward Vincent, District 25: Part of Los Angeles
Assemblymember Mervyn Dymally, District 52: Part of Los Angeles
State Senator Patricia Wiggins, District 2: Humboldt, Lake, Mendocino, Napa and part of Solano and Sonoma
Los Angeles County Sheriff, Lee Baca
San Francisco Mayor Gavin Newsom
San Francisco City and County
Los Angeles City Council

For more information on this bill, please contact Megan Garcia at 916-651-4022 in the office of Senator Cedillo.

Provided by LRI History LLC

SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 5100
Sacramento, CA 95814
(916) 651-4022

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

Possible Questions and Answers for SB 2

1. Does SB 2 create an unfunded mandate?

- SB 2 simply requires cities and counties to plan.
- SB 2 simply adds emergency shelters, special needs facilities, and transitional housing to the already established requirements of the housing element and planning and zoning law. This requirement exists for rental housing and mobile homes in the housing element and for granny flats in the planning and zoning law.
- Cities and counties would need to comply with this new requirement at their next regular update (every 6 years) and this requirement will become part of the housing and planning requirements that cities already need to comply with.

2. Does SB 2 limit the discretion of local governments for special needs facilities for seven or more persons?

- **NO**. SB 2 is about LOCAL CONTROL. All the bill asks is that cities plan for their homeless population.
- Under SB 2, local governments decide where these shelters and facilities will be located, how many facilities they need to plan for.
- This bill does not treat homeless shelters and special needs facilities like group homes of 6 or fewer which can locate anywhere without the consent of local government.

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- This bill lets local governments make ALL the decisions about where emergency shelters can locate including areas in the community.

3. Does SB 2 encourage litigation by increasing scope of attorney fee awards?

- SB 2 adds special needs facilities to the Anti-NIMBY law to protect these facilities from unreasonable community opposition.

4. Does SB 2 change the process in the housing element for emergency shelters?

- **No**, SB 2 ensures that cities and counties who have already identified sites for emergency shelters or who have not identified sites to do so by-right (without conditional requirements).

- The conditional-use permit is being used by some cities and counties to deter emergency shelters from coming into a city or county by demanding highly unreasonable conditions as a means to deter the shelter from locating there.

- Under this bill, cities have the power to decide where the sites are located and the number of sites needed according to their need. Locals are allowed to require management standards to ensure the safety and security of their community.

5. Does SB 2 affect cities or counties who already do their fair share of providing shelters by increasing the number of shelters they need to provide?

- **No**. Cities like Los Angeles, San Francisco, Oakland, and Santa Monica (to name a few) who currently provide a high level of

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service to their homeless and special needs population would not be required to take on additional responsibility.

- They would simply need to identify the existing sites in their next housing element update.

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Date of Hearing: June 27, 2007

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Anna Marie Caballero, Chair
SB 2 (Cedillo) – As Amended: June 19, 2007

SENATE VOTE: 27-11

SUBJECT: Local planning.

SUMMARY: Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Specifically, this bill:

1) Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

2) Specifies that the identified zone or zones shall include sufficient capacity to reasonably accommodate the need for emergency shelter.

3) Requires that the local government demonstrate that the identified zone or zones can realistically accommodate at least one emergency shelter of a feasible size.

4) Specifies that if the local government cannot identify a zone or zones with sufficient capacity, the local government shall amend its zoning ordinance to include such a zone or zones prior to or concurrent with the adoption of the housing element.

5) Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

6) Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

7) States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

   a) The maximum number of beds or persons permitted to be served nightly by the facility;

   b) Off-street parking, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;

   c) The size and location of client intake areas;

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d) The provision of onsite management;

e) The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart;

f) The length of stay;

g) Lighting; and

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

8) Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

9) Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other multifamily dwellings in the same zone.

10) Applies the provisions of the Housing Accountability Act to emergency shelters.

11) Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

EXISTING LAW:

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

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6) Requires each housing element to identify adequate sites to satisfy the community's share of the regional housing need.

7) Requires a city or county, to the extent that it does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, to adopt a program to rezone land to accommodate the need on sites that allow for the development of housing as a use by right, meaning that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval.

8) Requires the housing element to provide for the following income categories:

   a) Extremely low-income (30% or lower of area median income);

   b) Very low-income (50% or lower of area median income);

   c) Lower-income (80% or lower of area median income);

   d) Moderate-income (between 80% and 120% of area median income); and

   e) Above moderate-income (exceeding 120% area median income).

9) Prohibits, under the Housing Accountability Act, a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

2) Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

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3) Current law, the Housing Accountability Act, formerly known as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

   a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

   b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

   c) The denial is required to comply with state or federal law;

   d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

   e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

   Because emergency shelters do not contain housing "units," they are not considered housing projects and are therefore not protected by anti-NIMBY law.

4) According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of transitional and supportive housing facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

5) SB 2 seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify a zone or zone where emergency shelters can locate without a conditional use permit or other discretionary approval. The identified zone zones must have sufficient capacity to address each community's own need for emergency shelter, and must be able to realistically accommodate at least one shelter. The bill also requires cities and counties to treat transitional housing and supportive housing like any other multifamily housing project. Additionally, the bill prohibits cities and counties from disapproving shelters and transitional and supportive housing projects without legitimate grounds.

6) Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own

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communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 2 seeks to address the direct and indirect dumping that occurs when communities fail to provide shelter and services for their own residents.

7) The author is concerned that providers of emergency shelters encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit, creating a de facto ban.

8) To the extent that this bill leaves it to each community to ascertain its own needs for emergency shelters and to find appropriate sites for such facilities, SB 2 maintains a high level of local control. While cities and counties must provide zones where emergency shelters can locate without a conditional use permit, they are allowed to require that shelters adhere to objective standards related to the number of beds, off-street parking, client intake areas, onsite management, the proximity of shelters to one another, the length of stay, lighting, and security.

9) SB 2 is substantially similar, although not identical, to SB 1322 (Cedillo, 2006), which was vetoed by Governor Schwarzenegger. The veto message stated in part:

"Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

The Committee may wish to ask the author to address how the differences between this bill and last year's bill may address the Governor's concerns.

10) This bill has been double-referred to the Committees on Local Government and Housing and Community Development.

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REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
CA Council of Community Mental Health Agencies
CA Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Los Angeles
City and County of San Francisco
Eimago, Inc.—The Center for Human, Economic, and Community Development
Gray Panthers CA
Housing CA
Jericho
Mental Health Association of CA
Moller International, Inc.
National Association of Social Workers, CA Chapter
Northeast Democratic Club (Los Angeles)
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty
Individual letter

Opposition

City of Oakland
Department of Finance

Analysis Prepared by: Anya Lawler / L. GOV. / (916) 319-3958

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ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Lori Saldaña, Chair
Background Information Request

JUN 21 2007

Measure: SB 2

Author: Senator Gil Cedillo

Contact: Megan Garcia or Cori Ayala **Phone:** 651-4022

Estimated time to present bill in committee: Unknown

Name(s) of witnesses:

Origin of the bill:

1) **Source: What person, organization, or governmental entity requested introduction? Include name, address and phone number of contact person.**

Senator Gil Cedillo
State Capitol, Room 5100
916-651-4022
Contact: Megan Garcia or Cori Ayala

2) **Similar legislation: Has a similar bill been previously introduced? Identify author, session, bill #, and disposition of bill.**

SB 1322(2006-2007): Fair Share Zoning, Cedillo
SB 1322 would have required a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters, residential service facilities and transitional housing are allowed to locate without the ability of the local governing body to change the plan once it is adopted.

Background (attach additional sheet(s) if necessary):

1) **What is the problem or deficiency in existing law that this bill seeks to remedy?**

Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

Because homelessness affects people of all races, gender, age and geographic location there is a growing need for every city and county to plan for the location of adequate housing and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services. Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.

The disproportioned availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the concentration of services in inner cities and poor communities like Skid Row in Downtown Los Angeles.

SB 2 would require cities and counties to identify zones within the housing element of their general plan where emergency shelters could locate. In addition, SB 2 would clarify and assert that transitional and supportive housing are just like other housing and should be planned for in the housing element of their general plan.

2) **If there has been interim committee's report on the bill, please identify the report and source committee.**

No report has been released at this time.

3) **Please attach any of the following that are applicable:**
   * **Copies of background material in explanation of the bill, or state where such material is available for reference. Senate bills please include policy, fiscal, and floor analyses.**
   * **Copies of letters of support or opposition.**
   * **Previous committee or senate votes.**

Amendments:

1) **If you plan substantive amendments to this bill prior to hearing, please attach a brief explanation of the amendments and a rough draft, if available.**

2) **Amendments, IN LEGISLATIVE COUNSEL FORM (original plus six copies), must be received by the committee no later than 12:00 noon on the MONDAY THE WEEK PRIOR to the hearing.**

Return completed worksheet and attachments in DUPLICATE within five working days to: ASSEMBLY COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT, LOB 167-A, ATTN: YVONNE PHONE: 319-2085.

Note: If this background sheet is not returned within five working days, your bill may be pulled from the file.

Date of Hearing: July 11, 2007

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Lori Saldana, Chair
SB 2 (Cedillo) – As Amended: July 2, 2007

SENATE VOTE: 27-11

SUBJECT: Local planning.

SUMMARY: Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Specifically, this bill:

1) Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

2) Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelters.

3) Requires that the local government demonstrate that the identified zone or zones can accommodate at least one emergency shelter.

4) Specifies that if the local government cannot identify a zone or zones with sufficient capacity, the local government shall amend its zoning ordinance to include such a zone or zones prior to or concurrent with the adoption of the housing element.

5) Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

6) Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

7) States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

   a) The maximum number of beds or persons permitted to be served nightly by the facility;

   b) Off-street parking, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone based on demonstrated need;

   c) The size and location of client exterior and interior onsite waiting and intake areas;

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d) The provision of onsite management;

e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;

f) The length of stay;

g) Lighting; and

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

8) Provides that permit processing, development and management standards shall not be considered discretionary acts for purposes of California Environmental Quality Act (CEQA).

9) Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelters.

10) Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other multifamily dwellings in the same zone.

11) Applies the provisions of the Housing Accountability Act to emergency shelters.

12) Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

EXISTING LAW:

1) Provides that the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farm workers, is a priority of the highest order (Government Code Section 65580).

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element (Government Code Section 65302).

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels (Government Code Section 65583).

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter (Government Code Section 65583).

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share

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of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need. (Government Code Section 65584)

6) Requires each housing element to identify adequate sites to satisfy the community's share of the regional housing need (Government Code Section 65583).

7) Requires a city or county, to the extent that it does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, to adopt a program to rezone land to accommodate the need on sites that allow for the development of housing as a use by right, meaning that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval (Government Code Section 65583).

8) Requires the housing element to provide for the following income categories:

   a) Extremely low-income household (30% or lower of area median income);

   b) Very low-income household (50% or lower of area median income);

   c) Lower-income household (80% or lower of area median income);

   d) Moderate-income household (between 80% and 120% of area median income); and

   e) Above moderate-income household (exceeding 120% area median income).

   (Government Code Section 65583)

9) Prohibits, under the Housing Accountability Act, a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason (Government Code Section 65589.5)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Background

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of transitional and supportive housing facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

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Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

The Housing Accountability Act, formerly known as the anti-NIMBY ("not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

c) The denial is required to comply with state or federal law;

d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Under exiting law, because emergency shelters do not contain housing "units," they are not considered housing projects and are therefore not protected by anti-NIMBY law.

Purpose of the bill

SB 2 seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify a zone or zones where emergency shelters can locate without a conditional use permit or other discretionary approval. The identified zone or zones must have capacity to address each community's need for emergency shelters, and must be able to accommodate at least one shelter. The bill also requires cities and counties to treat transitional housing and supportive housing like any other multifamily housing project. Additionally, the bill prohibits cities and counties from disapproving shelters or transitional or supportive housing projects without legitimate grounds.

Provided by LRI History LLC

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 2 seeks to address the direct and indirect dumping that occurs when communities fail to provide shelter and services for their own residents.

The author expresses concern that providers of emergency shelters encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit, creating a de facto ban.

Staff Comments

To the extent that this bill leaves it to each community to ascertain its own needs for emergency shelters and to find appropriate sites for such facilities, SB 2 maintains a high level of local control. While cities and counties must provide zones where emergency shelters can locate without a conditional use permit, they are allowed to require that shelters adhere to objective standards related to the number of beds, off-street parking, client intake areas, onsite management, the proximity of shelters to one another, the length of stay, lighting, and security.

SB 2 is substantially similar, although not identical, to SB 1322 (Cedillo) in 2006, which was vetoed by Governor Schwarzenegger. The veto message stated in part:

> "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.
>
> Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

The Committee may wish to ask the author to address how the differences between this bill and last year's bill may address the Governor's concerns.

The Committee may also wish to consider whether this bill places an unreasonable burden on communities that have zoned and built adequate shelter facilities. Under SB 2, even if a community has provided all, or in excess of its shelter need, it would still be required to zone for at least one additional facility during the next planning period.

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Double referred: The Assembly Committee on Rules referred SB 2 to Local Government Committee and Housing and Community Development Committee. The bill passed the Assembly Committee on Local Government on June 27, 2007 by a vote of 5 - 2.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union
American Federation of State, County and Municipal Employees
California Council of Community Mental Health Agencies
California Mental Health Directors Association
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
City and County of San Francisco
City of Los Angeles
Eimago, Inc., Los Angeles
Gray Panthers California
Housing California
Jericho
Mental Health Association in California
Moller International, Inc.
National Association of Social Workers, California Chapter
Northeast Democratic Club, Los Angeles
Progressive Jewish Alliance, Los Angeles
San Diego Housing Federation
Shelter Partnership, Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law & Poverty
One constituent (Los Angeles)

Opposition

City of Oakland (March 19, 2007 version)
Department of Finance (March 19, 2007 version)

Analysis Prepared by: Hubert Bower / H. & C.D. / (916) 319-2085

Provided by LRI History LLC

SB 2 (CEDILLO)
LOCAL PLANNING

Version: 7/2/07 Last Amended
Vote: Majority
Oppose

Vice-Chair: Bonnie Garcia
Tax or Fee Increase: No

Makes it harder for cities and counties to deny homeless shelters by allowing their permitted use without a conditional use permit and requires zoning of homeless shelters prior to, or concurrent with, housing element approval.

Note:The Governor vetoed a substantially similar bill last year, SB 1322 (Cedillo). Please see Comments for text. ALL Assembly Republican voted "NO" on the Floor last year.

Policy Question

1. Shall cities and counties be required to identify specific sites to accommodate the community's need for homeless shelters without a conditional use permit?
2. Shall a city or county be precluded from disapproving applications for homeless shelters unless specified findings are made?

Summary

1. **Requires cities and counties to identify specific sites to accommodate the community's need for homeless shelters without a conditional use permit under the following conditions.**
    - The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter if each local government demonstrates that the identified zone or zones can accommodate at least one emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall amend its zoning ordinance to meet the requirements of this paragraph prior to or concurrent with the adoption of the housing element. The local government may identify additional zones where homeless shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, homeless shelters.
    - Provides that homeless shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
        - The maximum number of beds or persons permitted to be served nightly by the facility.
        - Off-street parking, provided that the standards do not require more parking for homeless shelters than for other residential or commercial uses within the same zone.
        - The size and location of client exterior and interior onsite waiting and intake areas.
        - The provision of onsite management.
        - The proximity to other homeless shelters, provided that homeless shelters are not required to be more than 300 feet apart.
        - The length of stay.
        - Lighting.
        - Security during hours that the emergency shelter is in operation.
2. States that if the local agency has failed to identify a zone or zones where homeless shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for a homeless shelter or has failed to demonstrate that the identified zone or zones can

Senate Republican Floor Votes (27-11) 5/17/07
Ayes: Ashburn, Maldonado, Margett
Noes: All Other Republicans Except
Abs. / NV: Hollingsworth

Assembly Republican Local Gov Votes (5-2) 6/27/07
Ayes: None
Noes: Houston, Smyth
Abs. / NV: None

Assembly Republican **Votes** (0-0) 11/1/06
Ayes: None
Noes: None
Abs. / NV: None

Assembly Republican **Votes** (0-0) 11/1/06
Ayes: None
Noes: None
Abs. / NV: None

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accommodate at least one emergency shelter, then this statute shall not be utilized to disapprove or conditionally approve a homeless shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of housing element law.

3. Requires cities and counties to demonstrate their efforts to remove constraints for meeting the housing needs of persons with disabilities, supportive housing and homeless shelters. Defines transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other multifamily dwellings in the same zone.

Support

City of Los Angeles.

Opposition

None on file.

Arguments In Support of the Bill

1. According the author, there are an estimated 360,000 homeless individuals and families in California. Since homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.
2. Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments In Opposition to the Bill

1. First, how are cities and counties supposed to determine the need on which to base the zoning for facilities serving the homeless? This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow multi-family housing. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies accommodate at least one shelter! Worse, even if a community has provided for a homeless shelter, or shelters, it would still have to zone land for an additional one.
2. Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, members may wish to consider whether or not this is appropriate method for meeting the needs of the homeless across the entire state.
3. And speaking of mandates, this bill creates an Unfunded Mandate. The cost of SB 2 would exceed $10,000 per agency—and be much more in larger cities. Section 5 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of homeless shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.
4. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.
5. Besides, local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a quarter of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility

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necessary to craft local plans that best suits local needs.

Fiscal Effect

Unknown.

Comments

Governor'e Veto Message of SB 1322 (Cedillo) last year (relevant part): *"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."*

Anti-NIMBY Law:

1. California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project:
   - The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
   - the denial is required to comply with state or federal law;
   - the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
   - the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
2. Since an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Housing Element Law:

1. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.
2. Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Policy Consultant: William Weber 7/9/07
Fiscal Consultant:

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Date of Hearing: August 22, 2007

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mark Leno, Chair

SB 2 (Cedillo) – As Amended: July 2, 2007

Policy Committee:	Local Government	Vote:	5-2
	Housing and Community Development		4-2

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY

This bill requires cities and counties to plan for and accommodate emergency shelters in their jurisdictions, and to treat transitional and supportive housing projects the same as any other residential use property. Specifically, this bill:

1) Requires cities and counties to identify, in the housing element of their general plans, zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit. If insufficient capacity exists, the entity is required to amend its existing zoning ordinances to create sufficient capacity.

2) Allows local governments to apply standards for emergency facilities only in specific areas, such as the maximum number of beds, off-street parking, the size and location of client intake areas, and proximity to other emergency shelters. Otherwise, the bill states that shelters may be subject to only those standards that apply generally to residential or commercial developments in the same zone.

3) Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall only be subject to those restrictions that apply to other multifamily dwellings in the same zone.

4) Applies anti-NIMBY provisions of current law to emergency shelters, transitional housing, and supportive housing, thereby limiting the grounds on which local governments may disapprove such projects.

FISCAL EFFECT

Cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing elements requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 local entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for emergency shelters, total costs would be about $2.7 million.

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The bill states that these mandated local government costs are not reimbursable because the agencies affected have authority to levy fees or other charges to cover the required costs.

COMMENTS

1) Rationale. According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The author is concerned that providers of emergency shelters encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

2) Background. The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites to accommodate such housing. A community not having adequate sites must adopt a program to rezone land to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit or other discretionary review.

   Current law also requires communities to include an analysis of special housing needs in their housing elements, including the need for emergency shelters, and an identification of zones where such housing is permitted. However, communities are not required to identify specific sites for special housing needs in their plans.

   The Housing Accountability Act, formerly known as the anti-NIMBY (for "not in my back yard") law, requires a city or county disapproving a project with affordable housing units to make a finding, based on substantial evidence, that the local government has either met its share of the regional housing need for that income category, or that the project would have other specified adverse effects that can not be mitigated or avoided. Because emergency shelters do not contain "units", they are not considered housing projects and are therefore not protected by the anti-NIMBY law.

Analysis Prepared by: Brad Williams / APPR. / (916) 319-2081

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DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

Honorable Gilbert Cedillo
Member of the Senate
State Capitol, Room 5100
Sacramento, CA 95814

Dear Senator Cedillo:

Our office has reviewed SB 2, and on the basis of our attached analysis of available information, we regret that we must oppose your legislation. If you feel that we may have overlooked factors that may be important in evaluating your legislation, please call me at 445-8610 and we will arrange any assistance necessary.

Sincerely,

TOM SHEEHY
Deputy Director

Attachment

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 19, 2007
POSITION: Oppose

BILL NUMBER: SB 2
AUTHOR: G. Cedillo

BILL SUMMARY: Local Planning: Development By Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends an oppose position for the following reasons:

By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal	Date	Program Budget Manager	Date
(0740) K. Amann	4/5/07	Mark Hill	4/5/07
Department Deputy Director			Date
Original Signed By: Thomas L. Sheehy		APR 10 2007 ORIGINAL SIGNED BY	
Governor's Office: By:		Date:	Position Approved X Position Disapproved
BILL ANALYSIS		APR 11 2007	Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right." A special needs facility is defined to include any of the following if licensed and serving seven or more people: community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Related Bills:

SB 1322 (Cedillo) from last year was essentially identical to this bill. The veto message indicated that the bill would deny impacted groups from having imput on proposed developments and would lead to an increase in litigation brought against cities and counties that would deplete local government resources, rather than helping improve the availability of special needs housing.

Chapter 891, Statutes of 2006 requires local governments to analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites when developing the local housing element.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$0	C	$73	C	$145	0001

SENATE THIRD READING
SB 2 (Cedillo)
As Amended August 31, 2007
Majority vote

SENATE VOTE: 27-11

LOCAL GOVERNMENT 5-2		HOUSING 4-2	
Ayes:	Caballero, De La Torre, Lieber, Saldana, Soto	Ayes:	Saldana, Bass, Mullin, Swanson
Nays:	Houston, Smyth	Nays:	Garcia, Sharon Runner

APPROPRIATIONS 10-6

Ayes: Leno, Caballero, Davis, DeSaulnier, Huffman, Karnette, Krekorian, Ma, Solorio, De Leon

Nays: Walters, Emmerson, La Malfa, Lieu, Nakanishi, Sharon Runner

SUMMARY: Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Specifically, this bill:

1) Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

2) Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.

3) Requires that each local government identify a zone or zones that can accommodate at least one year-round emergency shelter.

4) Specifies that if the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to include such a zone or zones within one year of the adoption of the housing element.

5) Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

6) Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

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7) States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

   a) The maximum number of beds or persons permitted to be served nightly by the facility;

   b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;

   c) The size and location of exterior and interior onsite waiting and client intake areas;

   d) The provision of onsite management;

   e) The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart;

   f) The length of stay;

   g) Lighting; and,

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

8) Specifies that the application of the permit processing, development, and management standards is not a discretionary act under the California Environmental Quality Act (CEQA).

9) Allows a local government that can demonstrate to the satisfaction of the Department of Housing and Community Development (HCD) the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

10) Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter.

11) Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

12) Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

13) Requires local governments to assess the need for emergency shelter based on annual and seasonal need.

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14) Allows local governments to reduce the need for emergency shelter 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.

15) Applies the provisions of the Housing Accountability Act to emergency shelters.

16) Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

17) Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

EXISTING LAW:

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element to identify adequate sites to satisfy the community's share of the regional housing need.

7) Requires a city or county, to the extent that it does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, to adopt a program to rezone land to accommodate the need on sites that allow for the development of housing as a use by right, meaning that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval.

8) Requires the housing element to provide for the following income categories:

   a) Extremely low-income (30% or lower of area median income);

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b) Very low-income (50% or lower of area median income);

c) Lower-income (80% or lower of area median income);

d) Moderate-income (between 80% and 120% of area median income); and

e) Above moderate-income (exceeding 120% area median income).

9) Prohibits, under the Housing Accountability Act, a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

FISCAL EFFECT: According to the Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 local entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for emergency shelters, total costs would be about $2.7 million.

3) The bill states that these mandated local government costs are not reimbursable because the agencies affected have the authority to levy fees or other charges to cover the costs.

COMMENTS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, the Housing Accountability Act, formerly known as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income

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category.

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters do not contain housing "units," they are not considered housing projects and are therefore not protected by anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of transitional and supportive housing facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify a zone or zone where emergency shelters can locate without a conditional use permit or other discretionary approval. The identified zone or zones must have sufficient capacity to address each community's own need for emergency shelter and must be able to accommodate at least one year-round shelter. If a local government already has sufficient emergency shelter space to meet its need, it does not have to comply with the by-right zoning requirement but rather can comply with the requirements of the bill by identifying a zone or zones where shelters are allowed with a conditional use permit. Local governments who have already met the zoning requirements do not have to take any further action at the local level but must describe how their existing ordinances and policies are consistent with the requirements of the bill. The bill also requires cities and counties to treat transitional housing and supportive housing like any similar residential project. Additionally, the bill prohibits cities and counties from disapproving shelters and transitional and supportive housing projects without legitimate grounds.

Press accounts in recent years from the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect

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dumping that occurs when communities fail to provide shelter and services for their own residents.

The author is concerned that providers of emergency shelters encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit, creating a de facto ban.

To the extent that this bill leaves it to each community to ascertain its own needs for emergency shelters and to find appropriate sites for such facilities, this bill maintains a high level of local control. While cities and counties must provide zones where emergency shelters can locate without a conditional use permit if their need for such facilities has not already been met, they are allowed to require that shelters adhere to objective standards related to factors such as the number of beds, off-street parking, waiting areas, client intake areas, onsite management, the proximity of shelters to one another, the length of stay, lighting, and security. In addition, cities and counties can reduce their need for emergency shelter by identifying supportive housing units that are either vacant or for which funding is available to allow construction during the housing element planning period.

This bill is similar, although not identical, to SB 1322 (Cedillo) of 2006, which was vetoed by Governor Schwarzenegger. The veto message stated in part: "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties. Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard."

Analysis Prepared by: Anya Lawler / L. GOV. / (916) 319-3958

FN: 0002974

SB 2 (CEDILLO)
LOCAL PLANNING.

Version: 8/31/07 Last Amended
Vote: Majority
Oppose

Vice-Chair: Bonnie Garcia
Tax or Fee Increase: No

Makes it harder for cities and counties to deny homeless shelters by allowing their permitted use without a conditional use permit and requires zoning of homeless shelters prior to, or concurrent with, housing element approval.

NOTE #1: The Governor vetoed a substantially similar bill last year, SB 1322 (Cedillo). Please see Comments for text. ALL Assembly Republican voted "NO" on the Floor last year.

Policy Question

1. Shall cities and counties be required to identify specific sites to accommodate the community's need for homeless shelters without a conditional use permit?
2. Shall a city or county be precluded from disapproving applications for homeless shelters unless specified findings are made?

Summary

1. **Requires cities and counties to identify specific sites to accommodate the community's need for homeless shelters without a conditional use permit under the following conditions.**
   - The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter if each local government demonstrates that the identified zone or zones can accommodate at least one emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall amend its zoning ordinance to meet the requirements of this paragraph prior to or concurrent with the adoption of the housing element. The local government may identify additional zones where homeless shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, homeless shelters.
   - Provides that homeless shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
     - The maximum number of beds or persons permitted to be served nightly by the facility.
     - Off-street parking based upon demonstrated need, provided that the standards do not require more parking for homeless shelters than for other residential or commercial uses within the same zone.
     - The size and location of client exterior and interior onsite waiting and intake areas.
     - The provision of onsite management.
     - The proximity to other homeless shelters, provided that homeless shelters are not required to be more than 300 feet apart.
     - The length of stay.
     - Lighting.
     - Security during hours that the emergency shelter is in operation.

States that a local government that can demonstrate to the Dept. of Housing's satisfaction of the department the existence of one or more homeless shelters either within its jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate that jurisdiction's need may comply by identifying a zone or zones where homeless shelters are allowed with a conditional use permit. A local

Senate Republican Floor Votes (27-11) 5/17/07
Ayes: Ashburn, Maldonado, Margett
Noes: All Other Republicans Except
Abs. / NV: Hollingsworth

Assembly Republican Local Gov Votes (5-2) 6/27/07
Ayes: None
Noes: Houston, Smyth
Abs. / NV: None

Assembly Republican Housing Votes (4-2) 7/11/07
Ayes: None
Noes: Garcia, Runner
Abs. / NV: None

Assembly Republican Appropriations Votes (10-6) 8/30/07
Ayes: None
Noes: Walters, Emmerson, La Malfa, Nakanishi, Runner
Abs. / NV: None

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government with an existing ordinance that can comply with this shall not be required to take additional action to identify zones for homeless shelters.

2. States that if the local agency has failed to identify a zone or zones where homeless shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for a homeless shelter or has failed to demonstrate that the identified zone or zones can accommodate at least one year-around emergency shelter. If the local government cannot identify a zone or zones 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. This statute shall not be utilized to disapprove or conditionally approve a homeless shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of housing element law.
3. Requires cities and counties to demonstrate their efforts to remove constraints for meeting the housing needs of persons with disabilities, supportive housing and homeless shelters. Defines transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings in the same zone.

Support

Western Center on Law and Poverty; CA Rural Legal Assistance Foundation; City of Los Angeles.

Opposition

City of San Jose.

Arguments In Support of the Bill

1. According the author, there are an estimated 360,000 homeless individuals and families in California. Since homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.
2. Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments In Opposition to the Bill

1. First, how are cities and counties supposed to determine the need on which to base the zoning for facilities serving the homeless? This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow multi-family housing. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies accommodate at least one shelter! Worse, even if a community has provided for a homeless shelter, or shelters, it would still have to zone land for an additional one.
2. Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, members may wish to consider whether or not this is appropriate method for meeting the needs of the homeless across the entire state.
3. And speaking of mandates, this bill creates an unfunded mandate. The cost of SB 2 would exceed $10,000 per agency—and be much more in larger cities. Section 5 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of homeless shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.
4. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. At some point, the development of a community

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and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

5. Besides, local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a quarter of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility necessary to craft local plans that best suits local needs.

Fiscal Effect

NO STATE COST. To the extent the provisions of this bill create new local costs; those costs can be passed along to filers in the form of fees.

Comments

Governor's Veto Message of SB 1322 (Cedillo) last year (relevant part):

"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

Policy Consultant: William Weber 9/6/07
Fiscal Consultant: Allan Cooper 9/6/2007

Anti-NIMBY Law:

1. California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project:
   - The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
   - the denial is required to comply with state or federal law;
   - the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
   - the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
2. Since an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Housing Element Law:

1. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.
2. Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

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SB 2 (CEDILLO)
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Ayes: Ashburn, Maldonado, Margett
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Noes: Houston, Smyth
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Assembly Republican Appropriations Votes (10-6) 8/30/07
Ayes: None
Noes: Walters, Emmerson, La Malfa, Nakanishi, Runner
Abs. / NV: None

Assembly Republican Floor Votes (42-31) 9/10/07
Ayes: None
Noes: All Republicans Except
Abs. / NV: Strickland

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additional action to identify zones for homeless shelters.

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4. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to

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make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

5. Besides, local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a quarter of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility necessary to craft local plans that best suits local needs.

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   - The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
   - the denial is required to comply with state or federal law;
   - the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
   - the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
2. Since an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

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1. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.
2. Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Policy Consultant: William Weber 9/6/07
Fiscal Consultant: Allan Cooper 9/6/2007

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Senate "Concurrence" Documents

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE RULES COMMITTEE SB 2
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 2
Author: Cedillo (D)
Amended: 8/31/07
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 27-11, 5/17/07
AYES: Alquist, Ashburn, Calderon, Cedillo, Corbett, Correa, Ducheny, Florez, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, Migden, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Scott, Simitian, Steinberg, Torlakson, Vincent, Wiggins, Yee
NOES: Aanestad, Ackerman, Battin, Cogdill, Cox, Denham, Dutton, Harman, McClintock, Runner, Wyland
NO VOTE RECORDED: Hollingsworth, Oropeza

ASSEMBLY FLOOR: Not available

SUBJECT: Emergency shelters and special needs facilities

SOURCE: Author

DIGEST: This bill requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

CONTINUED

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Assembly Amendments require cities and counties to treat transitional and supportive housing projects as residential use of property, and delete the requirement requiring local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

CONTINUED

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4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

This bill:

1. Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

2. Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.

3. Requires that each local government identify a zone(s) that can accommodate at least one year-round emergency shelter.

4. Specifies that if the local government cannot identify a zone(s) with sufficient capacity, the local government shall include a program to amend its zoning ordinance to include such a zone(s) within one year of the adoption of the housing element.

5. Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

6. Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

7. States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial

CONTINUED

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development within the same zone, except that a local government may apply written, objective standards that include all of the following:

A. The maximum number of beds or persons permitted to be served nightly by the facility.

B. Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

C. The size and location of exterior and interior onsite waiting and client intake areas.

D. The provision of onsite management.

E. The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart.

F. The length of stay.

G. Lighting.

H. Security during hours that the emergency shelter is in operation.

8. Specifies that the application of the permit processing, development, and management standards is not a discretionary act under the California Environmental Quality Act (CEQA).

9. Allows a local government that can demonstrate to the satisfaction of the Department of Housing and Community Development (HCD) the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.

10. Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter.

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11. Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

12. Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

13. Requires local governments to assess the need for emergency shelter based on annual and seasonal need.

14. Allows local governments to reduce the need for emergency shelter 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.

15. Applies the provisions of the Housing Accountability Act to emergency shelters.

16. Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

17. Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

"Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

CONTINUED

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"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/16/07) (Unable to reverify)

American Federation of State, County and Municipal Employees
California Council of Community Mental Health Agencies
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
EIMAGO, Inc.
Gray Panthers
Housing California
Jericho
Mayor Antonio Villaraigosa, City of Los Angeles
MCR Public Affairs
Moller International
National Association of Social Workers
Northeast Democratic Club
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 4/24/07) (Unable to reverify)

City of San Jose
Department of Finance

CONTINUED

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ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

ARGUMENTS IN OPPOSITION: The Department of Finance states in opposition:

> "Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
>
> "It many not be feasible to implement approval 'by right' of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves

CONTINUED

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complex issues about compatibility with the surrounding area and appropriate special conditions."

JJA:mw 9/10/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 2

UNFINISHED BUSINESS

Bill No: SB 2
Author: Cedillo (D)
Amended: 8/31/07
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE : 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SENATE FLOOR : 27-11, 5/17/07
AYES: Alquist, Ashburn, Calderon, Cedillo, Corbett, Correa, Ducheny, Florez, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, Migden, Negrete McLeod, Padilla, Perata, Ridley-Thomas, Romero, Scott, Simitian, Steinberg, Torlakson, Vincent, Wiggins, Yee
NOES: Aanestad, Ackerman, Battin, Cogdill, Cox, Denham, Dutton, Harman, McClintock, Runner, Wyland
NO VOTE RECORDED: Hollingsworth, Oropeza

ASSEMBLY FLOOR : 42-31, 9/10/07 - See last page for vote

SUBJECT : Emergency shelters and special needs facilities

SOURCE : Author

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DIGEST : This bill requires cities and counties to accommodate their need for emergency shelters on sites

CONTINUED

where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

Assembly Amendments require cities and counties to treat transitional and supportive housing projects as residential use of property, and delete the requirement requiring local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that

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specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

CONTINUED

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

This bill:

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1. Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

2. Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.

3. Requires that each local government identify a zone(s) that can accommodate at least one year-round emergency shelter.

4. Specifies that if the local government cannot identify a zone(s) with sufficient capacity, the local government

CONTINUED

shall include a program to amend its zoning ordinance to include such a zone(s) within one year of the adoption of the housing element.

5. Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

6. Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

7. States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

   A. The maximum number of beds or persons permitted to be served nightly by the facility.

   B. Off-street parking based upon demonstrated need,

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provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

C. The size and location of exterior and interior onsite waiting and client intake areas.

D. The provision of onsite management.

E. The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart.

F. The length of stay.

G. Lighting.

H. Security during hours that the emergency shelter is in operation.

8. Specifies that the application of the permit processing,

CONTINUED

development, and management standards is not a discretionary act under the California Environmental Quality Act (CEQA).

9. Allows a local government that can demonstrate to the satisfaction of the Department of Housing and Community Development (HCD) the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.

10. Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing

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element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter.

11. Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

12. Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

13. Requires local governments to assess the need for emergency shelter based on annual and seasonal need.

14. Allows local governments to reduce the need for emergency shelter 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.

15. Applies the provisions of the Housing Accountability Act

CONTINUED

to emergency shelters.

16. Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

17. Includes transitional housing and supportive housing

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within the definition of "housing development project" under the Housing Accountability Act.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

"Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/16/07) (Unable to reverify)

CONTINUED

American Federation of State, County and Municipal Employees
California Council of Community Mental Health Agencies
California Rural Legal Assistance Foundation
Central City Association of Los Angeles

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EIMAGO, Inc.
Gray Panthers
Housing California
Jericho
Mayor Antonio Villaraigosa, City of Los Angeles
MCR Public Affairs
Moller International
National Association of Social Workers
Northeast Democratic Club
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 4/24/07) (Unable to reverify)

City of San Jose
Department of Finance

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify

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sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

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> "Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
>
> "It many not be feasible to implement approval 'by right' of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions."

ASSEMBLY FLOOR:

AYES: Arambula, Bass, Beall, Berg, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Galgiani, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Ma, Mendoza, Parra, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Soto, Swanson, Torrico, Wolk, Nunez

NOES: Adams, Aghazarian, Anderson, Benoit, Berryhill, Blakeslee, Cook, DeVore, Duvall, Emmerson, Fuller,

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Gaines, Garcia, Garrick, Horton, Houston, Huff, Jeffries, Keene, La Malfa, Maze, Nakanishi, Niello, Plescia, Sharon Runner, Silva, Smyth, Spitzer, Tran, Villines, Walters
NO VOTE RECORDED: Brownley, Hancock, Lieu, Mullin, Nava, Strickland, Vacancy

JJA:mw 9/11/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

File Item # 184
SB 2 (Cedillo)
Oppose

Assembly Floor: 42-31 (9/10/07)
(NO: All Republicans, except; ABS: Stickland)
Senate Floor: 27-11 (5/17/07)
(AYE: Ashburn, Maldonado, Margett, NO: All Other Republicans, except; ABS: Hollingsworth)
Vote requirement: 21
Version Date: 8/31/07

Quick Summary

Assembly amendments require cities and counties to treat transitional and supportive housing projects as residential use of property, and delete the requirement requiring local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

Makes it harder for cities and counties to deny homeless shelters by allowing their permitted use without a conditional use permit and requires zoning of homeless shelters prior to, or concurrent with, housing element approval.

Fiscal Effect

SIGNIFICANT COSTS
State. The bill would result in costs of approximately $200,000 for additional resources within the Department of Housing and Community Development for workload associated with reviewing local housing element plans.

Local. Increased local government costs associated with additional data elements required as part of each local housing element plan. These additional costs would be borne by local governments, as the state does not reimburse local governments for workload associated with housing element plans.

Fiscal Consultant: Chantele Denny

Analysis

Arguments in Support:
According to the author, "homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties like Los Angeles, an

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estimated 254,000 men, women, and children experience homelessness over the course of each year."

Every community should take responsibility for housing its citizens, including the homeless. This bill therefore requires each community to take the responsibility of appropriate planning for the homeless seriously rather than sloughing it off on other communities.

Arguments in Opposition:
Constricting Local Control. Local governments are already hard-pressed to comply with existing law on numerous elements of the general plan; most notably, the housing element. Nearly a third of such agencies are out of compliance and therefore issuing new mandates is not a wise decision. At the behest of state government, local plans have become increasingly more detailed and topic specific. The result is that some locals continue to lose flexibility necessary to craft local plans that best suits local needs.

First, how are cities and counties supposed to determine the need on which to base the zoning for facilities serving the homeless? This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow multi-family housing. This bill creates a different process for homeless shelters by *taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies accommodate at least one shelter!*

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, members may wish to consider whether or not this is appropriate method for meeting the needs of the homeless across the entire state.

Unfunded Mandate. This bill creates an unfunded mandate. The cost of SB 2 would exceed $10,000 per agency—and be much more in larger cities. Section 5 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of homeless shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

Governor's Veto. Last year Governor Schwarzenegger vetoed SB 1322 (Cedillo, 2006) which was nearly identical to SB 2, the veto message in part stated:

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Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

Other Issues:
Local Control. Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law.

At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Digest
Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Specifically, this bill:

Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit.

Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.

Requires that each local government identify a zone or zones that can accommodate at least one year-round emergency shelter.

Specifies that if the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its

Provided by LRI History LLC **2007-633 Page 220 of 1377**

zoning ordinance to include such a zone or zones within one year of the adoption of the housing element.

Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

(a) The maximum number of beds or persons permitted to be served nightly by the facility;
(b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;

(c) The size and location of exterior and interior onsite waiting and client intake areas;
(d) The provision of onsite management;
(e) The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart;
(f) The length of stay;
(g) Lighting; and,
(h) Security during hours that the emergency shelter is in operation.

Specifies that the application of the permit processing, development, and management standards is not a discretionary act under the California Environmental Quality Act (CEQA).

Allows a local government that can demonstrate to the satisfaction of the Department of Housing and Community Development (HCD) the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter.

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Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

Requires local governments to assess the need for emergency shelter based on annual and seasonal need.

Allows local governments to reduce the need for emergency shelter 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.

Applies the provisions of the Housing Accountability Act to emergency shelters.

Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

Background

Housing Element Law. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

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Use by Right. If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Previous Legislation.
SB 1322 (Cedillo, 2006) Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made. *Senate Floor Vote: 25-11 (NO: All Republicans, except; ABS: Margett, McClintock).*

Support & Opposition Received

Support: AFSCME; California Rural Legal Assistance Foundation; Central City Association of Los Angeles; Eimago, Inc.; Jericho; Moller International; National Association of Social Workers; Progressive Jewish Alliance; Shelter Partnership; Union Rescue Mission; Western Center on Law and Poverty.

Opposition: City of San Jose; Department of Finance.

Senate Republican Office of Policy/ *Ryan Eisberg*

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(916) 442.7660

Enrolled (Governor) Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

Legislative Counsel of California

October 3, 2007

Honorable Arnold Schwarzenegger
Governor of California
Sacramento, CA 95814

SENATE BILL NO. 2

Dear Governor Schwarzenegger:

Pursuant to your request, we have reviewed the above-numbered bill authored by Senator Cedillo and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

Richard B. Weisberg

By
Richard B. Weisberg
Principal Deputy

RBW:dlb

Two copies to Honorable Gilbert Cedillo,
pursuant to Joint Rule 34.

Provided by LRI History LLC

ENROLLED BILL MEMORANDUM TO GOVERNOR

BILL: SB 2	**AUTHOR:** Cedillo	**DATE:** 9/19/07 **DUE:** 10/14/07
SENATE: 27-11	**ASSEMBLY:** 42-31	**CONCURRENCE:** 26-12
PRESENTED BY: Curt Augustine		**RECOMMEND:** Sign ☐ Veto ☐

SUMMARY

This bill requires the housing element of a general plan to identify zones where emergency shelters are allowed as a permitted use without a conditional use permit. This bill would also extends Anti-NIMBY protections to emergency shelters, transitional housing, and supportive housing.

SPONSOR: Southern California Association of Governments

SUPPORT:
Business, Transportation and Housing Agency
Department of Housing and Community Development
Governor's Office of Planning and Research
American Planning Association, California Chapter
Burbank Housing Development Corporation
California Rural Legal Assistance Foundation
City of Los Angeles
Connectional Ministries
EIMAGO, Inc.
Homeless Health Care Los Angeles
Housing California
Interfaith Shelter Network
Progressive Jewish Alliance
Shelter Partnership
Union Rescue Mission
Western Center on Law & Poverty

OPPOSITION:
Department of Finance
Assembly Republican Caucus
Association of Bay Area Governments
City of Long Beach
City of Oakland
City of San Jose

Prepared by: Katie Trueworthy
10/02/2007 8:08 PM

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FISCAL IMPACT

This bill has an estimated start-up cost of $50,000 to develop and disseminate guidelines. The bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs.

PREVIOUS ACTION/SIMILAR LEGISLATION

SB 1311 (Cedillo, 2006) is essential identical to this bill. SB 1311 was vetoed.

NOTES

Prepared by: Katie Trueworthy
10/02/2007 8:08 PM

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CONFIDENTIAL-Government Code §6254(l)		
Department/Board: Housing and Community Development	Author: Cedillo (D-Los Angeles)	Bill Number/Version Date: SB 2/August 31, 2007
Sponsor: Author ☐ Admin Sponsored Proposal No.	Related Bill(s)	Chaptering Order (if known) ☐ Attachment
Subject: Local planning		

SUMMARY

This bill would strengthen existing requirements in housing element law requiring local governments to identify sites to accommodate the need for emergency shelter. Under existing law, all local governments must identify sites in their land inventory for emergency shelters and transitional housing. This bill would provide more local government flexibility by allowing a local government to meet this requirement by identifying the zones where emergency shelters are allowed---rather than identifying a specific site or sites. To promote more effectively the development of critically needed emergency shelters, the bill prohibits local governments from requiring a conditional use permit for the development of a shelter. The bill also would amend existing anti-NIMBY statutes to include emergency shelters, transitional housing, and supportive housing.

PURPOSE OF THE BILL

According to the author, the responsibility to provide emergency shelters for the homeless is currently being shouldered by too few local governments, resulting in a concentration of homeless populations in inner cities and poor communities. While existing law requires ALL local governments to identify sites for emergency shelters and transitional housing in the land inventory of their housing element, too few actually comply. This leaves an unfair burden on a few cities and results in inadequate services and opportunities for a very vulnerable homeless population. Providers of emergency –

Departments That May Be Affected				
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment	☒ State Mandate ☐ Legislative Report	☐ Urgency Clause

Dept/Board Position	Agency Secretary Position
☒ Sign	☒ Sign
☐ Veto	☐ Veto
☐ Defer to:	☐ Defer to:
Director /Chair Date 9/17/07	Agency Secretary Date 9/20/07

and opportunities for a very vulnerable homeless population. Providers of emergency shelters and transitional housing encounter significant resistance at the local level and find it difficult to obtain the conditional use permit that is generally required for these types of facilities. These service providers say despite the current requirements, many communities lack the zoning that will allow these uses, even with a conditional use permit. This bill addresses these issues by requiring each locality to plan appropriately for sufficient emergency shelters.

RECOMMENDATION AND SUPPORTING ARGUMENTS: SIGN

The Department of Housing and Community Development (HCD) recommends that the Governor **SIGN** this bill. This bill would help ensure that cities and counties have or plan for sufficient emergency shelters to accommodate their need. Also, this bill would distribute more fairly the responsibilities to address the need for emergency shelter among all the cities and counties in the state. Currently, the state's largest cities, such as Los Angeles and San Francisco, shoulder a disproportionate share of the burden.

ANALYSIS

Existing law:

- Requires each city and county to adopt a general plan that must include a housing element among other mandated elements and requires the housing element to be updated periodically according to a statutory schedule.

- Requires local governments to prepare an inventory of sites suitable for development of a variety of housing types, including emergency shelters and transitional housing, and to accommodate the locality's share of the regional housing need.

- Requires local governments, where the inventory of sites does not identify adequate sites to accommodate the need for groups in all household income levels, to develop a program to identify sites to accommodate 100 percent of the need for housing for very low and low income households on sites that shall be zoned to permit owner occupied and rental multifamily residential use by right.

- Requires local governments to include in the housing element an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs. The assessment and inventory shall include an analysis of populations and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households. The existing and projected needs shall include the locality's share of the regional housing need.

- Provides that local agencies shall calculate the subset of very low income households of their regional housing need allocation that qualify as extremely low

income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income, or presume that 50 percent of the very low income households qualify as extremely low income.

- Requires the housing element to include an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing single-room occupancy units, emergency shelters and transitional housing, and for persons with disabilities.

- Requires cities and counties to develop quantified objectives that establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a 5-year time period.

- Require that a jurisdiction's 5-year schedule of actions to implement the policies and goals of the housing element include a program to assist in the development of adequate housing to meet the needs of extremely low, very low, low, and moderate income households.

- Clarifies that changes to housing element law take effect when the next housing element cycle begins, or when a city or county submits its first draft to the Department for review if that is more than 90 days after the effective date of the bill.

- Defines "use by right" to mean that a local government's review of the owner occupied or rental multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review of approval.

- Prohibits local governments from requiring a conditional use permit, zoning variance, or other zoning clearance of a residential care facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone (use by right).

- Prohibits a jurisdiction from disapproving a housing development project, including farmworker housing, for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low, low, or moderate income households, including through the use of design review standards, unless it makes specified written findings. Findings include:

    - That a development project would have a specific, adverse impact upon the public health or safety, and there is not a feasible method to mitigate satisfactorily or to avoid the adverse impact without rendering the development unaffordable to low and moderate income households.

- That the denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low and moderate income households.

- That the development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan. This provision cannot be used to disapprove or conditionally approve a housing development project if the project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

- Clarify that existing law does not prohibit a local agency from requiring a development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.

- Clarifies that existing law does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project.

- Provides that the applicant or any person who would be eligible to apply for residency in the development may bring an action to enforce the anti-NIMBY law.

This bill would:

- Define "supportive housing" for the purposes of housing element law as housing with no limit on length of stay, occupied by a target population, and linked to onsite or offsite services.

- Define "transitional housing" for the purposes of housing element law as buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the unit to another eligible person at some point in the future, but no less than six months.

- Rather than mandating that each local government identify a specific site for emergency shelters in its housing element, this bill allows a local government to identify a zone that can accommodate at least one year round emergency shelter. If such a zone cannot be identified, the local government must include a program to amend its zoning ordinance to comply with this requirement within one year of the adoption of the housing element. If a local government can demonstrate to HCD's satisfaction the existence of one or more emergency shelters that can accommodate that jurisdiction's need for emergency shelter, the jurisdiction may

comply with this requirement by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

- Allow local governments with existing zoning ordinances that comply with this requirement to reference existing policies and zoning in their housing element and would not mandate additional action to identify zones for emergency shelters.

- Require a local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

- Provide that emergency shelters may be subject only to those development and management standards that apply to residential and commercial development within the same zone, except that the local government may impose standards regarding:

  - The number of beds or persons served nightly.
  - Off-street parking.
  - Size and location of exterior and interior onsite waiting and client intake areas.
  - Onsite management.
  - Proximity to other shelters.
  - Length of stay.
  - Lighting and security.

- Provide that the above management standards are not discretionary acts for the purposes of the California Environmental Quality Act.

- Clarify existing law and practice that a jurisdiction's need for emergency shelter shall be assessed based on annual and seasonal need. 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 that are either vacant or for which funding has been identified.

- Require that the housing element demonstrate local efforts to remove governmental constraints that hinder the jurisdiction from meeting the need for supportive housing, transitional housing, and emergency shelters.

- Provide that transitional housing and supportive housing shall be considered residential uses of property and be subject only to those restrictions that apply to other residential uses dwellings in the same zone.

- Allow a local government to satisfy the requirement to identify sites suitable for the development of emergency shelters by adopting and implementing a mulitjurisdictional agreement with adjacent communities.

- Strengthen the Housing Accountability Act to provide that if the local agency has failed to identify a zone where emergency shelters are allowed as a permitted use or has failed to show that the identified zones are sufficient to accommodate the need for emergency shelters, or at least one emergency shelter, then the local agency shall not disapprove or conditionally approve an emergency shelter on the basis that the emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. The jurisdiction would have the burden of proving that it has appropriately identified zones for emergency shelter.

- Clarify that the Housing Accountability Act statutes shall not prohibit a local agency from requiring emergency shelters to comply with development standards, conditions, and policies that are consistent with the management standards established by the bill, as described above.

- Provide that the development standards, conditions, and policies be applied by the local agency to facilitate and to accommodate the development of an emergency shelter.

- Include transitional housing and supportive housing in the definition of "housing development project" for purposes of the Housing Accountability Act statutes.

Comments:

Amendments to this bill over the course of the legislative session addressed concerns expressed by HCD in a previous analysis. Also, this bill would no longer require jurisdictions to provide for the development of emergency shelters as a use by right. HCD was concerned that such a requirement would be unworkable. By right is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. The siting of emergency shelters generally invokes issues too varied and site specific for the use of such standardized conditions.

The final version of the bill represents a consensus achieved through significant effort and compromise by all parties including housing and homeless advocates, the League of California Cities, California State Association of Counties, the American Planning Association, the building industry, and the Governor's Office of Planning and Research. The bill is designed to ensure that all local governments do their fair share of planning to address the homeless needs in the state. Currently, cities like Los Angeles, Santa Monica, San Francisco, and Sacramento shoulder an unfair burden of planning and meeting the needs of the homeless in their regions because too many other cities do little to nothing (besides provide a bus ticket to the other cities). As a result, California has not been able to make sufficient progress in meeting the needs of the homeless population. The state has dedicated significant new resources through Propositions 63, 46 and 1C, which have been provided at the state level. However, these resources cannot be effectively or efficiently utilized because the state's local government partners do not provide the opportunity for shelter and transitional housing development. Local

governments are NOT required to build the shelters or housing, but they are responsible for providing the zoning that would accommodate needed development.

While existing housing element law already requires local governments to zone for and identify specific sites in their housing elements to address the homeless need, too many local governments committed to doing so in their housing elements but never implemented their program and still have no sites that would allow the development of emergency shelters. This bill rewards those local governments that are doing more than their fair share, by not requiring they take any additional actions. In addition, it will ensure that local governments that have not implemented existing law must now identify zones where emergency shelters can be allowed without a conditional use permit. This will ensure that all local governments share the responsibility of meeting the growing homeless need.

In the last few weeks of session, the City of San Jose raised concerns about the bill's provisions and believed there should be an exemption for their city since they are a true good actor and are using the housing first program as a way to address their homeless need. The City requested amendments to provide that if a city had an adopted plan, it would not have to comply with the provisions of SB 2. However, HCD would note that many local governments have 10-year plans to address their homeless need, but still may not have the zoning in place to accomplish that goal. Since the author and HCD believed that this language was too broad, it was not included in the last set of amendments. However, the author's office has committed to continue to work on these issues with the City of San Jose next year, if they still believed that additional clarification was needed.

LEGISLATIVE HISTORY

AB 2511 (Jones, Ch. 888, 2006) made several changes to land use law relating to housing including updating discrimination definitions, renaming anti-NIMBY law, altering density provisions, and providing for enforcement measures if local governments fail to submit an annual status report on their general plan to the HCD.

AB 2634 (Lieber, Ch. 891, 2006) requires local governments, in the housing elements of their general plans, to undertake additional analysis and identify actions to address the housing needs of extremely low income households and encourage the development of supportive housing.

SB 257 (Chesbro, Ch. 748, 2006) provides specific statutory authority for the California Housing Finance Agency (CalHFA) to fund affordable housing including transitional housing for the mentally ill, residential housing, multifamily rental housing, and housing for other special needs populations.

SB 1322 (Cedillo, 2006), as enrolled, is essentially identical to this bill as it was amended on January 22, 2007. SB 1322 was vetoed. According to the Governor's veto message, the bill would have placed overly burdensome mandates on cities and counties.

PROGRAM BACKGROUND

Homelessness in California

- Ten percent of homeless are chronically homeless but consume 50 percent of resources.
- California has the highest population of homeless in the nation as well as the highest ratio of homelessness. Nationally, one in 400 is homeless; in California, the ratio is one in 105.
- Veterans make up of 10 percent of California residents and it is estimated that this population groups represents between 19 to 25 percent of California's homeless population.
- Though 12 percent of the nation's population lives in California, 26 percent of the country's homeless population lives in California per census figures.
- A one percent increase in the availability of affordable housing and a small decrease in the % of income Californians spend on rent could decrease the population of people experiencing homelessness by 25 percent.
- An estimated 90,000 children are homeless in California, making the percentage of homeless children greater today than at any time since the Great Depression.
- The average age of people experiencing homelessness increases by 8 months each year; the average age of a homeless person now is 49 years.
- 81 percent of residents living in supportive housing remain stably housed after one year.

The Governor's Homeless Initiative

The Governor's Homeless Initiative, a joint project of the Department, CalHFA and the Department of Mental Health, which uses Proposition 46 housing funds and Proposition 63 mental health care funds, assists with the development of permanent supportive housing for chronically homeless persons with severe mental illness. These are the types of housing developments that housing elements should demonstrate can be accommodated.

Housing Element Law

HCD is required by statute to review the housing element of the general plan for every city and county in California. Local governments must submit their housing elements to HCD for review and comment in order to determine whether the element complies with state law. Housing elements must contain specified items, including plans for meeting

the regional housing needs assessment (RHNA) determined by HCD, in conjunction with regional governments.

Cities and counties must revise their housing elements every five years, following a staggered schedule established in statute. Housing elements must identify and analyze existing and projected housing needs and state the jurisdiction's quantified housing planning goals. Specifically, this analysis must include, among other distinct items:

- An inventory of resources and constraints relevant to meeting housing need.
- Plans for meeting the jurisdiction's allocation of housing for the four income levels established by the RHNA process.
- An inventory of land suitable for residential development.
- An analysis of special housing needs identified by the jurisdiction, including the needs of the elderly, the disabled, large families, farmworkers, female-headed households, and the homeless.

OTHER STATES' INFORMATION

This bill involves issues that are unique to California law.

FISCAL IMPACT

First year General Fund costs would be approximately $50,000. These include:

- Additional staff time at the HCD Specialist level (at least 120 hours for research and writing a technical assistance paper, soliciting feedback and editing) would be needed in the first year after enacting to develop technical assistance resources to assist jurisdictions with meeting these requirements when developing the housing elements.
- Additional staff time at HCD Representative level (400 hours) and Department wide resources, such as staff time and supplies (including printing and mass mailing to 535 jurisdictions in amount of approximately $5,000), would be expended in the first year after enactment to develop and disseminate training materials for housing element workshops.

There would also be ongoing costs associated with slightly increased staff time at the HCD Representative level for housing element reviews every year after enactment.

While the bill notes that this is a state-mandated local program, HCD would note that this is an existing mandate that is just being clarified and therefore, any additional claims should be minor.

ECONOMIC IMPACT

None.

SUPPORT/OPPOSITION

Support: American Federation of State, County, and Municipal Employees; California Council of Community Mental Health Agencies; California Rural Legal Assistance Foundation; Central City Association of Los Angeles; EIMAGO, Inc.; Gray Panthers; Housing California; JERICHO; Mayor Antonio Villaraigosa; MCR Public Affairs; Moller International; National Association of Social Workers; Northeast Democratic Club; Progressive Jewish Alliance; San Diego Housing Federation; Shelter Partnership; Union Rescue Mission; Western Center on Law and Poverty.

Opposition: City of San Jose; Department of Finance.

ARGUMENTS

Pro:

- This bill will ensure more effective implementation of existing housing element law and ensure that all local governments share the responsibility for meeting the needs of the homeless. Without these changes, communities like Los Angeles, Santa Monica, San Francisco, and Sacramento will continue to be required to shoulder an unfair share of addressing homeless needs in their communities. Not only is this unfair for those communities, but it also results in a less effective and efficient strategy for assisting the homeless.

- This bill will promote the effective implementation of the Governor's Homeless Initiative and demonstrate the State's commitment to ending homelessness and working in partnership with local governments.

- This bill reflects an effective effort by all interested parties to address the serious homeless problem in California. The representatives of local government worked hard with the author and housing and homeless advocates to develop language that could significantly improve the lives of the homeless in California and more equitably share the responsibility for doing so.

- This bill would strengthen existing law, and recognizes and rewards those local governments, which have been effectively working to meet the needs of the homeless.

- This bill would help ensure that cites and counties address the need for emergency homeless shelters.

- Homelessness in California is a continuing crisis that demands the effective involvement of both the public and private sectors. This bill will ensure that local governments do not establish arbitrary barriers to meeting this serious need.

Con:

- Local governments, which have yet to implement existing law, argue that homelessness is not a local problem and they should not be required to do any more.

- Some local governments argue the bill reduces local control over zoning.

VOTES

Republican "no" votes were based on concerns that this bill would impose burdensome requirements on local governments, many of which already have a difficult time complying with current housing element law. Also, this bill removes some of the flexibility local governments have in addressing the need for emergency shelters in their communities.

Assembly Floor			Concurrent	Senate Floor			Concurrent
DATE	AYE	NO		DATE	AYE	NO	September 12, 2007 26-12
September 10, 2007	42	31		May 17, 2007	27	11	

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

SUGGESTED VETO MESSAGE
SB 2 (Cedillo)

September 17, 2007

To Members of the California State Senate:

I am returning SB 2 without my signature. I agree that homelessness in California is a serious problem that must be addressed. However, I am concerned that this bill represents a "one size fits all" approach that fails to take into account local conditions. Local governments are in the best position to know what will work in their communities and this would remove the flexibility that local governments currently have in addressing the need for homeless shelters.

Sincerely,

Arnold Schwarzenegger
Governor

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

CONFIDENTIAL-GOVERNMENT CODE §6254(L)		
OFFICE: OFFICE OF PLANNING AND RESEARCH - LEGISLATIVE UNIT	**AUTHOR:** CEDILLO	**BILL NUMBER/VERSION DATE:** SB 2 AUGUST 31, 2007
SPONSOR: AUTHOR ☐ ADMIN SPONSORED PROPOSAL NO.	**RELATED BILL(S)** AB 382 (ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT)	**CHAPTERING ORDER (IF KNOWN)** 1) SB 2 2) AB 382 ☐ ATTACHMENT
SUBJECT: LOCAL PLANNING		

SUMMARY

This bill would require the housing element of a general plan to identify zones where emergency shelters are allowed as a permitted use without a conditional use permit. This bill would also extend Anti-NIMBY protections to emergency shelters, transitional housing, and supportive housing.

PURPOSE OF THE BILL

According to the author, homelessness is a problem that affects all races, genders, age, and geographic areas of the state. As a result, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need; the high incidence of mental illness and substance abuse among homeless individuals makes it necessary to ensure the adequate provision of residential facilities that serve these populations. Adding to the problem, providers of emergency shelters and special care facilities contend that they encounter resistance at the local level when attempting to build these types of facilities.

The author claims that SB 2 would address these issues by requiring cities and counties to make sites available for sufficient emergency shelters. This measure would also amend existing Anti-NIMBY statutes to apply to emergency shelters, transitional housing, and supportive housing.

DEPARTMENTS THAT MAY BE AFFECTED

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

☐ NEW / INCREASED FEE ☐ GOVERNOR'S APPOINTMENT ☐ LEGISLATIVE APPOINTMENT ☐ STATE MANDATE ☐ URGENCY CLAUSE

POSITION
☒ SIGN
☐ VETO
☐ DEFER TO:

DEPUTY DIRECTOR	DATE	DIRECTOR	DATE
Ruth J. Jones	9-19-07	Cynthia Bryant	9-19-07

In doing so, the author contends that this bill could provide greater assistance to a segment of California's population that is most in need.

RECOMMENDATION AND SUPPORTING ARGUMENTS
The Office of Planning and Research recommends that the Governor **SIGN** SB 2.

This bill would require the housing element of a general plan to identify zones where emergency shelters are allowed as a permitted use without a conditional use permit. This bill would also extend Anti-NIMBY protections to emergency shelters, transitional housing, and supportive housing.

Homelessness in California is a growing problem, and the need for emergency shelters and programs to aide this segment of California's community grows with it. While existing law requires local governments, indirectly, to provide adequate housing/accommodations for the homeless, too many local governments have ignored their homeless populations thereby shifting a majority of the needs of this community on a small number of local governments that are willing to recognize those needs. SB 2 would take a proactive and positive step toward better addressing the needs of California's homelessness. It would strengthen existing housing element laws to help ensure that all local governments are making good-faith estimates to identify the housing needs of the homeless within their communities and to make an appropriate and corresponding number of sites available for emergency shelter housing. By requiring all local governments to zone for at least one emergency shelter, this bill would also recognize that homelessness is a shared responsibility of all California communities, not just a few. Further, this bill would provide protections for those local governments that act in good-faith and identify sufficient zones to accommodate its homeless population. Finally, this bill would not require every community to build emergency shelters; rather, it would require a community to zone for emergency shelters and let free market principles determine whether shelters are actually built. It is important to note, that SB 2 represents a consensus measure worked on throughout the course of the year by a number of interested entities including the Department of Housing and Community Development, the League of California Cities, The American Planning Association, and the Office of Planning and Research.

ANALYSIS
1. General Plan
The California State Planning and Zoning law requires that every city and county prepare and adopt a long-term comprehensive general plan for the development of their respective jurisdictions. The general plan is a policy document designed to guide the physical development of the jurisdiction in a manner consistent with its social, economic, and environmental goals. Existing law requires every city and county to adopt a general plan with seven specified mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety (see Govt. Code §65302). Local planners must annually review these general plans and report to their county boards of supervisors and city councils about the plans' status. Except for the housing elements which local officials must revise every five years, the Planning and Zoning Law does not require counties and cities to regularly revise their general plans.

Housing Element
The housing element is a comprehensive statement made by a city or county detailing its current and future housing needs. Under the housing element, cities and counties are required to identify and analyze existing and projected housing needs, and then to identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community. It is also

required to be updated every five years and is subject to mandatory review by the Department of Housing and Community Development (HCD).

This bill would require the housing element to specifically identify sites that shall be made available for emergency shelters.

Definitions
Existing law defines an "emergency shelter" as housing with minimal supportive services or homeless persons that is limited to occupancy of six months or less by a homeless person. Existing law prevents an individual from being denied emergency shelter due to an inability to pay.

This bill would incorporate this definition into the list of definitions within the statute governing housing elements.

Existing law defines "supportive housing" as housing with no limit on the length of stay and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

This bill would incorporate this definition into the list of definitions within the statute governing housing elements.

Existing law defines "transitional housing" and "transitional housing development" as buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which is no less than six months.

This bill would incorporate this definition into the list of definitions within the statute governing housing elements.

Identifying the Need for Emergency Shelter
Existing law requires local governments to identify the need for emergency shelters within their respective jurisdictions and to analyze that need in the housing elements of their general plans.

This bill would require local governments to assess the need for emergency shelter based upon annual and seasonal need. This bill would also authorize local governments to reduce the need for emergency shelter identified in the housing element, by the number of supportive housing units (that are either vacant or for which funding has been identified to allow construction during the planning period) identified in an adopted ten-year plan to end chronic homelessness.

Identifying Zones for Emergency Shelter
This bill would require the housing element to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. This bill would require the identified zone or zones to include sufficient capacity to accommodate the need for emergency shelter as identified by the local government in its analysis of the need for emergency shelter.

This bill would require each local government to identify a zone or zones that can accommodate at least one year-round emergency shelter, whether its analysis of the need for emergency shelter identifies the need for the shelter or not.

If a local government does not identify a zone or zones with sufficient capacity to meet its self-identified need for emergency shelter or the minimum requirement of one shelter, then this bill would require the local government to include a program, within the housing element, to amend the zoning ordinance to meet the self-identified need for emergency shelter or the minimum requirement of one shelter, whichever is greater, within one year of the adoption of the housing element.

Objective Standards
This bill would require the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

This bill would require emergency shelters to be subject to only those development and management standards that apply to residential or commercial development within the same zone. However, this bill would authorize a local government to apply written, objective standards that include all of the following:

- the maximum number of beds or persons permitted to be served nightly by the facility;
- off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone;
- the size and location of exterior and interior onsite waiting and client intake areas;
- the provision of onsite management;
- the proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
- the length of stay;
- lighting; and,
- security during hours that the emergency shelter is in operation.

This bill would exempt these conditions from the Housing Accountability Act's prohibition on conditions.

This bill would state that the permit processing, development, and management standards listed above are not to be deemed discretionary acts within the meaning of the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code).

Multi-Jurisdictional Agreements
This bill would authorize a local government to satisfy all or part of its requirement to identify zones for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with no more than two other adjacent jurisdictions, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

This bill would require the agreement to allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction must describe how the capacity was allocated as part of its housing element. This bill would prohibit the aggregate capacity claimed by the participating jurisdictions in their housing elements from exceeding the actual capacity of the shelter.

This bill would require each member jurisdiction of a multi-jurisdictional agreement to describe in its housing element all of the following:

- how the joint facility will meet the jurisdiction's emergency shelter need;

- the jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility; and,
- the amount and source of the funding that the jurisdiction contributes to the facility.

Requirements Fulfilled
If a local government demonstrates to the satisfaction of HCD that it has one or more operating emergency shelters, either within its jurisdiction or pursuant to a multi-jurisdictional agreement, that can accommodate that jurisdiction's self-identified need for emergency shelter, this bill would only require that local government to identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

This bill would not require a local government with an existing ordinance that complies with the provisions of this bill to take additional action to identify zones for emergency shelters. This bill would only require the housing element to describe how existing ordinances, policies, and standards are consistent with this bill's requirements.

Governmental Constraints
Existing law requires the housing element to include an analysis of potential and actual governmental constraints on the maintenance, improvement, or development of housing for all income levels, and for persons with disabilities, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. Existing law also requires the analysis to demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities.

This bill would require the analysis to additionally demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelters. This bill would also require transitional housing and supportive housing to be considered a residential use of property, and subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

2. Housing Accountability Act
Commonly referred to as the Anti-NIMBY law, the Housing and Accountability Act prohibits a jurisdiction from disapproving a housing development project (including farmworker housing) for very low, low, or moderate income households or conditioning approval in a manner that renders the project infeasible for development of affordable housing, unless it makes written findings as to one of the following:

1) The local government has adopted a housing element in substantial compliance with the law and has met its share of the regional housing need for the income category proposed by the project.
2) The housing project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households.
3) The denial is required to comply with state or federal law and there is no feasible method to comply without rendering the housing development unaffordable to low and moderate income households.
4) The housing project is located on agricultural or resource preservation land that does not have adequate water or waste-water facilities.
5) The housing project is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or

available for very low, low, or moderate income households in the jurisdiction's housing element.

This bill would extend the Anti-NIMBY protections to emergency shelters. Specifically, this bill would prohibit a jurisdiction from disapproving a proposed emergency shelter or conditioning approval in a manner that renders the emergency shelter infeasible, unless it makes written findings as to one of the following:

1) The local government has adopted a housing element in substantial compliance with the law and has met or exceeded its self-identified need for emergency shelter.
2) The proposed emergency shelter would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the emergency shelter financial infeasible.
3) The denial is required to comply with state or federal law and there is no feasible method to comply without rendering the emergency shelter financially infeasible.
4) The emergency shelter is located on agricultural or resource preservation land that does not have adequate water or waste-water facilities.
5) The emergency shelter is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or available for an emergency shelter in the jurisdiction's housing element.

This bill would also prevent the disapproval or conditional approval of an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses if a city or county has failed to:

- identify a zone or zones where emergency shelters would be allowed as a permitted use without a conditional use or other discretionary permit,
- demonstrate that the identified zone or zones include sufficient capacity to accommodate the self-identified need for emergency shelter expressed in the housing element; and,
- demonstrate that the identified zone or zones can accommodate at least one year-round emergency shelter.

This bill would also place the burden of proof on cities and counties to show that their housing elements satisfy these three requirements.

Transitional Housing and Supportive Housing
This bill would extend Anti-NIMBY protections to transitional housing and supportive housing by redefining "housing development project" to include transitional housing and supportive housing.

Federal Law
Federal law requires local governments within a county to develop a Continuum of Care Plan. The U.S. Department of Housing and Urban Development (HUD) defines the Continuum of Care Plan as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

HUD identifies the fundamental components of a comprehensive Continuum of Care Plan to be:

1) outreach, intake, and assessment to identify an individual's or family's service and housing needs and link them to appropriate housing and/or service resource;
2) emergency shelter and safe, decent alternatives to the streets;
3) transitional housing with supportive services to help people develop the skills necessary for permanent housing; and
4) permanent housing and permanent supportive housing.

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Federal law also requires larger cities and counties ("entitlement jurisdictions") that receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used, including addressing needs for emergency shelters and transitional housing.

LEGISLATIVE HISTORY

Previous Legislation

In 2002, AB 2292 (Dutra) established the No-Net-Loss Law, which prohibits a city or county from reducing the residential density for any parcel, or allowing development of any parcel at a lower residential density, unless the city or county makes specified written findings.

In 2004, AB 1192 (Dutra) prohibited the imposition of any requirement on the property owner, under the No-Net-Loss Law, with respect to property that is subject to a reduction in residential density in connection with meeting that requirement for additional sites.

In 2004, AB 2348 (Mullin) revised the criteria for the inventory of sites to require sites to be identified that can be developed for housing within the planning period to accommodate that portion of a city's or county's share of the regional housing need for all income levels.

In 2004, AB 2158 (Lowenthal) revised the RHNA process which, among other things, revised the RHNA appeals process and requires COG's to solicit input through a survey from cities and counties about the factors and methodology for allocating housing needs.

In 2005, AB 1233 (Jones) requires cities and counties to zone or rezone adequate sites to accommodate for any unaccommodated portion of their RHNAs from the prior planning period.

Pending Legislation

Assembly Bill 382 (Assembly Committee on Housing and Community Development) is the annual housing omnibus bill and would make several technical and clarifying changes to existing housing laws. This bill is presently enrolled to the Governor.

Chaptering Issues

Both this bill and AB 382 seek to amend Government Code Section 65583. Both bills are presently enrolled to the Governor. Although, this bill does not account for the amendments proposed by AB 382, AB 382 does account for amendments proposed by this bill. Should the Governor choose to sign both measures, he should sign SB 2 first and AB 382 second to avoid chaptering out SB 2's language.

DISCUSSION

Emergency Shelters

Obligations Under Existing Law

While this bill would require a local government to zone for, and identify in its housing element, adequate emergency shelters to accommodate its homeless population, it is important to note that a local government already has a statutory obligation to address the housing needs of it homeless population. A local government's housing element is already required to "make adequate provision for the existing and projected [housing] needs of all the economic segments of the community," which includes the homeless. This bill would not drastically expand the current obligation of a local government to plan for the housing needs of its homeless population; rather, this bill would require moderate measures to better ensure that local governments meet this existing obligation.

Self-Identified Need
Currently, as part of its housing element, a local government is required to self-identify the need for emergency shelter within its jurisdiction. That self-identified need is the cornerstone of this bill; every emergency shelter requirement relies upon it. This need represents a good faith estimate of the number of homeless persons within the jurisdiction, which then translates into the number of beds needed to accommodate those persons. By relying on a self-identified need for emergency shelter, this bill would hold a local government accountable for its own numbers. This is not only an equitable method for determining the need for emergency shelter within the jurisdiction of a local government, but it also avoids the creation of a state-wide bureaucracy to determine that need for each local government.

Good-Faith Estimate
Persons who need emergency shelter are, by definition, part of a transient population that is difficult to count with great accuracy. As such, it would be inappropriate to hold a local government strictly accountable for the actual number of homeless persons within its jurisdiction because that number is constantly changing. As a result, this bill would rely upon a local government's good-faith estimate of that population. As such, a local government that is taking reasonable steps to account for its homeless would be considered to be in compliance with its housing element, while a local government that ignores its homeless population would not be in compliance. Such a distinction may be of great importance should a local government ever be judicially challenged on its ability to meet the shelter needs of its homeless population.

Requires Zoning, not Building
While this bill would require a local government to identify zones where emergency shelters could be built, it is important to note that this bill would not require a local government to actually build emergency shelters. A local government would be required, at the very minimum, to identify at least one zone in its housing elements where an emergency shelter could be built without a conditional use permit. By requiring at least one zone, this bill would prevent a local government from claiming that it has no homeless population and thus no need for any emergency shelter. If the self-identified need for emergency shelter exceeds the capacity of what that one zone could accommodate, then the local government would be required to identify additional zones until all the identified need could be accommodated. By requiring enough zones to accommodate all the self-identified need for emergency shelter, this bill would help ensure that emergency shelters could be built to accommodate the need. By ensuring that emergency shelters could be built in jurisdictions with homeless populations, this bill would not only help those people in need of emergency shelter, but it would also relieve some of the burden assumed by those jurisdictions that actively seek to help the homeless.

This bill has raised some concerns in that it would require a local government to zone for at least one emergency shelter, even if a particular community has no identified homeless population. Generally, such blanket a requirement would be considered an over-reaching intrusion of state policy into individual matters of local domain. However, the homeless population, and more particularly the way some local governments have managed their homeless populations, justify such an intrusion. According to research conducted by HCD, there is not a single community within the state that has not had some presence of homelessness within a given year. Rather, what differentiates communities and local governments is the policies and accommodations that communities afford to their homeless populations. HCD states that those local governments that have been proactive with their homelessness programs are shouldering a great burden of the state's homelessness population; an impoverished and transient population that will typically move to more homeless-friendly areas and away from those communities that offer sub-standard

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homelessness programs or accommodations. As such, while this measure would not necessarily create new emergency shelters or programs, it would force every local government to accommodate for at least one. Such a mandate would recognize that the needs of the homeless are shared burden statewide, and not just the responsibility of a few good actors.

Free Market at Work
This bill has also presented concerns in that it would require the construction of emergency shelters in communities that may not have an actual need. Such a concern, however, is largely without merit. As with the building of any other type of housing, free-market principles will determine where emergency shelters are built. Non-profit organizations have limited resources for the building and operation of emergency shelters and will only build them where there is actual need. So, if a community truly has no need for emergency shelter, then a non-profit would seek to maximize its resources and build where it will serve the most homeless. By this mechanism, smaller communities with no need for emergency shelter will be passed over to serve larger communities with greater need. Thus, this concern is not likely to come to fruition.

Housing Accountability Act (Anti- NIMBY)
This bill would also provide Anti-NIMBY protections to emergency shelters, transitional housing and supportive housing.

Emergency Shelter
If a local government fails to identify adequate zones to accommodate enough emergency shelters to house its self-identified homeless population, then this bill would prohibit it from disapproving a proposed emergency shelter or conditioning approval in a manner that renders the emergency shelter infeasible. However, if a local government has identified adequate sites and its self-identified homeless population was determined in good faith, then the local government would be allowed to deny an application for an emergency shelter proposed outside of the zone it has identified for emergency shelter. This application of Anti-NIMBY would provide sufficient protection from lawsuits for a local government that acts in good faith and identifies sufficient zones to accommodate its homeless population.

Transitional Housing and Supportive Housing
This bill would require a local government to treat transitional housing and supportive housing in the same manner as it would treat a housing development project. This is appropriate because transitional housing and supportive housing differs very little from traditional multi-dwelling complexes. The key difference is that transitional housing and supportive housing include on-premise social support for its residents; an undetectable difference by those who just pass by. By requiring a local government to treat transitional housing and supportive housing like any other multi-dwelling complex, this bill would help ensure that proposals to build these facilities are not arbitrarily denied.

OTHER STATES' INFORMATION
No information has been obtained.

FISCAL IMPACT
No appropriation is provided. This bill would create a state-mandated local program by requiring local agencies to identify a zone or zones where emergency shelters are permitted without a special use permit. However, no reimbursement would be required by this act pursuant to Section 6 of Article XIIIB of the California Constitution, because local agencies have the authority to levy

service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

According to HCD, due to the increased workload associated with reviewing the housing elements with the new requirements in this bill, HCD would need an additional staff person at the cost of $145,000.

ECONOMIC IMPACT
This bill would not appear to have an adverse impact on the state's economic or business climate.

LEGAL IMPACT
This bill would not appear to result in any increased liability for the state or conflict with any state or federal laws.

SUPPORT/OPPOSITION
Support: American Federation of State, County and Municipal Employees; California Council of Community Mental Health Agencies; California Rural Legal Assistance Foundation; Central City Association of Los Angeles; EIMAGO, Inc.; Gray Panthers; Housing California; Jericho; Mayor Antonio Villaraigosa, City of Los Angeles; MCR Public Affairs; Moller International; National Association of Social Workers; Northeast Democratic Club; Progressive Jewish Alliance; San Diego Housing Federation; Shelter Partnership; Union Rescue Mission; and, Western Center on Law and Poverty.

Opposition: City of San Jose and Department of Finance.

ARGUMENTS
Pro: This bill would require a local government to actually plan for the accommodation of the housing needs of its homeless population, as already mandated by in the housing element requirements.

Con: This bill would require a small minority of communities, which actually have no homeless population, to zone for one emergency shelter.

VOTES:

Senate – May 17, 2007
Ayes – 27
Noes – 11*

Assembly – September 10, 2007
Ayes – 42
Noes – 31*

Concurrence – September 12, 2007
Ayes – 26
Noes – 12*

**"No" votes cast by Republicans concerned that this bill would restrict the discretion of local governments and create an unfunded mandate.

LEGISLATIVE STAFF CONTACT

	Office
Cynthia Bryant, Director	(916) 445-3637
Brent J. Jamison, Deputy Director	(916) 445-4831
Peter Ackeret, Legislative Analyst	(916) 445-4831

VETO MESSAGE
To the members of the California State Senate:

I am returning Senate Bill 2 without my signature.

As our homeless population grows in California, it is imperative that we respond to this issue by providing shelters and programs to aide the segment of our communities most in need. This bill would attempt to address the need for more emergency shelters within our state and I commend the author's efforts to this regard. However, this bill also presents concerns in that it would extend to emergency shelters the same Anti-NIMBY protections designed specifically for low-income housing despite the policy issues and planning realities that differentiate emergency shelters from low income housing and make such an extension unnecessary.

Sincerely,

Arnold Schwarzenegger

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: August 31, 2007
RECOMMENDATION: Veto
SPONSOR: G. Cedillo
ASSEMBLY: 42/31
SENATE: 26/12

BILL NUMBER: SB 2
AUTHOR: G. Cedillo

BILL SUMMARY: Planning For Homeless Shelters

This bill would expand provisions of State Housing Element Law to require cities and counties (local government) to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit. This bill would also require that identified zones accommodate at least one emergency shelter and ensure that there is sufficient capacity to accommodate the need for emergency shelters. If the local government cannot identify a zone or zones with sufficient capacity, it would need to amend its zoning ordinance to include such a zone or zones within one year of housing element adoption. Additionally, this bill would require local governments to treat transitional and supportive housing projects (housing projects) as a residential use of property and only subject the housing projects to those restrictions that apply to other residential dwellings in the same zone.

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs.

The Department of Housing and Community Development estimates start-up costs of $50,000 to develop and disseminate guidelines. These costs appear to be absorbable.

COMMENTS

Finance recommends this bill be vetoed because this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs. This bill would require local governments to designate zones to accommodate at least one additional emergency shelter, even if the local government has already provided a sufficient number of shelters to satisfy its needs. This appears to require local governments to perform activities beyond current law, and the state would likely be subject to reimbursable mandate claims submitted for the activities required under this bill. While the estimated amount of these mandate claims is unknown, they would likely be significant.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) E. Harper	9/19/07	Mark Hill	9/19/07

Department Director — Date 9/20/07

ENROLLED BILL REPORT — Form DF-43 (Rev 03/95 Pink)

BTH :SB2-2999.doc 9/19/2007 4:40:00 PM

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county (local government) to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each local government to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require local governments to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit. This bill would also require that identified zones accommodate at least one emergency shelter and ensure that there is sufficient capacity to accommodate the need for emergency shelters. If the local government could not identify a zone or zones with sufficient capacity, it would need to amend its zoning ordinance to include a program to adopt a zone or zones within one year of adoption of the housing element. Additionally, this bill would require local governments to treat transitional and supportive housing projects (housing projects) as a residential use of property and only subject the housing projects to those restrictions that apply to other residential dwellings in the same zone. This bill would also authorize multi-jurisdictional agreements between local governments, allowing them to meet their share of emergency shelters through shared facilities, so long as their baseline needs were met through such methods.

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold local governments accountable for providing their "share" of the homeless population with access to services, including emergency shelters and housing projects. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all local governments to include housing projects and emergency shelters in their housing element.

Finance notes concern that there may be little incentive for local governments to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless populations, and thereby a means to verify the accuracy of a local government's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely. Additionally, this bill would still require a local government to zone for at least one additional shelter or housing project even if it has already provided a sufficient number of shelters and housing projects to satisfy its needs.

Although local governments are required to provide a zone or zones for emergency shelters without a conditional use permit, they are still able to require that shelters adhere to objective standards related to the number of beds permitted, onsite management, and length of stay, among other things.

Related Bills:

SB 1322 (Cedillo) from last year was similar to this bill and required local governments to designate zones where special needs facilities and transitional housing are a permitted use, whether by right or subject to a conditional use permit. The veto message indicated that the bill would deny impacted groups from having input on proposed developments and would lead to an increase in litigation brought against cities and counties that would deplete local government resources, rather than helping improve the availability of special needs housing.

Chapter 891, Statutes of 2006 requires local governments to analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and any program to provide adequate sites when developing the local housing element.

B. Fiscal Analysis

The Department of Housing and Community Development (HCD) states this bill would generate one-time costs of $50,000. There is no appropriation in this bill. If this bill is enacted, HCD would have to redirect resources from other programs and duties.

This bill would require local governments to designate zones to accommodate at least one additional emergency shelter, even if the local government has already provided a sufficient number of shelters to satisfy its needs. This appears to require local governments to perform activities beyond current law, and the state would likely be subject to mandate claims submitted for activities required under this bill. While the estimated amount of these mandate claims is unknown, they would likely be significant.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2007-2008	FC	2008-2009	FC	2009-2010	Fund Code
2240/HCD	SO	No	C	$50		--		--	0001
8885/Comm St Mndt	LA	No		Unknown, But Potentially Significant					0001

SUGGESTED VETO MESSAGE

SB 2

(as amended August 31, 2007)

I am returning Senate Bill 2 without my signature.

This bill would expand provisions of State Housing Element Law to require cities and counties to identify zones where emergency shelters are allowed as a permitted use without additional discretionary permits and require that the identified zones accommodate at least one emergency shelter.

This bill would require cities and counties to perform activities not currently required by state law. As a result, the state would likely have to reimburse cities and counties for these additional activities. This could result in significant General Fund expenses to the state.

For these reasons, I am unable to sign this bill.

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California State Senate

SENATOR
GILBERT CEDILLO
TWENTY-SECOND SENATE DISTRICT

September 14, 2007

The Honorable Arnold Schwarzenegger
Governor
State Capitol
Sacramento, CA 95814

Dear Governor:

SB 2 is now before you for signature. I urge your favorable consideration of this important legislation addressing emergency shelter for California's homeless population.

As you recall, last year you vetoed my SB 1322, which addressed the issue of zoning for emergency shelter and special needs facilities. Unlike the bill before you, SB 1322 was very broad, provided less local control and was strongly opposed by the League of California Cities. This year, I established a working group through which the bill before you was negotiated. The working group participants included the League of California Cities, housing and homeless services advocates, the American Planners Association, California State Association of Counties, the Department of Housing and Community Development (HCD), and the Office of Planning and Research (OPR).

Aside from HCD and OPR which did not have a position on the bill, all other working group participants moved their position to either neutral or support. The bill before you is a collaborative effort between groups that often disagree and represents a comprehensive effort which involved much discussion and compromise.

The bill the working group negotiated, and is before you today, would require every city and county to assess how many homeless persons are in their community and to identify a zone or zones within the jurisdiction, and identified in the housing element of their general plan, where emergency homeless shelters are allowed to locate without a conditional use permit or other discretionary permit.

The location of zones within the jurisdiction is at the total discretion of the governing body. Jurisdictions also have the option of partnering with up to two other jurisdictions to develop a shelter to meet all or part of each communities emergency shelter need.

SB 2 establishes a list of written, objective standards that a local government may tailor to their specific needs and impose upon any shelter in the zones designated as an appropriate shelter location. These standards were developed by the SB 2 working group after reviewing the standards imposed by cities that currently have "by-right" ordinances and are considered "best practice" standards. The standards include: the number of beds or persons served; off street parking; size and location of client intake

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areas; the provision of on-site management; proximity to other shelters; length of stay; lighting; and security during hours the shelter is open.

The bill recognizes that some jurisdictions have emergency shelter ordinances that meet or exceed the requirements of the bill. Those jurisdictions only need to describe how their ordinances are consistent with the bill in their housing element and no further action is required of them. The Department of Housing and Community Development (HCD) has reviewed this language and believes it is clear and well written. If a local jurisdiction needs more clarity, HCD has offered to provide a guidance document ensuring this provision is implemented as intended.

The bill further recognizes that some jurisdictions already have emergency shelter in their community that meet their local need. Those jurisdictions need only zone for where additional shelter may locate with a conditional use permit.

Some cities have gone further and adopted plans to reduce homelessness in their community by creating supportive housing units for chronic homeless persons. Under SB 2, a local jurisdiction can reduce their need for emergency shelter by identifying supportive housing units that are either vacant or for which funding has been identified to allow construction during the planning period.

SB 2 also clarifies that supportive and transitional housing are only subject to those restrictions that apply to other residential dwellings, of the same type, in the same zone. Finally, SB 2 amends the anti-NIMBY law to include emergency shelters and clarifies that transitional and supportive housing are also protected by this provision.

As before you, SB 2 is consistent with your draft 10-year Plan to End Homelessness. Action item 2.2.2 recommended changing housing element law to ensure that emergency shelter is planned for in every community. SB 2 would accomplish that goal.

In closing, SB 2 is an important step to ensure that each city and county has planned for the location of emergency shelter and have thought about what conditions need to be applied to shelters to integrate them into the community. The bill does not require that precious local resources be used to build or operate a shelter. By signing SB 2, you would end project by project "NIMBYism" by requiring the tough decisions to be made during the zoning process, with public input, not when a provider has come forward to open and operate a shelter in an approved zone.

Please sign SB 2 into law and ensure that all California communities take this first step of planning for the location of emergency shelter.

If you have any questions, I can be reached at (916)651-4022.

Sincerely,

Gil Cedillo
Senator, 22nd District

cc: Curt Augustine

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Los Angeles House of Ruth

P.O. Box 33288 • Los Angeles, CA 90033 (323) 266-4139 fax (323) 265-3945

September 26, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

Re: SB2 (Cedillo)-Request for Signature

Dear Governor Schwarzenegger:

On behalf of Los Angeles House of Ruth I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

Since 1978, the Los Angeles House of Ruth has been a safe haven for homeless and battered women with children. A compassionate, homelike environment empowers these mothers to move from living destructive, dependent lives to personal responsibility and self-sufficiency. Some of the services that we provide are shelter, case management, child care, counseling, education planning and placement, life-skills training, social service referrals, advocacy, transportation, and permanent housing placement.

- Conservative counts estimate at least 360,000 individuals and families are homeless in California.
- Emergency shelters, along with other permanent housing options, are part of the solution to end homelessness.
- Despite pressing needs, California shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its resident's needs, including allowing for homeless shelters and affordable residential facilities. SB 2 would reduce the red tape in the development and operation of emergency shelters, which are integral in the fight to end homelessness within our communities and ensure that every community in California has the ability to address the needs of its residents/

For these reasons, we strongly urge your signature on SB 2.

Sincerely,

Jennifer Gaeta
Executive Director

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STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0029
(916) 319-2029
FAX (916) 319-2129

Assembly
California Legislature

DISTRICT OFFICE
6245 N FRESNO STREET
SUITE 106
FRESNO, CA 93710
(559) 446-2029
FAX (559) 446-2028

MICHAEL N. VILLINES
ASSEMBLY REPUBLICAN LEADER
ASSEMBLYMEMBER, TWENTY-NINTH DISTRICT

Tuesday, September 18, 2007

Governor Arnold Schwarzenegger
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 2 (CEDILLO)

Dear Governor Schwarzenegger:

This letter serves to memorialize a veto request for Senate Bill 2, which passed the Assembly on September 10, 2007, by a vote of 42 to 31, with 31 members of the Assembly Republican Caucus voting 'No'.

Senate Bill 2 requires cities and counties to accommodate their need for homeless shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

Last year, you vetoed a substantially similar bill, SB 1322 (Cedillo). In your message you stated, in part:

> *"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in: a depletion of local government resources, rather than helping improve the availability of such facilities."*

We completely agree.

For the reasons stated above, I respectfully request that you veto Senate Bill 2.

Sincerely,

Michael N. Villines
Assembly Republican Leader

MV: ww

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OFFICE OF THE MAYOR
ANTONIO R. VILLARAIGOSA

September 20, 2007

The Honorable Arnold Schwarzenegger
Governor of California
Attn: Legislative Unit
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 2 (Cedillo): Fair Share Zoning – REQUEST SIGNATURE

Dear Governor Schwarzenegger:

On behalf of the City of Los Angeles, we urge you to sign SB 2, authored by Senator Gil Cedillo, as part of a regional and statewide effort to help tackle the problem of homelessness.

There are an estimated 360,000 homeless individuals in California and the Los Angeles Homeless Services Authority recently conducted a countywide count of the homeless population that showed that Los Angeles has the highest homeless population in the country. Of the over 80,000 homeless individuals in Los Angeles County, approximately 58%-nearly 50,000- of those individuals can be found throughout the City of Los Angeles with the largest concentration in the Skid Row area of downtown Los Angeles.

Homelessness affects people of all races, gender, age and geographic location. In addition to the need for shelter, many of these individuals also have a need for substance abuse and mental health services. In Los Angeles County, for example, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among the chronically homeless.

Unfortunately, the unavailability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the disproportionate concentration of services in inner cities and poor communities such as Skid Row, in downtown Los Angeles.

SB 2 would require local government general plans to provide in their housing elements for emergency shelters and transitional and supportive housing as use by right. SB 2 would allow for easier access to these shelters and support services by these homeless individuals at a regional level.

MAYOR'S OFFICE OF INTERGOVERNMENTAL AFFAIRS
1400 K STREET, ROOM 208 • SACRAMENTO, CALIFORNIA 95814
(916) 321-5500 • (916) 448-7162

F11

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In order to ensure access to services for the homeless in every city and county, it is important that local governments plan for these services to address the special needs and services of the homeless population. The City of Los Angeles supports SB 2 and requests your signature on this legislation. If you have any questions about the City's position, please contact me at our Sacramento office of Legislative and Intergovernmental Relations at 916.321.5500.

Sincerely,

Silvia Y. Solis
Legislative Representative
City of Los Angeles

cc: Senator Gil Cedillo

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AMERICAN PLANNING ASSOCIATION
California Chapter

September 18, 2007

The Honorable Arnold Schwarzenegger
Governor
State Capitol
Sacramento, California 95814

SUBJECT: **REQUEST FOR SIGNATURE OF SB 2 (CEDILLO)**
LOCAL PLANNING FOR EMERGENCY SHELTERS AND SPECIAL NEEDS FACILITIES

Dear Governor Schwarzenegger:

CCAPA respectfully requests your signature of SB 2. CCAPA was involved with the working group of interested parties that the author and staff organized to work out a compromise on this measure. As SB 2 reached your desk, CCAPA is in full support. CCAPA believes this bill not only ensures that each local agency plans for much-needed emergency shelters and special needs facilities, but that the facility zoning requirements also work well within existing land use, housing element and planning laws.

If you have any questions, please contact CCAPA's lobbyist, Sande George with Stefan/George Associates, 916-443-5301, sgeorge@stefangeorge.com.

Sincerely,

Pete Parkinson, AICP
Vice President, Policy and Legislation

cc: Governor's Legislative Office
Office of Planning and Research
Senator Gil Cedillo

1333 36th Street • Sacramento, CA 95816 • (916) 736-2434 • FAX (916) 456-1283
www.calapa.org

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BURBANK HOUSING DEVELOPMENT CORPORATION
790 Sonoma Avenue • Santa Rosa, CA 95404 • bhdc@burbankhousing.org
(707) 526-9782 • Fax (707) 526-9811

September 27, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

Attn: Curt Augustine

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of Burbank Housing Development Corporation I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

Burbank Housing Development Corporation (BHDC) was founded in 1980 through the efforts of County government to meet the housing needs of low-income residents of Sonoma County. BHDC is a local nonprofit organization dedicated to increasing the supply of housing in Sonoma County, so that low income people of all ages, backgrounds and special needs will have a better opportunity to live in decent and affordable housing.

At the present time Burbank Housing has constructed or rehabilitated 2,846 units of affordable housing in Sonoma County.

- Conservative counts estimate at least 360,000 individuals and families are homeless in California.
- Emergency shelters, along with other permanent housing options, are part of the solution to end homelessness.
- Despite pressing needs, California shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and affordable residential facilities. SB 2 would reduce the red tape in the development and operation of emergency shelters, which are integral in the

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fight to end homelessness within our communities and ensure that every community in California has the ability to address the needs of its residents.

For these reasons, we strongly urge your signature on SB 2.

Sincerely,

Nick Stewart
Deputy Director

cc: Zack Olmstead, Housing California
Fax: 916-447-1900

Provided by LRI History LLC

California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice 916 446 9241
Facsimile 916 442 7966
www.housingadvocates.org

Brian Augusta
Staff Attorney
brian@housingadvocates.org

September 19, 2007

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Attention: Curt Augustine

Re: Request for Signature on SB 2

Dear Governor Schwarzenegger:

On behalf of our low-income clients, we are writing to request your signature on SB 2, which would ensure that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. The author and supporters of this measure have worked closely this year with local government representatives to address their concerns, and this compromise measure is the result of those extensive discussions.

Earlier this year, the U.S. Department of Housing & Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be, and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will ensure that every city is working to address their fair share of this statewide problem. We respectfully urge your signature.

Sincerely,

Brian Augusta
Staff Attorney

cc: The Honorable Gil Cedillo

Provided by LRI History LLC

California-Pacific Annual Conference of the United Methodist Church

CONNECTIONAL MINISTRIES

110 South Euclid Avenue, P.O. Box 6006, Pasadena, California 91102-6006
Telephone: 626-568-7300 800-244-8622 Fax: 626-796-7292
Mary Ann Swenson, Resident Bishop

September 21, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

Rev. Jim Conn
Director of
New Ministries

Workstation:
230 Pacific Street #108
Santa Monica, CA 90405

310.392.5757 phone
310.392.6797 fax

urbconn@aol.com

RE: SB 2 (Cedillo) – Request Your Signature

Dear Governor Schwarzenegger:

On behalf of the Office of New Ministries of the California-Pacific Annual Conference of the United Methodist Church, I am writing to urge your signature on SB 2 (Cedillo) which requires local governments to identify zones where emergency shelters are allowed as a permitted use without conditional use or other discretionary permit.

As the founding chairperson of the Los Angeles Homeless Services Authority [a joint powers agreement between the City and County of Los Angeles] and as a long-time advocate for services for the homeless, I believe that this is essential in order to provide shelter to people who can become self-sustaining once again.

As a former local elected official, I also know how jealously communities guard their ability to set neighborhood standards. Nevertheless, I also know that often City Councils are willing to support such projects if they can shift the responsibility for making the decision off of themselves. This bill allows them the space to make those choices.

I urge you to sign this legislation in order to serve people otherwise often excluded from our neighborhoods, but living on our streets.

Sincerely,

Rev. James Conn
Director of New Ministries

September 26, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

Re: SB 2 (Cedillo) Local Planning

REQUEST FOR VETO

Dear Governor Schwarzenegger:

On behalf of the Association of Bay Area Governments, the Regional Council of Governments representing 101 cities and towns and nine counties in the Bay Area, I am writing to urge you to veto SB 2 because a more regional approach would better address the need for emergency shelters and special needs facilities.

The bill provisions regarding siting and implementing approval of emergency shelters in communities are so prescriptive that they interfere with local government's ability to address the complex issues related to emergency shelters and special needs facilities. Local communities have very different needs and factors that must be considered in approving projects and sites. This bill does not help improve the availability of needed emergency shelters nor does it address compatibility and special needs requirements.

Because SB 2 would usurp local government's authority to permit and condition projects and sites to best meet local community needs and more regional approach is needed, we ask that you veto SB 2.

Sincerely,

Dave Cortese, President
Association of Bay Area Governments
San Jose Vice Mayor

cc: Santa Clara County Supervisor Pete McHugh, ABAG Legislation and Governmental Organization Committee Chair

Mailing Address: P.O. Box 2050 Oakland, California 94604-2050 (510) 464-7900 Fax: (510) 464-7985 info@abag.ca.gov
Location: Joseph P. Bort MetroCenter 101 Eighth Street Oakland, California 94607-4756

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Chuck Reed
MAYOR

September 26, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

RE: Senate Bill 2 (Cedillo) – Emergency Shelters By-Right – REQUEST FOR VETO

Dear Governor Schwarzenegger:

On behalf of the City of San José, I am writing to indicate our opposition to SB 2 (Cedillo), which would require local governments to pre-zone sites for emergency shelters and allow them "by-right." We are requesting your veto of this bill, which is currently on your desk awaiting action.

We must oppose SB 2 because the bill mandates that local jurisdictions take one specific action to deal with homelessness and does not allow the local jurisdiction to consider the overall needs and concerns of its community to address this issue. In particular, SB 2 fails to acknowledge the efforts of local jurisdictions which are attempting to deal with the homeless issue with a much broader effort. For example, our City has adopted a 10-Year Strategy to End Chronic Homelessness that allows for a variety of housing options to end homelessness. Further, this bill would mandate "by-right" zoning even for those jurisdictions which already have existing shelters within their jurisdictions.

We have attempted to work with Senator Cedillo's office on amendments but disagree with the basic idea of the bill that jurisdictions should continue to maintain and warehouse the homeless through shelters, instead of solving the issue through other means. Although the bill contains a "good actor" provision which is supposed to acknowledge those communities with existing shelters, that provision would require that the local jurisdiction meet all of the homeless needs in existing shelters in order to avoid the mandates of the bill. It is clear that homeless shelters cannot meet all the needs of the homeless population so that provision is of little value. Instead, the bill should acknowledge the efforts of cities like San José, Santa Monica, Long Beach and Oakland, which are looking at a combination of solutions to homelessness and allow those jurisdictions to work on their solutions without the mandates of SB 2.

Further, the bill ignores the fact that there are few resources to build or operate emergency shelters. Under current State law, 20% of redevelopment housing set-aside funds (which are often the most significant source of funding for housing) cannot be used for emergency shelter construction in most jurisdictions; and the federal government does not provide funding to assist cities in the operation of emergency shelters. As a consequence, local jurisdictions must look at alternative methods of addressing homeless issues.

200 East Santa Clara Street, 18th floor, San José, CA 95113 tel (408) 535-4800 fax (408) 292-6422 www.sjmayor.org

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Currently, the City has 13 shelters with 678 beds and 16 transitional housing developments serving approximately 770 individuals and families. In addition, through the City's 10-Year Strategy, which has been the subject of community hearings, it has already assisted in the creation of approximately 820 units of permanent, supportive housing for extremely-low (or no) income individuals and families. We are committed to this "Housing First" approach. In addition, the City has adopted a policy which requires 30% of our Low- and Moderate-Income Housing Funds (LMIHF) (or 20% Redevelopment Housing Set-Aside) to be used for extremely-low income (ELI) households, which specifically targets our homeless population. The City of San José can and will continue to demonstrate that we are building transitional and permanent housing, but SB 2 would require the City to change its focus and attention from the goals of "Housing First" to the limited scope of creating more shelters, which are not in the best interests of the homeless in our community.

We believe it is the responsibility of each jurisdiction to determine what is in the best interests of each community to end chronic homelessness. Because SB 2 would mandate that each jurisdiction address the issue of homelessness by adopting zones which allow emergency shelters by right as the only way to deal with the state's homeless problem we must ask you to veto the legislation.

We urge you to VETO SB 2. Thank you for your consideration.

Sincerely,

Chuck Reed

Chuck Reed
Mayor

cc: Senator Gilbert Cedillo
Chris Kahn, Deputy Chief-of-Staff and Legislative Affairs Secretary to the Governor
Curt Augustine, Deputy Legislative Affairs Secretary, Office of the Governor
Roxanne Miller, Legislative Representative, City of San José

Provided by LRI History LLC

City of
Santa Monica®

Richard Bloom
Mayor

City Council Office
1685 Main Street
PO Box 2200
Santa Monica
California 90407-2200

September 17, 2007

The Honorable Arnold Schwarzenegger
Office of the Governor
State Capitol
Sacramento, CA 95814

RE: SB 2(CEDILLO) – REQUEST FOR VETO

Dear Governor Schwarzenegger:

On behalf of the City Council of the City of Santa Monica, I write to urge you to VETO SB 2 (Cedillo). Consistent with the City Council vote on September 11, 2007, we regrettably must oppose the bill in its current form.

SB 2 in its current form does the following:

- Requires local governments to identify a zone where emergency shelters are allowed as a permitted use with sufficient capacity in the zone(s) to accommodate the need for emergency shelters. The need for emergency shelters shall be assessed on annual and seasonal need.

- Authorizes a local government to satisfy all or part of the zoning requirement by adopting and implementing a multijurisdictional agreement to meet needs for shelters.

- Provides that a local government with an existing ordinance that complies with SB2 is not required to take additional action to identify zones for emergency shelters. However, SB2 requires that a city provide sufficient capacity to accommodate the city's need without specifying how need is established. As such, no city can discern if existing ordinances comply with SB2. Given SB2's lack of clarity on this critical issue, cities with significant homeless populations will likely be required to continue shouldering a disproportionate burden.

- Severely restricts the discretion of local governments to deny or regulate through conditional use permit applications to build emergency shelters by adding emergency shelters to the types of housing covered by Government Code Section 65589.5.

The measure sets out to accomplish the laudable goal of requiring that all cities shoulder some responsibility for serving their homeless populations through the housing element amendment process. However, as it finally emerged, the bill imposes significantly more obligations on those jurisdictions with a "need" for shelters than upon those jurisdictions which do not have homeless populations because they currently provide no services and may in fact work to exclude the homeless. The bill also clearly imposes a state mandated program and new limits on local discretion. Without a thorough understanding of how need is established, the City of Santa Monica cannot be confident that the burdens created by the

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legislation will not fall heavily on our city, despite significant ongoing efforts to assist the homeless.

In addition to issues of enforcement, there is a bigger policy concern. Expanding Section 65589.5 to include homeless shelters and special needs housing would significantly reduce the City's local control of these particularly sensitive uses. The bill in its current form would thus further reduce local control without affording any exemption or credit for the good work the City has already done. Moreover, coupled with the proposal to tie local responsibility to local need, the bill could actually exacerbate Santa Monica's problems.

Thus, we again respectfully urge you to veto SB 2. The Council also directed City staff to continue to work with you, the author, and the Legislature to develop a fair share zoning measure that exempts cities with existing zoning ordinances and which does not penalize "good actor" cities through mandates based on a definition of homeless need; we stand ready to do that work.

Thank you for your consideration.

Sincerely,

Richard Bloom
Mayor

cc: The Honorable Gil Cedillo
The Honorable Sheila Kuehl
The Honorable Julia Brownley
Santa Monica City Council
Joshua W. Shaw, Legislative Advocate, Shaw/Yoder, Inc.

HOUSING California

AN END TO HOMELESSNESS. AFFORDABLE HOUSING FOR ALL.

The statewide coalition of nonprofit housing developers, homeless services organizations and other affordable-home advocates

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801 12th Street, Suite 512
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916-447-0503 Phone
916-447-1900 Fax
www.housingca.org

September 19, 2007

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of Housing California, I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

- Conservative counts estimate at least 360,000 individuals and families are homeless in California.
- Emergency shelters, along with other permanent housing options, are part of the solution to end homelessness.
- Despite pressing needs, California shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its resident's needs, including allowing for homeless shelters and affordable residential facilities. SB 2 would reduce the red tape in the development and operation of emergency shelters that are integral in the fight to end homelessness within our communities and ensure that every community in California has the ability to address the needs of their residents.

For these reasons, we strongly urge your signature on SB 2.

Sincerely,

Zack Olmstead
Homeless Policy Advocate

Provided by LRI History LLC

pja Progressive Jewish Alliance

September 19, 2007

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger,

Progressive Jewish Alliance (PJA) is a nonprofit organization dedicated to Jewish traditions of pursuing peace, promoting equality and diversity, and working for social and economic justice. We are a California-based organization with thousands of members throughout the state.

We are writing to in support of SB 2. Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and transitional housing facilities is an important first step in providing all California inhabitants with the basic human right of safe housing. We applaud the provision to remove NIMBY laws that exclude the building of shelters, transitional housing and special needs facilities in our local communities.

As the Jewish tradition mandates, we are deeply concerned about the welfare of our cities and state and all who reside within them. We therefore support SB 2.

Please do not hesitate to contact me with any questions.

Sincerely,

Catherine Schneider
Assistant Director

S. California
T 323.761.8350
F 323.761.8355
5870 W. Olympic Blvd.
Los Angeles, CA 90036

Bay Area
T 510.527.8640
F 510.527.8680
409 Liberty Street
El Cerrito, CA 94530

www.pjalliance.org

EIMAGO INC

The Center for Human, Economic and Community Development

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of Eimago, Inc I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. Maybe you are already familiar with Eimago, Inc and our work in the field of homeless services and reentry. Eimago is a 501(c)(3) public benefit corporation dedicated to serving the homeless and working poor with programs that assist them in becoming productive citizens. Eimago. is also a strategic partner with the Union Rescue Mission, building on its over 116 years of service to homeless men, women, and children in Los Angeles.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. This area has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

I am sure you also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the streets for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are urging you to sign this very important bill and ask that you offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Deepest Gratitude,

Andrew J. Bales
Chief Executive Officer

545 S. San Pedro Street
Los Angeles, CA 90013
213.673.4839

Provided by LRI History LLC

HOMELESS
HEALTH CARE
LOS ANGELES

September 21, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of Homeless Health Care Los Angeles I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

Established in 1985, Homeless Health Care Los Angeles's mission has been to improve the health of homeless people through health services, education and advocacy.

- Conservative counts estimate at least 360,000 individuals and families are homeless in California.
- Emergency shelters, along with other permanent housing options, are part of the solution to end homelessness.
- Despite pressing needs, California shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and affordable residential facilities. SB 2 would reduce the red tape in the development and operation of emergency shelters, which are integral in the fight to end homelessness within our communities and ensure that every community in California has the ability to address the needs of its residents.

For these reasons, we strongly urge you signature on SB 2.

Sincerely,

Mark Casanova
Executive Director

2330 BEVERLY BLVD., LOS ANGELES, CA 90057 • TEL 213.744.0724• FAX 213.748.2432

Provided by LRI History LLC



September 27, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

Attn: Curt Augustine

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of the Interfaith Shelter Network, I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.

We have been sheltering homeless individuals and families for 22 years at local congregations as well as providing transitional housing for homeless battered women with children for 11 years. The conditional use permit process here in San Diego has cost local providers literally millions of dollars in litigation and delayed construction, money that could have and should have been spent on services for this vulnerable population. Communities and neighborhoods are quick to praise what our programs accomplish, but also quick to oppose siting in their neighborhoods and communities. There is nowhere these services are welcomed.

- Conservative counts estimate at least 360,000 individuals and families are homeless in California.
- Emergency shelters, along with other permanent housing options, are part of the solution to end homelessness.
- Despite pressing needs, California shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and affordable residential facilities. SB 2 would reduce the red tape in the development and operation of emergency shelters, which are integral in the fight to end homelessness within our communities and ensure that every community in California has the ability to address the needs of its residents.

For these reasons, we strongly urge your signature on SB 2.

Sincerely,

Rosemary Johnston
Program Director, Interfaith Shelter Network

cc: Zack Olmstead, Housing California

Provided by LRI History LLC

PAI Protection & Advocacy Inc.

Advancing the rights of Californians with disabilities

LEGISLATION & PUBLIC INFORMATION UNIT
1029 J Street, Suite 150
Sacramento CA 95814
Telephone: (916) 497-0331
Fax: (916) 497-0813
www.pai-ca.org

September 20, 2007

Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: SB 2 (Cedillo) – REQUEST FOR SIGNATURE

Dear Governor Schwarzenegger:

Protection & Advocacy, Inc. (PAI), a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities, supports SB 2 (Cedillo).

SB 2 is an important bill because it addresses the housing needs of people with disabilities, including individuals who need housing with supports, through the local land use and planning process.

There exists a lack of housing with supports for individuals with disabilities. As a result, persons with disabilities who need housing often face discrimination and homelessness. PAI believes that it is critically important that constraints on housing, including housing with supports, be analyzed and eliminated at the local level. This measure, as amended, is a positive step toward achieving this goal and addressing housing needs for people with disabilities.

Provided by LRI History LLC

For the foregoing reasons, PAI respectfully requests your signature on this worthwhile legislation. Please feel free to contact me if you have any questions about our position.

Sincerely,

Evelyn M. Abouhassan

Evelyn M. Abouhassan
Protection & Advocacy, Inc.
Senior Legislative Advocate

Provided by LRI History LLC

Union Rescue Mission®
the way home

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 2 (Cedillo)—Request for Signature

Dear Governor Schwarzenegger:

On behalf of Union Rescue Mission I am writing to request your signature on SB 2 (Cedillo). SB 2 would require local governments to identify zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. I know you are already quite familiar with the Union Rescue Mission (URM) and our efforts since 1891 to provide a comprehensive array of emergency and long-term services to low-income and chronically homeless people; including food, emergency shelter, clothing, personal hygiene items, medical care, dental services, recovery programs, transitional housing, legal aid, education, counseling, mentoring and job training for men, women, and children.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. Skid Row has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted to drugs and alcohol. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

I am sure that you also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the streets for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are urging you to sign this very important bill and ask that you offer your full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Sincerely,

Carrie Gatlin
Vice President of Government Relations

545 S. San Pedro Street • Los Angeles, CA 90013 USA • 213/347-6300 • www.UnionRescueMission.org

Provided by LRI History LLC

MAYOR BOB FOSTER
CITY OF LONG BEACH

September 25, 2007

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: Opposition to SB 2 – Special Facilities

Dear Governor Schwarzenegger:

On behalf of the City of Long Beach, I am writing to indicate our opposition to SB 2, which would significantly limit local land use authority for siting emergency shelters and will penalize jurisdictions that have been responsive to homeless populations. SB 2 would require cities to pre-designate areas for emergency shelters and remove the City's current authority to negotiate conditions on these facilities.

Long Beach has a proven history of providing acceptable locations for emergency shelters. While we agree that there is a need to provide such shelters, it is essential that local governments maintain the ability to make smart land use decisions that serve the needs of the entire community. The current authority vested in City Councils is a critical tool to help negotiate solutions between residents, businesses, and the operators of these facilties and must be maintained.

The measure sets out to require all cities to accept some responsibility for addressing homeless populations. However, the language as proposed, imposes significantly more obligations on those jurisdictions with a "need" for shelters than those jurisdictions which do not have homeless populations because they currently provide no services in their community to assist them. Because the City of Long Beach has taken the initiative and provides a variety of services to the homeless, the bill as currently drafted will place an unfair burden on Long Beach.

The author's intent to ensure communities share in the responsibility for sheltering the homeless is defensible, but Long Beach does not believe depriving local governments of long-standing land use authority is an appropriate solution. Further, this bill penalizes cities like Long Beach who currently provide homeless services and work with the community every year to determine an appropriate site for emergency shelters.

It is for this reason that we request a veto on SB 2. Thank you for your understanding and consideration.

Sincerely,

Mayor Bob Foster
City of Long Beach

333 WEST OCEAN BOULEVARD, LONG BEACH, CALIFORNIA 90802
TELEPHONE 562-570-6801 FAX 562-570-6538 MAYOR@LONGBEACH.GOV

Provided by LRI History LLC

CITY OF OAKLAND

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

IGNACIO De La FUENTE
President of the City Council

(510) 238-7005
FAX (510) 238-6129
TDD (510) 238-7413

September 13, 2007

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento, CA 95814

Re: SB 2 (Cedillo) – Local Planning – REQUEST VETO

Dear Governor Schwarzenegger:

After reviewing SB 2 (Cedillo), which would require cities and counties to accommodate emergency shelters on sites without a conditional use permit and treat transitional and supportive housing projects as residential use of property, the City of Oakland must oppose this measure.

While I appreciate the Senator's attempts to reach out to the City of Oakland to address our concerns, unfortunately the City still has significant concerns with the measure and is unable to support SB 2.

This measure does not include the objective standard about over-concentration of emergency shelters, transitional and supportive housing in any given neighborhood. Rather, it provides for a measure of proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 ft. apart. This omission is a fatal flaw for Oakland. Over-concentration of facilities such as residential houses of at-risk youth, residential treatment facilities, and other transitional housing are a serious public concern.

Additionally, the real estate land values and the burden placed on some neighborhoods in Oakland and other large cities because such facilities and their operators generally do not have the resources to locate in high-end neighborhoods. This, coupled with lack of standards for over-concentration, will result in disproportionate concentrations of these facilities in lower income neighborhoods.

Lastly, the City has serious concerns about allowing facilities on-site without a conditional use permit. The heart of a conditional use permit requirement is that if the conditions and requirements contained in the permit are not met the City has the right to: 1) refer to the permit and get compliance through amendments or further restrictions on the use or 2) revoke the permit

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subject to due process and just cause. The language of this bill is such that there are no enforcement mechanisms. There is not a practical way to enforce compliance with the standards listed and the City is left without standard land use regulatory enforcement mechanisms.

For these reasons, I ask for you to veto SB 2 (Cedillo).

If you have any questions or need additional information, please do not hesitate to contact me or my staff.

Sincerely,

IGNACIO DE LA FUENTE
President, Oakland City Council

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Shelter Partnership

523 West Sixth Street, Suite 616 ■ Los Angeles, California 90014 ■ Fax (213) 689-3188 ■ (213) 683-2188

www.shelterpartnership.org

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September 13, 2007

Honorable Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

RE: Support for SB 2 (Cedillo)

Dear Governor Schwarzenegger:

On behalf of Shelter Partnership, Inc., I am writing to strongly urge you to sign into law Senator Gilbert Cedillo's SB 2. This bill will require jurisdictions to identify a zone or zones in which emergency shelters are allowed to site by right without a conditional use permit. Those localities that already meet their need for emergency shelter will be exempt from certain requirements of the bill.

Enactment of this legislation will require cities and counties to be accountable for planning for the housing needs of all segments of their population, including homeless persons. This will not only assist the individuals and families who are homeless by offering them services in their communities of origin, but will also benefit those cities that are currently overburdened by providing more than their fair share of shelters.

Currently, two-thirds of the 89 jurisdictions in Los Angeles County make no provision for emergency shelters or transitional housing in their zoning ordinances, effectively ignoring the needs of the homeless in their communities. Consequently, those localities that do provide shelters, including the Cities of Los Angeles, Glendale, Long Beach, Pasadena, and Santa Monica, are doing more than their fair share in housing homeless persons.

By signing this bill into law, you will be playing a key role in assuring that homeless individuals and families receive emergency housing assistance in their communities of origin where they can best be assisted in getting back on their feet.

Thank you very much for your consideration.

Sincerely,

Ruth Schwartz
Executive Director

A nonprofit organization serving all of Los Angeles County, designed to develop housing and resources for the homeless.

Provided by LRI History LLC

WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento CA 95814
Telephone (916) 442-0753
Fax (916) 442-7965

September 19, 2007

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Attention: Curt Augustine

Re: Request for Signature on SB 2

Dear Governor Schwarzenegger:

On behalf of our low-income clients, we are writing to request your signature on SB 2, which would ensure that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. The author and supporters of this measure have worked closely this year with local government representatives to address their concerns, and this compromise measure is the result of those extensive discussions.

Earlier this year, the U.S. Department of Housing & Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be, and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will ensure that every city is working to address their fair share of this statewide problem. We respectfully urge your signature.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

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UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 09/10/07
LOCATION: ASM. FLOOR
MOTION: SB2 Cedillo Senate Third Reading By LIEBER
(AYES 42. NOES 31.) (PASS)

AYES
****

Arambula	Bass	Beall	Berg
Caballero	Charles Calderon	Carter	Coto
Davis	De La Torre	De Leon	DeSaulnier
Dymally	Eng	Evans	Feuer
Fuentes	Galgiani	Hayashi	Hernandez
Huffman	Jones	Karnette	Krekorian
Laird	Leno	Levine	Lieber
Ma	Mendoza	Parra	Portantino
Price	Ruskin	Salas	Saldana
Solorio	Soto	Swanson	Torrico
Wolk	Nunez		

NOES
****

Adams	Aghazarian	Anderson	Benoit
Berryhill	Blakeslee	Cook	DeVore
Duvall	Emmerson	Fuller	Gaines
Garcia	Garrick	Horton	Houston
Huff	Jeffries	Keene	La Malfa
Maze	Nakanishi	Niello	Plescia
Sharon Runner	Silva	Smyth	Spitzer
Tran	Villines	Walters	

ABSENT, ABSTAINING, OR NOT VOTING
****

Brownley	Hancock	Lieu	Mullin
Nava	Strickland	Vacancy	

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 05/17/07
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB2 Cedillo
(AYES 27. NOES 11.) (PASS)

AYES
****

Alquist	Ashburn	Calderon	Cedillo
Corbett	Correa	Ducheny	Florez
Kehoe	Kuehl	Lowenthal	Machado
Maldonado	Margett	Migden	Negrete McLeod
Padilla	Perata	Ridley-Thomas	Romero
Scott	Simitian	Steinberg	Torlakson
Vincent	Wiggins	Yee	

NOES
****

Aanestad	Ackerman	Battin	Cogdill
Cox	Denham	Dutton	Harman
McClintock	Runner	Wyland	

NO VOTE RECORDED
****

Hollingsworth	Oropeza

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STATE OF CALIFORNIA | CALIFORNIA STATE ARCHIVES
1020 O Street | Sacramento, CA 95814 | Tel (916) 653-7715 | Fax (916) 653-7363 | www.sos.ca.gov

May 2011

Under California Government Code section 6254.3, "the home addresses and home telephone numbers of state employees . . . shall not be deemed to be public records and shall not be open to public inspection."

Pursuant to section 6254.3, home and cellular telephone numbers of state employees have been redacted from enrolled bill reports contained in this file.

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Senate Policy Committee Materials

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5/17 3pm

Stivers, Mark

From: Stivers, Mark
Sent: Friday, April 27, 2007 10:38 AM
To: Creswell, Cathy (hcd.ca.gov)
Subject: SB 2

Cathy, Cedillo's office gave me a copy of the language you all suggested to them for SB 2 the other day. I really appreciate you doing that. We are all very interested in having the department's support.

I was hoping to talk with you about a couple of the suggestions in the mockup. Primarily, I am interested in knowing which things the author really needs to do to get HCD's support, and what things are just ideas that aren't critical. For example, I think it is really important to keep the Housing Accountability Act portions of the bill applying the act to shelters and special needs facilities (As I recall, Gov. Davis' interagency task force on homelessness, headed by HCD, recommended applying the law to shelters). Also, I appreciate the sentiment behind rewarding local governments that have approved shelters (and if it got the League off the bill I would recommend that they do it), but given that councils change, I would rather not go there unless we have to. Are these things critical to getting HCD's support?

Also, I want to understand your distinction between by-right and no CUP. In 65583(a)(3) you say the community has to show zones where shelters are allowed without a CUP. Then in (c)(1)(C) you require by-right for cities that have to rezone. In your view, what is the difference? What will cities that have no CUP be able to do that cities that have by-right won't? ✓

Lastly, would you have any objections to creating at least some link between the shelter zoning requirement and the city's homeless need? For example, in 65583(a)(3) where you say that the inventory shall demonstrate how identified zones include sufficient capacity to accommodate the development of homeless shelters, could we add "in a manner reasonably consistent with the need for emergency shelters identified in (a)(6)." I understand your reluctance to having to count up possible shelter space to meet a direct standard, but I want to make sure you have the authority (and a court will back you up unlike Fonseca) to require that the capacity bear some relation to the need. ✓

I hope we can chat more about this soon. Next week is really good for me, so just let me know a good time to chat. Thanks. -- Mark

could accept shelters under HAA, have bigger problems w/ special needs facilities
Clarify that HAA (h)(2) includes transitional + supportive housing, SROs
Add HE requirement that transitional and supportive housing shall not be treated differently than residential uses. "Shall be a residential use"
Mike encourage other zones where shelters are conditionally permitted.

Transitional and supportive housing

Development standards (Do later)

Number under 100

Add objective standards on shelters to HE law that don't preclude development
Can only → reasonable restrictions on specific categories
no welfare, neighborhood compatibility

— except that no jurisdiction shall have no fewer than ___ practical parcels within the identified zones

Provided by LRI History LLC

March 13, 2007

The Honorable Alan Lowenthal
Chair Senate Transportation and Housing
State Capitol, Room 2209
Sacramento, California 95814

Re: Support of SB 2 (Cedillo) as amended March 8, 2007

Dear Senator Lowenthal,

Providing special needs and emergency shelter facilities for an estimated 360,000 homeless Californians is challenging. Equally challenging for those working to provide shelter and services to improve people's situation are the obstacles often in the way of identifying adequate sites for facilities for those who need them.

SB 2 would include specific planning for emergency shelter, transitional housing, Farmworker housing and special needs facilities in the housing element of a city or county's general plan. The bill would require an inventory of appropriately zoned sites suitable for development of these needed facilities or require identification of actions that would be taken within the planning period to make available sites for these facilities—permitting development of transitional housing and special needs facilities as a use by right.

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approach to facility siting but helps to ensure the development of emergency and special needs facilities by removing some of the obstacles (conditional use permit, for example) that are used to block needed residential programs and services.

Community-based programs have shown through the years that services cost less when they are available at the time they are needed. Support services offered through residential programs enable people to move on with their lives. Let's assist Californians to return to the workforce by providing service in a community-based setting.

JERICHO members urge a "Yes" vote on SB 2.

Sincerely,

Elizabeth A. Lopez
Public Policy Coordinator

cc: Senator Gil Cedillo
Mark Stivers, Consultant

Since 1987 JERICHO has engaged the interfaith community throughout California in shaping state public policy that affects individuals and families living in poverty.

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NASW, CALIFORNIA CHAPTER ...the power of social work
National Association of Social Workers

February 15, 2007

The Honorable Gilbert A. Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 2 (Cedillo) – Support

Dear Senator Cedillo,

The National Association of Social Workers, California Chapter (NASW-CA) supports SB 2, which calls for an increased availability of homeless shelters and transitional housing across the state of California.

The bill would require cities and counties to include emergency shelters, transitional housing, and special needs facilities in the housing of their general plans for development. SB 2 would also require local governments to designate zones where special needs emergency shelters and transitional housing are permitted, all of which are necessary for the welfare and safety of California's homeless population. At this time, such services are sparsely available, leaving many homeless without shelter and resources. Such needed resources for the homeless are often unequally distributed and concentrated in inner cities and impoverished communities. SB 2 would provide for the homeless population of California through a more equal dissemination of homeless services.

The National Association of Social Workers, California Chapter represents over 12,000 professional social workers who have degrees from accredited social work programs across the country. NASW-CA advocates, on behalf of our members and their clients, for the implementation and improvement of programs and policies designed to enhance human well-being and help meet the basic needs of all people. SB 2 will help the homeless population of California, by increasing the availability of shelters and related services. The National Association of Social Workers stands in support of SB 2.

Should you have any questions regarding our position on SB 2, please feel free to contact me at (916) 442-4565, ext. 12 or whill@naswca.org.

Sincerely,

Wendy Rae Hill, BSW

Wendy Rae Hill, BSW
Director of Government Relations and Political Affairs

Social Workers
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...Wyndham Hotel & Suites
...he Yellin Company

March 2, 2007

The Honorable Gilbert Cedillo
Office of State Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Request Approval of SB 2 – "Fair Share Zoning"

Dear Senator Cedillo,

Central City Association of Los Angeles (CCA) is L.A.'s premier business advocacy association, shaping public policy on a broad range of issues and leading the renaissance in Downtown Los Angeles. Established in 1924, CCA is a membership organization representing more than 450 businesses, trade associations, and non-profit organizations employing more than 300,000 people in Los Angeles County.

On behalf of the 500,000 residents, visitors, business owners, and employees in Downtown Los Angeles, CCA requests your support for Senate Bill 2. Long overdue, this bill will help Los Angeles reach a regional solution to the homelessness crisis, rather than concentrating services in inner cities and poor communities such as Skid Row in Downtown Los Angeles.

SB 2 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such services in the community.

SB 2 simply requires cities and counties to plan for their homeless populations and add emergency shelters, special needs facilities, and transitional housing to the already established requirements of the housing element and planning and zoning law. Under SB 2, cities and counties also have the option of meeting the requirement as a region.

Presently, Downtown Los Angeles has the highest concentration of homeless services in the nation. More than 11,000 homeless persons sleep on the streets each night in Downtown. This is unacceptable. Most of these individuals find themselves in Downtown because their own community does not provide appropriate services.

Your support for SB 2 will go a long way in helping the destitute get help at home and escape the crowded and neglected conditions of Skid Row. SB 2 will also help alleviate Downtown Los Angeles of the burden it has withstood for too long. It's past time to give Skid Row a chance for recovery.

Sincerely,

Carol E. Schatz
President & CEO

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California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Brian Augusta
Staff Attorney
baugusta@housingadvocates.org

March 6, 2007

Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento CA, 95814

RE: SB 2 – Support

Dear Senator Cedillo:

I am writing to express our strong support for SB 2, which would require that localities identify sites for emergency shelters that are developable "by-right." Doing so will help ensure that each city and county is doing its part to help meet this critical need.

Just last month, the U.S. Department of Housing and Urban Development released a study which confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

SB 2 does not limit the authority of localities to zone for shelters. Localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the hearings on which parcels will be zoned for the purpose of homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land and develop it "by right," consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every city must plan to shelter their fair share.

Thank you for your leadership on this important measure. Please let us know how we can assist in ensuring its enactment.

Sincerely,

Brian Augusta
Staff Attorney

cc: Members, Senate Committee on Transportation and Housing

Provided by LRI History LLC

Union Rescue Mission®
the way home

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already quite familiar with the Union Rescue Mission (URM) and our efforts since 1891 to provide a comprehensive array of emergency and long-term services to low-income and chronically homeless people; including food, emergency shelter, clothing, personal hygiene items, medical care, dental services, recovery programs, transitional housing, legal aid, education, counseling, mentoring and job training for men, women, and children.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. Skid Row has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted to drugs and alcohol. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

You also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the street.s for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are thrilled to see that you have authored this very important bill and are pleased to offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Sincerely,

Andrew J. Bales
President

545 S. San Pedro Street • Los Angeles, CA 90013 USA • 213/347-6300 • www.UnionRescueMission.org

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Shelter Partnership
523 West Sixth Street, Suite 616 ■ Los Angeles, California 90014 ■ Fax (213) 689-3188 ■ (213) 688-2188

March 14, 2007

Honorable Gilbert Cedillo
State Senator
State Capitol, Room 5100
Sacramento, CA 95814

RE: Support of SB 2: Fair Share Zoning

Dear Senator Cedillo:

On behalf of the board and staff of Shelter Partnership, Inc., we are pleased to support your legislation, SB 2. If enacted, this bill would require that local jurisdictions identify in their housing element sites where emergency homeless shelters can locate by right.

As you know, this law is critically needed. In 2005 Shelter Partnership conducted a study in which we reviewed the housing elements of the County of Los Angeles and all 88 cities within the County. Only three jurisdictions, the City and County of Los Angeles and the City of Santa Monica, explicitly allow emergency shelters by right in specific zones, subject to bed limits. *Most disturbing, 61 cities, or more than two-thirds of all jurisdictions in Los Angeles County, made no provision for emergency shelters or transitional housing in their zoning ordinances.* As a result, nearly two-thirds of the short-term housing beds for the homeless are located in the City of Los Angeles.

We will never solve homelessness in our State if all jurisdictions do not do their part in helping to solve this problem. Your legislation will go a long way toward that end.

We thank you for your important leadership on this issue. Please let us know how we can assist you in securing passage of this important measure.

Sincerely,

Ruth Schwartz
Executive Director

Provided by LRI History LLC

EIMAGO (INC)

The Center for Human, Economic and Community Development

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already familiar with Eimago, Inc and our work in the field of homeless services and reentry. You may also know that Eimago is a 501(c)(3) public benefit corporation dedicated to serving the homeless and working poor with programs that assist them in becoming productive citizens. Eimago. is a strategic partner with the Union Rescue Mission, building on its over 115 years of service to the homeless men, women, and children in downtown Los Angeles.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. This area has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

You also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the street.s for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are thrilled to see that you have authored this very important bill and are pleased to offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Deepest Gratitude,

CARRIE GATLIN

Carrie Gatlin
Vice President

545 S. San Pedro Street
Los Angeles, CA 90013
213.673.4839

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MCR Public Affairs & Advocacy

Senator Cedillo
State Capital
Sacramento, CA. 95833

3/5/2007

Re: SB 2 – SUPPORT - suggested amendment(s) – 1/22/07 version

Dear Senator Cedillo;

I am writing today on behalf of Moller International Inc., a California corporation involved in designing, developing, manufacturing and marketing new transportation products, specifically a 4-passenger Vertical Take-off and Landing ("VTOL") aircraft that combines the cruise performance of an airplane with the vertical-flight capabilities of a helicopter. The aircraft is designated the "M400 Skycar®."

The concept of the Skycar is simple: designed as a personal transportation vehicle, this VTOL is practical and affordable, and will replace both the automobile and private or commercial aircraft for trips of 750 miles or less, making it a preferred medium range transportation choice of the future.

With that in mind, we are bringing this product to market in California. As such, we support the concepts and principles embodied in your SB 2. Even so, in an effort to make the bill more effective, we would like to suggest that an element is missing – emergency transportation, especially helipads and vertiports.

As such, we would like to make the following suggestion on how to make your bill more effective:

When discussing "special needs facilities", community plans should be required to include heli-stops for medivac and public safety, especially when planning for community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities and residential care facilities for the elderly are discussed.

In closing, we look forward to working with you as this measure winds its way through the 2007-2008 legislative session.

Sincerely;

Michael Ross, Legislative Advocate for Moller International. Inc.
(916) 923-2215

37 Derow Court, Sacramento, CA. 95833 – 916.923.2215 – ssorleahcim@comcast.net – fax 916.923.2216

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AFSCME®
in the public service

February 8, 2007

TO: The Honorable Alan Lowenthal, Chair
and Members of the Senate Transportation and Housing Committee

RE: Senate Bill 2 (Cedillo) – AFSCME SUPPORT

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, would like to inform you of our **support** of **Senate Bill 2**, as amended.

Senate Bill 2 will provide much-needed protection of housing and shelter projects for the homeless at the municipal and county level. This would require city and county planners to provide sufficient space zoned for transitional housing and emergency shelters, and also ensure that special needs facilities (such as social rehabilitation facilities, community treatment centers, and residential care facilities for the elderly) can only be rejected by local officials if clear evidence is presented in writing pertaining to one of a number of predetermined conditions. These protections are already in place for farm worker housing and low-to-moderate income housing, among other projects.

While these projects to ensure basic safety and transitional opportunities for the homeless are necessary, they often encounter stiff resistance from local planners and officials. The expansion of existing protective measures in the local planning process to emergency shelters and special needs facilities is necessary to ensure that the least fortunate residents of California get the help that they need and deserve.

Please join us in supporting Senate Bill 2.

Should you have any questions regarding our position in this matter, you may call me at your earliest convenience. AFSCME also reserves the right to change our position in the event of further amendments.

Sincerely,

Willie L. Pelote, Sr.
Assistant Director of Political Action, International

cc: committee consultant(s)

WLP/pea

1121 L Street • Suite 904 • Sacramento, California 95814-3926 • (916) 441-1570 • (916) 441-3426 FAX

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pja Progressive Jewish Alliance

February 14, 2007

Senator Gilbert Cedillo
State Capitol
Room 5100
Sacramento, CA 95814

Dear Senator Cedillo,

Progressive Jewish Alliance (PJA) is a nonprofit organization dedicated to Jewish traditions of pursuing peace, promoting equality and diversity, and working for social and economic justice. We are a California-based organization with thousands of members throughout the state.

We are writing to in support of SB 2. Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and transitional housing facilities is an important first step in providing all California inhabitants with the basic human right of safe housing. We applaud the provision to remove NIMBY laws that exclude the building of shelters, transitional housing and special needs facilities in our local communities.

As the Jewish tradition mandates, we are deeply concerned about the welfare of our cities and state and all who reside within them. We therefore support SB 2.

Please do not hesitate to contact me with any questions.

Sincerely,

Catherine Schneider
Assistant Director

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5870 W. Olympic Blvd.
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WCLP
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19 March 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

Re: Support for SB 2

Dear Senator Cedillo:

The Western Center on Law and Poverty, on behalf of our low-income clients, would like to express our strong support for SB 2, which would require that localities identify sites for emergency shelters that are develop-able "by-right." Doing so will help ensure that each city and county is doing its part to help meet this critical need for its homeless citizens.

Just last month, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

SB 2 does not limit the authority of localities to zone for shelters. Localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the hearings on which parcels will be zoned for the purpose of homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it "by right," consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Senate Transportation and Housing Committee

M

Provided by LRI History LLC

March 13, 2007

The Honorable Alan Lowenthal
Chair Senate Transportation and Housing
State Capitol, Room 2209
Sacramento, California 95814

JERICHO

Re: Support of SB 2 (Cedillo) as amended March 8, 2007

Dear Senator Lowenthal,

Providing special needs and emergency shelter facilities for an estimated 360,000 homeless Californians is challenging. Equally challenging for those working to provide shelter and services to improve people's situation are the obstacles often in the way of identifying adequate sites for facilities for those who need them.

SB 2 would include specific planning for emergency shelter, transitional housing, Farmworker housing and special needs facilities in the housing element of a city or county's general plan. The bill would

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require an inventory of appropriately zoned sites suitable for development of these needed facilities or require identification of actions that would be taken within the planning period to make available sites for these facilities—permitting development of transitional housing and special needs facilities as a use by right.

SB 2 permits a regional approach to facility siting but helps to ensure the development of emergency and special needs facilities by removing some of the obstacles (conditional use permit, for example) that are used to block needed residential programs and services.

Community-based programs have shown through the years that services cost less when they are available at the time they are needed. Support services offered through residential programs enable people to move on with their lives. Let's assist Californians to return to the workforce by providing service in a community-based setting.

JERICHO members urge a "Yes" vote on SB 2.

Sincerely,

Elizabeth A. Lopez
Public Policy Coordinator

cc: Senator Gil Cedillo
Mark Stivers, Consultant

Since 1987 JERICHO has engaged the interfaith community throughout California in shaping state public policy that affects individuals and families living in poverty.

1225 8th Street, Suite 590 • Sacramento, CA 95814
~~925 L Street, Suite 441 Sacramento, CA 95814~~
Phone: (916) 441-0387 • Fax: (916) 441-0388 • Web site: www.jerichoforjustice.org

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MCR Public Affairs & Advocacy

Senator Cedillo
State Capital
Sacramento, CA. 95833

2/12/2007

Re: Moller International and your SB 2 – SUPPORT - suggested amendment(s)

Dear Senator Cedillo;

I am writing today on behalf of Moller International Inc. Moller International, Inc. is a California corporation involved in designing, developing, manufacturing and marketing new transportation products, specifically a 4-passenger line of Vertical Take-off and Landing ("VTOL") aircraft that combines the cruise performance of an airplane with the vertical-flight capabilities of a helicopter

The aircraft is designated the "M400 Skycar®."

The concept(s) surrounding the Skycar are simple: designed as a personal transportation vehicle, this VTOL is practical and affordable, and will replace some travel now done by both the automobile and private or commercial airplanes. The advantages of personalized airborne travel make it destined to become the preferred the consumer's transportation choice of the future.

With that in mind, we are bringing this product to market in California. As such, we support the concepts and principles embodied in your SB 2. Even so, in an effort to make the bill more effective, we would like to suggest that an element is missing – emergency transportation, especially helipads and vertiports.

As such, we would like to make the following suggestion on how to make your bill more effective:

When discussing "special needs facilities", community plans should be required to include heli-stops for medivac and public safety, especially when planning for community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities and residential care facilities for the elderly are discussed.

In closing, we look forward to working with you as this measure winds its way through the 2007-2008 legislative session.

Sincerely;

Michael Ross, Legislative Advocate for Moller International. Inc.
(916) 923-2215

37 Derow Court, Sacramento, CA. 95833 – 916.923.2215 – ssorleahcim@comcast.net – fax 916.923.2216

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VIIZ
manager

Stivers, Mark

From: Stivers, Mark
Sent: Friday, August 10, 2007 2:22 PM
To: Garcia, Megan; Ayala, Cori
Cc: 'Brian Augusta'; Creswell, Cathy (hcd.ca.gov)
Subject: SB 2 amendments

Megan and Cori, I don't have any major objections to the proposed amendments, but I would suggest a few language changes:

On page 6, the new (C), I'm not quite clear on the concept. By referring to the requirements of (A)(4), I assume we mean that a city in its next housing element still has to have a zone that allows shelters with a discretionary permit but that in subsequent housing elements they don't have to identify additional zones if they have met their need. If that's the case, I'm not sure what that does since under the current bill once they have a zone that allows shelters as a permitted use, they never have to identify another such zone regardless of whether they have met their need or not. Alternatively, if the concept is to say that if they have met their need then they don't ever have to identify a zone, then we need to take out the reference to "the requirement of (A)(4)", the word "additional" and the phrase "in a subsequent housing element." But then if the city has one local or regional shelter, we have a potential loophole if the city claims it has no additional need. Once I understand what we are trying to achieve here, I think we need to redraft this paragraph.

On page 10, the new (e), I would make three small changes:

- In line 6 of the language strike "three" and insert "two other" to clarify that the total is three and not four.
- In line 9 say "*first* housing elements ~~of~~ *among* the participating jurisdictions" so that in the event one of the jurisdictions never adopts their housing element the deadline is not strung out.
- In line 11 strike "for"

-- Mark

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Santa Monica suggested language:

C) Local governments that provide, through their local existing ordinances, policies or standards, emergency or other shelter for persons sufficient to comply with the results of any analysis required by this section, will not be required to undertake any analysis or action as may be otherwise required by this part. The element need only describe how local existing ordinances, policies or standards provide emergency or other shelter that is sufficient to satisfy local need.

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Attachment

Proposed Amendments

BILL NUMBER: SB 2 AMENDED
BILL TEXT

AMENDED IN SENATE JANUARY 22, 2007

INTRODUCED BY Senator Cedillo

DECEMBER 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels ~~.~~ ~~These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.~~ *, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.*

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(A) The inventory of sites shall identify the zones where emergency shelters are allowed without a conditional use permit and shall demonstrate how existing or proposed permit processing and development standards encourage and facilitate the development of, or conversion to, emergency shelters. The inventory shall also demonstrate how identified zones include sufficient capacity to accommodate the development of emergency shelters. Where a jurisdiction has permitted the development of an emergency shelter in the past three years (??), the approval of additional emergency shelters may be by conditional use provided the element

demonstrates the conditional use requirements encourage and facilitate and do not constrain the development of emergency shelters.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing ~~for all income levels and for persons with disabilities~~ *for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities* as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities and persons and families in need of emergency shelters and transitional housing identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter and transitional housing.

~~(7) An inventory of sites suitable for the development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. **The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters identified pursuant to paragraph (6)**~~.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category , *including extremely low income,* that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees , *supportive housing single-room occupancy units* , emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of

subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify zones with appropriate development standards or capacity to accommodate the need for emergency shelters, the element shall include a program to complete an amendment of the zoning ordinance to identify the zone or zones where emergency shelters will be allowed by right, as defined in subdivision (1) of Section 65583.2 within the first year of the planning period.

~~(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters. The sites shall be zoned to permit the development of shelters as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.~~

(2) Assist in the development of adequate housing to meet the needs of *extremely low, very low,* low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower-income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

~~(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters pursuant to paragraph (7) of subdivision (a)~~**by adopting an ordinance pursuant to 65852.12 and to include a program to identify sufficient sites for these shelters pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable**

~~for development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).~~

~~(c) (1) Except as provided in paragraph (2), amendments to this section that add or alter contents of a housing element shall also apply to any draft or adopted housing element or housing element amendment prepared pursuant to Section 65588 and submitted by a city or county to the department for review pursuant to Section 65585, after the effective date of the amendment to this section, or when revision of the element is required pursuant to Section 65588, whichever comes first.~~

~~(2) Amendments to this section that add or alter contents of a housing element shall not apply to an adopted element submitted to the department for review within 90 days of the date of the department's written findings regarding the final draft element submitted pursuant to Section 65585, provided that the final draft element was submitted to the department for review prior to the effective date of the amendments.~~

~~(c)~~ **(d)** *Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element or housing element amendment shall apply to both of the following:*

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where a city, county, or city and county submits a first draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where the city, county, or city and county fail to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter or an owner-occupied or rental multifamily residential development may

not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the

nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, ~~a special needs facility, or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the or an emergency shelter~~, *or condition approval, in a manner that renders the* project infeasible for development for the use of very low, low-, or moderate-income households, ~~a special needs facility, or an emergency shelter~~ *including through the use of design review standards,* unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. ~~In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.~~ Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, ~~special needs facility, or emergency shelter~~ as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the ~~special needs facility or emergency shelter~~ financially infeasible.

(4) The development project, ~~special needs facility, or emergency shelter~~ is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, ~~special needs facility, or emergency shelter~~ is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. ~~This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.~~

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the

local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project, ~~special needs facility, or emergency shelter~~ to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by housing development project, ~~special needs facility, or emergency shelter~~. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

~~(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:~~

~~(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.~~

~~(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.~~

~~(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.~~

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.~~

~~(7)~~

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public

health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, ~~special needs facility or emergency shelter.~~ The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, ~~special needs facility, or emergency shelter~~ in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time

not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12.(a)A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

AMENDMENTS TO SENATE BILL NO. 2
AS AMENDED IN SENATE MARCH 8, 2007

Amendment 1

On page 24, strike out lines 12 and 13 and insert:

(f) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(1) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(2) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(3) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

Amendment 2

On page 24, line 36 strike out "For the purposes of the analysis" strike out line 37, in line 38, strike out "of subdivision (c), local" and insert:

Local

Amendment 3

On page 25, line 36, strike out "transitional housing" and insert:

special needs facilities

Amendment 4

On page 28, line 12, after the second "housing" insert:

, single-room occupancy units

Amendment 5

On page 30, line 10, strike out "Except" and insert:

(e) Except



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Amendment 6
On page 32, line 39, strike out "a" and insert:

an

Amendment 7
On page 33, line 5, strike out "a" and insert:

an

Amendment 8
On page 34, strike out line 33 and insert:

or make infeasible housing developments, including special needs facilities and emergency shelters,

Amendment 9
On page 35, line 32, strike out "transitional housing" and insert:

a special needs facility

Amendment 10
On page 35, line 33, strike out "transitional housing" and insert:

special needs facilities

Amendment 11
On page 37, lines 4 and 5, strike out "in accordance with Section 65583.2,"

Amendment 12
On page 37, strike out lines 37 to 39, inclusive, and insert:

65574. However, the development

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Amendment 13
On page 38, line 2, after the period insert:

A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to, and consistent with, meeting the jurisdiction's need for special needs facilities and emergency shelters, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.

Amendment 14
On page 39, strike out lines 3 to 13, inclusive, and insert:

(4) "Special needs facility" has the same meaning as defined in subdivision (f) of Section 65582.

Amendment 15
On page 41, line 24, strike out "paragraph" and insert:

subdivision

Amendment 16
On page 42, line 26, after "agency" insert:

, including a charter city, county, or city and county,

Amendment 17
On page 42, line 27, strike out "65589.5" and insert:

65582

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AMENDMENT TO SENATE BILL NO. 2
AS AMENDED IN SENATE JANUARY 22, 2007

Amendment 1

On page 4, strike out lines 16 to 40, inclusive, strike out pages 5 to 22, inclusive, on page 23, strike out lines 1 to 38, inclusive, and insert:

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

~~(d)~~

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.

SEC. 3. 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, ~~and~~ 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. ~~Local~~ For the purposes of the analysis required by paragraph (3) of this subdivision and paragraph (1) of subdivision (c), local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households

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that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter and transitional housing.

(7) An inventory of sites suitable for the development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters identified pursuant to paragraph (6).

~~(7)~~

(8) An analysis of opportunities for energy conservation with respect to residential development.

~~(8)~~

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

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(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

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(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing ~~single-room occupancy units~~, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters. The sites shall be zoned to permit the development of shelters as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph ~~(8)~~ (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph ~~(8)~~ (9) of subdivision (a), except where a community has other urgent needs for which

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alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these shelters pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a). Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~ when a city, county, or city and county submits a ~~first~~ draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~ when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

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(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

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(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter or an owner-occupied or rental multifamily residential ~~use~~ development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13

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(commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including special needs facilities and emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one

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or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing

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within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) ~~This~~ Nothing in this section ~~does not~~ shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~ Neither shall anything in this section ~~also does not~~ be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~This~~ Nothing in this section ~~does not~~ shall be construed to prohibit a local agency from requiring the development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including special needs facilities and emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

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(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

~~(4)~~

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(5)~~

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as

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described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, or emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility, or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's

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order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 6 Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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Marked — DISCUSSION DRAFT —

AMENDED IN ASSEMBLY JULY 2, 2007
AMENDED IN ASSEMBLY JUNE 19, 2007
AMENDED IN ASSEMBLY JUNE 13, 2007
AMENDED IN SENATE MARCH 19, 2007
AMENDED IN SENATE MARCH 8, 2007
AMENDED IN SENATE JANUARY 22, 2007

See pages: 1, 2, 5, 6, 4, 10

SENATE BILL **No. 2**

Introduced by Senator Cedillo

December 4, 2006

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters ~~and rental multifamily residential development~~ to these provisions, as specified, and would — DIGEST CORRECTION

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add provisions by which a local government may identify a zone or zones where emergency shelters under these provisions are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of ~~a housing development project or~~ an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of

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homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like *the* skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

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(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

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(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) *(A)* The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to ~~reasonably~~ accommodate the need for emergency shelter identified in paragraph (7), ~~provided~~ that each local government ~~demonstrates that the identified zone or zones~~ can ~~realistically~~ accommodate at least one emergency shelter ~~of a feasible size~~. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall amend its zoning ordinance to meet the requirements of this paragraph ~~prior to or concurrent with~~ the adoption of the housing element. The local government may identify additional zones 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 are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

~~(A)~~

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

~~(B)~~

(ii) Off-street parking, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone ~~*based upon demonstrated need*~~.

~~(C)~~

(iii) The size and location of ~~client~~ *exterior and interior onsite waiting and* intake areas.

~~(D)~~

(iv) The provision of onsite management.

~~(E)~~

~~Insert: "year round"~~

insert: "except"

insert: "must identify a zone or zones that"

insert: "year round"

insert: "include a program to"

insert: "within one year"

Insert: "based upon demonstrated need"

Insert: "client"

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

~~(F)~~

(vi) The length of stay.

~~(G)~~

(vii) Lighting.

~~(H)~~

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

(B) 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).

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other ~~multifamily dwellings~~ residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

A LG that has can demonstrate that the need for em. shelter identified in (7) can be accommodated in existing facilities, either within the jurisdiction or under a MJ agreement made pursuant to (d) is not required to identify an additional zone or zones where emergency shelters are allowed.

OR

has identified a zone or zones where em. shelters are allowed as a permitted use w/o a CUP or other discretionary permit

Add:

(C) A local government that has met the requirements of (4)(A) and can demonstrate that the need for a emergency shelter identified in paragraph (7) can be accommodated in existing facilities, either within the jurisdiction or under a multi-jurisdictional agreement made pursuant to subdivision (d), is not required to identify an additional zone or zones where emergency shelters are allowed in a subsequent housing element.

(D) A local government with existing ordinances that comply with this section will not be required to take additional action to identify zones for emergency shelters. The element need only describe how existing ordinances, policies, and standards are consistent with this section.

Insert: "residential dwellings of the same type"

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Insert: "The need for emergency shelter should be assessed on an annual and seasonal basis."

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(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program

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funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed

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pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

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(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that

Add:

(c) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to subparagraph (4) of subdivision (a) by adopting and implementing a multi-jurisdictional agreement, with a maximum of three adjacent communities, that commits the participating jurisdictions to develop such a shelter within 2 years of the adoption of the housing elements of the participating jurisdictions. The agreement shall allocate the capacity for which each agency may claim under its housing element and the local agency shall include a description of how the capacity was allocated as part of the housing element. Each party to a multi-jurisdictional agreement shall, in their housing element, describe how this joint facility will meet their emergency shelter need, describe the jurisdiction's contribution to the facility for both development and for ongoing operation and management of the facility, and specify the amount and source of funding that the jurisdiction is contributing to the facility.

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limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need

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allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural

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or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to reasonably accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or

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zones can realistically accommodate at least one emergency shelter of a feasible size, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) *(1)* Nothing in this section shall be construed to prohibit a local agency from requiring the development project ~~or emergency shelter~~ to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and ~~proposed by the development. Developments standards, conditions, and policies related to the development of emergency shelters shall be~~ *proposed by the development.*

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. ~~This~~ *However, the development standards, conditions, and*

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policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median

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income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its

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decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted

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at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or

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subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

O

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California State Senate

SENATOR
GILBERT CEDILLO
TWENTY-SECOND SENATE DISTRICT

COMMITTEES
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PUBLIC SAFETY
RULES
TRANSPORTATION AND HOUSING

SELECT COMMITTEES
IMMIGRATION AND THE ECONOMY, CHAIR

JOINT COMMITTEES
RULES

FAX SHEET

Telephone: 916/651-4022
Fax: 916/327-8817

DATE: 8/8/07

TO: Mark Stivers

FAX: 445-2209

FROM: Megan Garcia

RE: SB 2 Discussion Draft

COMMENTS: This is for our Aug 16th meeting. Please read before coming. Thanks.

NUMBER OF PAGES, INCLUDING COVER PAGE 20

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AMENDMENTS TO SENATE BILL NO. 2
AS AMENDED IN ASSEMBLY JULY 2, 2007

Amendment 1
On page 5, line 9, strike out "provided" and insert:

except

Amendment 2
On page 5, lines 10 and 11, strike out "demonstrates that the identified zone or zones" and insert:

shall identify a zone or zones that

Amendment 3
On page 5, line 11, after "one" insert:

year-round

Amendment 4
On page 5, line 13, after "shall" insert:

include a program to

Amendment 5
On page 5, line 15, strike out "prior to or concurrent with" insert:

within one year of

Amendment 6
On page 5, line 30, after "parking" insert:

based upon demonstrated need

Amendment 7
On page 5, lines 32 and 33, strike out "based upon demonstrated need"



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Amendment 8
On page 5, line 35, strike out "client"

Amendment 9
On page 5, line 36, after "and" insert:

client

Amendment 10
On page 6, line 14, after the period, insert:

(C) A local government that has met the requirements of subparagraph (A) and can demonstrate that the need for emergency shelter identified in paragraph (7) can be accommodated in existing facilities, either within the jurisdiction or under a multijurisdictional agreement made pursuant to subdivision (d), is not required to identify an additional zone or zones where emergency shelters are provided for in a subsequent housing element.

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

Amendment 11
On page 6, lines 30 and 31, strike out "multifamily dwellings" and insert:

residential dwellings of the same type

Amendment 12
On page 6, line 39, after the period insert:

The need for emergency shelter shall be assessed on an annual and seasonal basis.

Amendment 13
On page 10, line 17, after the period, insert:

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of three adjacent communities, that requires the

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participating jurisdictions to develop at least one year-round emergency shelter within two years of the adoption of the housing element of each participating jurisdiction.

(2) The agreement shall allocate the capacity for which each jurisdiction is responsible under the multijurisdictional agreement and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

Amendment 14

On page 10, line 18, strike out "(d)" and insert:

(e)

- 0 -

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The San Diego Union-Tribune.

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MARY CURRAN-DOWNEY

Escondido can redeem self on shelter

January 7, 2007

It's a rare moment when a government entity can take a public-relations nightmare and turn it around, with positive and financially sound results. The Escondido City Council has that chance.

How often does something like this happen? I'd say never.

You know the issue, unless you've been living under a rock: A council majority refused the Salvation Army's request to open a cold-weather shelter on its property within hours of Christmas Eve, reasoning that the city has done more than enough to help the poor, and that allowing a shelter would draw the down-and-out from other areas.

The shelter does manage to open for about two weeks, through a loophole. Although there's support for the council's decision, the terms "heartless" and, of course, "Scrooge" are tossed around with much frequency. It becomes a battle of slogans, not solutions.

But it doesn't have end like that, because there are ways to begin finding answers. One, proposed by Mayor Lori Holt Pfeiler and others, is to convene a task force of agencies and government entities from throughout the region, not just Escondido. That would be as easy as reviving the old North County Task Force on Homelessness, a group that lasted for about seven years, got the parties talking and helped to create some shelter beds. But, like a lot of things, it needed regional leadership to keep it going.

■■■

Keep in mind that Oceanside's Bread of Life and Vista's Operation HOPE are providing shelter beds, and the Community Resource Center in Encinitas provides motel vouchers, as does San Marcos. Other North County cities have it in their best interest to get involved.

While the situation in Escondido was an emergency, the homeless problem "has been worked on diligently and with great strategy and with some reasonable success," said Suzanne Stewart Pohlman, executive director of Interfaith Community Services.

Interfaith operated a winter shelter in Escondido for two decades, but remodeled the building and changed its mission to more permanent housing.

Advertisement

The Escondido council also could do itself a favor by endorsing the procedures the shelter there would use. They start at 6 a.m., when a decision is made whether the weather warrants opening the shelter that night. There would also be a screening process by Interfaith staffers, sending Oceanside residents back to Bread of Life, Vista families to Operation HOPE and anyone who's drunk to detox, even if it means calling the police.

Another recommendation for the council: Listen to the wisdom of people such as Victor Kops, a clinical psychologist who practices in San Diego and Solana Beach. Kops has been involved with the issue for 30 years as a longtime member of the Regional Task Force on the Homeless.

Kops said that in his experience, the idea that homeless people travel many miles to find a city shelter is "an urban myth," while not providing a clean, dry space for them can end up being very expensive.

"It's not even good business practice," he said. "It costs maybe $10 a night to put people in a minimal shelter. If they get sick and we take them to an emergency room, it will cost thousands of dollars. It makes no sense as a society."

■■■

Kops and other task-force members such as former Coronado Mayor Mary Herron are working on a pilot project that should be considered not only in Pacific Beach, where it's getting under way, but also throughout the county.

Here's how the Opening New Doorways Initiative will work: Pacific Beach United Methodist Church will refurbish and then rent out a church-owned house for a maximum of six people at a reasonable rate. People who have been on the street will get the services they need to find their way back from the brink, helped by a faith community that's serious about outreach.

A three-year, $105,000 grant from the California Wellness Foundation, along with support from the Alliance Healthcare Foundation and other local foundations as well as private donations, will pay for the early stages of the program.

"What we hope is we are reaching a tipping point in terms of social

consciousness and some innovative things will continue to happen," Herron said about the project.

No one believes this problem will be solved tomorrow, but if it's cold enough, some people will need a place to sleep tomorrow night.

The Escondido City Council can go from Scrooge to Good Samaritan – a fiscally sound, forward-thinking and prudent urban-planning Good Samaritan at that – by helping promote a regional approach to the issue, supporting strict guidelines for all future shelters and studying what's being done elsewhere in the county.

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Need vs. 'fair share'

Influx of low-income projects in Old Folsom protested

By Walter Yost - Bee Staff Writer
Published 12:00 am PST Tuesday, January 2, 2007

Residents and business owners in Folsom's historic district fear that two proposed low- income projects will change the character of their neighborhood, turning it into a dumping ground for facilities no one else apparently wants.

If the projects go forward, a 19-unit apartment complex for people with mental illnesses and a transitional housing program for up to 20 homeless people will be within five blocks of each other on Bidwell Street.

It would be one of the highest concentrations of such housing in the area outside of downtown and midtown Sacramento.

Residents are asking "Why us?" The answer is rooted in the conflicting goals of peoples' desire to preserve their neighborhood vs. the need for low-income housing and social services throughout the region.

The conflict was no better illustrated than during an emotional meeting in November at the Folsom Community Center.

Architect Craig Stradley was barely two minutes into his talk on the design merits of the proposed psychiatric housing project, when the questions began raining on him.

His audience, anxious historic district residents, didn't care what the project looked like.

They wanted to know who would be living there, what type of supervision would be provided and why another low- income housing project was coming to their neighborhood.

"We're inundated. You're saturating us," one woman said.

After listening to the concerns, staff members with Transitional Living and Community Support Inc., operator of the psychiatric housing, acknowledged they weren't going to win any converts.

"I don't think we're going to convince you," Executive Director Jane Ginsberg said.

While the region's largest, most visible homeless services are in Sacramento, Joan Burke, director of advocacy at Loaves & Fishes, said it's a myth that homelessness is confined to cities.

"Even in affluent suburbs like Folsom, people can have a run of bad luck," Burke said.

Although the region has small-scale, emergency shelter programs like Family Promise in Sacramento County and Gathering Inn in Placer County, a permanent transitional housing program like Folsom's Powerhouse Ministries is rare.

Putting such programs in local communities makes sense to Burke. "If your child or sister was on drugs or needed help, wouldn't you want somebody to help her in your town?" she asked.

But historic district residents like Dean Bullock say they're already doing their part when it comes to low-income housing.

"We expect other parts of the city to do theirs," he said. The historic district, he said, has more than its "fair share" -- including apartment complexes and a trailer park along its border.

Bullock and others fear additional low-income projects will increase crime and decrease property values.

"We don't want to sound like we're being hard-nosed about it," said Karen Wilson, a board member with the Historic Folsom Residents Association. "Our concern is on the concentration of services."

City planners say the proposed uses are consistent with the general plan. Advocates say the residents' fears are unfounded.

"Initially, when people hear about folks with psychiatric diseases, the worst comes to mind. But that's not typically what we see," said Paul Powell, associate director of Transitional Living and Community Support.

Powell said the proposed Bidwell Street project isn't a psychiatric facility -- but rather "decent, safe, affordable housing" for people with major depression, bipolar disorder and schizophrenia.

Nancy Atchley, director of Powerhouse Ministries' homeless shelter in Folsom, said her organization plans to move its transitional housing program for children and adults to a new site on Bidwell Street that is occupied by Crossroads Family Ministries.

Atchley admits that putting two projects on one street "is a lot," but she added, "I think they'll (neighbors) find that their fears are not based on reality. What we're putting in the historic district are families."

Neither project is a done deal.

Atchley said Powerhouse is no longer under contract to purchase the Crossroads Ministries site.

"We're still interested in the property, but they'll be free to sell it to someone else," she said.

The city Planning Commission is scheduled to hold a hearing Jan. 17 on a rezoning of the psychiatric housing site, and the matter will likely go before the City Council in February.

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The San Diego Union-Tribune.

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Homeless shelter is rejected by council

Escondido 'tired' of being sanctuary

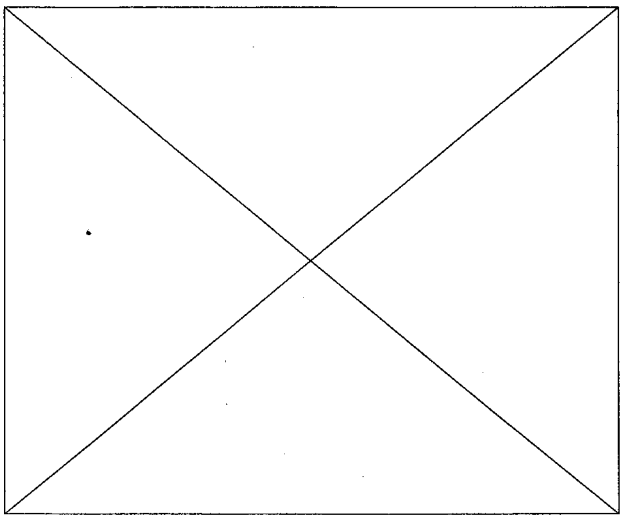
By J. Harry Jones
STAFF WRITER

January 11, 2007

ESCONDIDO – Following two hours of passionate discussion, the City Council voted again last night not to allow the Salvation Army to open a weather-activated emergency shelter for the homeless in the city.

The vote was 3-2, with Mayor Lori Holt Pfeiler and Councilman Dick Daniels in the minority.

"We are sick and tired of making this city a sanctuary for homelessness and for illegal aliens . . . ," Councilman Sam Abed said. "We help our fair share, folks. Escondido needs to survive."



Councilwoman Marie Waldron showed photographs of homeless people in Grape Day Park to explain how the city is hurt by the population. "Nothing is free," she said. "This is an impact to our community."

Prior to the vote, about two dozen people spoke. Most strongly urged the council to approve the Salvation Army's request to operate a shelter, at no cost to the city, until March 15.

After the shelter was voted down, Abed made a motion that would have allowed the Salvation Army to continue operating the shelter for 30 more days. But no other member of the council seconded the motion

and it died.

The council did unanimously approve the concept of creating a regional task force to address the homeless problem in the North County. Escondido will ask all the North County cities to appoint a representative.

The Salvation Army was asking to operate a 40-bed shelter that would open only when the temperature dropped below 40 degrees or when it was raining.

Speakers said some homeless people could die if a winter shelter of some sort is not available. Such a shelter, in one form or another, has existed in the city for the past two decades, they said.

An earlier request to permit a shelter was made a few days before Christmas to the council, but it was turned down by four of the five members, who said the city already does more than enough for the poor and the needy. Only Pfeiler supported the shelter then.

Daniels said last night he had had a change of heart.

"It's the right thing to do in the light of human compassion," he said.

Since the council's decision three weeks ago, it has been heavily criticized for what some saw as cold-heartedness.

Councilman Ed Gallo, Abed and Waldron expressed anger last night about the names they have been called, and emphasized they were acting in the city's best interest.

All praised the Salvation Army.

"I've rang bells for you guys in past years. That annoying little bell," Gallo said. He later added "The homeless will be with us always. They will. That's God's plan."

Pfeiler said when she comes across somebody out on the streets in the cold, "We should all have the humanity to say you need to be off the streets."

For the past two weeks the Salvation Army has been operating a shelter at its headquarters near the intersection of El Norte and Centre City parkways by becoming part of a church-based rotational system. But its place in the rotational cycle ended Monday.

About 75 shelter supporters held a candlelight vigil Tuesday night in front of City Hall urging the council to approve the Salvation Army's plan.

- J. Harry Jones: (760) 737-7579; **jharry.jones@uniontrib.com**

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Homeless Counts for Cities and Counties in California

- There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year.

- Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

- Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services.

- The cities of Long Beach , Glendale, and Pasadena combined have an estimated of 6,054 homeless people.

- The City of San Francisco has a total of 6,248 homeless people.

- Contra Costa County has an estimated 1,463 homeless individuals that were found in encampments and other areas in and around 21 cities and communities throughout the county. In addition, 5,768 homeless people were identified either staying in shelters, in transitional housing or receiving services.3,534 men, 1,923 women and 996 children were identified during this count.

- In the County of Riverside there are 4,785 homeless people on a given day Women and children together make up almost half (2,231 or 46.6%) of the homeless population in Riverside County on any given day

- Sacramento County has a total of 2, 229 homeless people

- Ventura County has 982 homeless people.

- Orange County has a total of 34,898 homeless people.

- The County of Santa Barbara has 6, 150 homeless people.

- San Diego County has 9,667 homeless people. The City of San Diego has 4,458 homeless populations outside of the City of San Diego that includes South Bay, East County, North County and all unincorporated areas is 5,209.

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Senate Republican Fiscal Office Materials

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UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 03/27/07
LOCATION: SEN. T. & H.
MOTION: Do pass, but re-refer to the Committee on Appropriations.
(AYES 7. NOES 0.) (PASS)

AYES
****

Lowenthal	Cedillo	Corbett	Kehoe
Oropeza	Simitian	Torlakson	

NOES
****

NO VOTE RECORDED
****

McClintock	Ashburn	Dutton	Harman

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Office of Senate Floor Analyses Materials

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 2

THIRD READING UC

Bill No: SB 2
Author: Cedillo (D)
Amended: ~~3/19/07~~ 8/31/7
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8
SF: 27-11 5/17/7 AF: N/A

SUBJECT: Emergency shelters and special needs facilities

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at

CONTINUED

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appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

CONTINUED

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This bill: B1 B2 B3 B4

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, this bill amends housing element law to:

1. Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.

2. Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

3. Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

4. Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

5. Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

This bill also amends the Housing Accountability Act to:

1. Apply the law to emergency shelters and special needs facilities.

CONTINUED

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2. Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

3. Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

This bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

> "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.
>
> "Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/16/07)

American Federation of State, County and Municipal Employees

CONTINUED

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California Council of Community Mental Health Agencies
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
EIMAGO, Inc.
Gray Panthers
Housing California
Jericho
Mayor Antonio Villaraigosa, City of Los Angeles
MCR Public Affairs
Moller International
National Association of Social Workers
Northeast Democratic Club
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 4/24/07)

Department of Finance
City of San Jose

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

CONTINUED

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ARGUMENTS IN OPPOSITION: The Department of Finance states in opposition:

"Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

"It many not be feasible to implement approval 'by right' of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions."

JJA:mw 4/24/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

****** END ******

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SENATE THIRD READING
SB 2 (Cedillo)
As Amended August 31, 2007
Majority vote

SENATE VOTE :27-11

LOCAL GOVERNMENT 5-2 HOUSING 4-2

Ayes:	Caballero, De La Torre, Lieber, Saldana, Soto	Ayes:	Saldana, Bass, Mullin, Swanson
Nays:	Houston, Smyth	Nays:	Garcia, Sharon Runner

APPROPRIATIONS 10-6

Ayes:	Leno, Caballero, Davis, DeSaulnier, Huffman, Karnette, Krekorian, Ma, Solorio, De Leon		
Nays:	Walters, Emmerson, La Malfa, Lieu, Nakanishi, Sharon Runner		

This bill

SUMMARY: Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. ~~Specifically, this bill:~~

A

1) Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed

B1

as a permitted use without a conditional use permit or other discretionary permit.

2) Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.

3) Requires that each local government identify a zone or zones that can accommodate at least one year-round emergency shelter.

4) Specifies that if the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to include such a zone or zones within one year of the adoption of the housing element.

5) Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit.

B2

6) Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters.

7) States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following:

   a) The maximum number of beds or persons permitted to be served nightly by the facility;

   b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial

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uses within the same zone;

c) The size and location of exterior and interior onsite waiting and client intake areas;

d) The provision of onsite management;

e) The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart;

f) The length of stay;

g) Lighting; and,

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

B3

8) Specifies that the application of the permit processing, development, and management standards is not a discretionary act under the California Environmental Quality Act (CEQA).

9) Allows a local government that can demonstrate to the satisfaction of the Department of Housing and Community Development (HCD) the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

10) Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter.

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11) Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter.

12) Specifies that transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

13) Requires local governments to assess the need for emergency shelter based on annual and seasonal need.

14) Allows local governments to reduce the need for emergency shelter by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic

B4

homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

15) Applies the provisions of the Housing Accountability Act to emergency shelters.

16) Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

17) Includes transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

EXISTING LAW :

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1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element to identify adequate sites to satisfy the community's share of the regional housing need.

7) Requires a city or county, to the extent that it does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, to adopt a program to rezone land to accommodate the need on sites that allow for the development of housing as a use by right, meaning that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval.

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8) Requires the housing element to provide for the following income categories:

   a) Extremely low-income (30% or lower of area median income);

   b) Very low-income (50% or lower of area median income);

   c) Lower-income (80% or lower of area median income);

   d) Moderate-income (between 80% and 120% of area median income); and

   e) Above moderate-income (exceeding 120% area median income).

9) Prohibits, under the Housing Accountability Act, a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

FISCAL EFFECT: According to the Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 local entities each year. Assuming an

additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for emergency shelters, total costs would be about $2.7 million.

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3) The bill states that these mandated local government costs are not reimbursable because the agencies affected have the authority to levy fees or other charges to cover the costs.

COMMENTS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, the Housing Accountability Act, formerly known as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

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2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters do not contain housing "units," they are not considered housing projects and are therefore not protected by anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of transitional and supportive housing facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify a zone or zone where emergency shelters can locate without a conditional use permit or other discretionary approval. The identified zone or zones must have sufficient capacity to address each community's own need for emergency shelter and must be able to accommodate at least one year-round shelter. If a local government already has sufficient emergency shelter space to meet its need, it does not have to comply with

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the by-right zoning requirement but rather can comply with the requirements of the bill by identifying a zone or zones where shelters are allowed with a conditional use permit. Local governments who have already met the zoning requirements do not have to take any further action at the local level but must describe how their existing ordinances and policies are consistent with the requirements of the bill. The bill also requires cities and counties to treat transitional housing and supportive housing like any similar residential project. Additionally, the bill prohibits cities and counties from disapproving shelters and transitional and supportive housing projects without legitimate grounds.

Press accounts in recent years from the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide shelter and services for their own residents.

The author is concerned that providers of emergency shelters encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit, creating a de facto ban.

To the extent that this bill leaves it to each community to ascertain its own needs for emergency shelters and to find appropriate sites for such facilities, this bill maintains a high level of local control. While cities and counties must provide zones where emergency shelters can locate without a conditional use permit if their need for such facilities has not already been met, they are allowed to require that shelters adhere to objective standards related to factors such as the

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number of beds, off-street parking, waiting areas, client intake areas, onsite management, the proximity of shelters to one another, the length of stay, lighting, and security. In

addition, cities and counties can reduce their need for emergency shelter by identifying supportive housing units that are either vacant or for which funding is available to allow construction during the housing element planning period.

This bill is similar, although not identical, to SB 1322 (Cedillo) of 2006, which was vetoed by Governor Schwarzenegger. The veto message stated in part: "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties. Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard."

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0002974

Assembly amendments require cities and counties to treat transitional and supportive housing projects as residential use of property, and delete the requirement requiring local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

lx

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 2
Author: Cedillo (D)
Amended: 3/19/07
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Emergency shelters and special needs facilities

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at

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appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

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This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, this bill amends housing element law to:

1. Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.

2. Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

3. Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

4. Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

5. Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

This bill also amends the Housing Accountability Act to:

1. Apply the law to emergency shelters and special needs facilities.

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2. Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

3. Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

This bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

> "Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.
>
> "Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/16/07)

American Federation of State, County and Municipal Employees

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California Council of Community Mental Health Agencies
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
Eimago, Inc. — CAPS
Gray Panthers
Housing California
Jericho
Mayor Antonio Villaraigosa, City of Los Angeles
MCR Public Affairs
Moller International
National Association of Social Workers
Northeast Democratic Club
Progressive Jewish Alliance
San Diego Housing Federation
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

← Opposition - DOF

JJA:mw 4/16/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE Acq in Opp - 1X

****** END ******

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DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

Honorable Gilbert Cedillo
Member of the Senate
State Capitol, Room 5100
Sacramento, CA 95814

Dear Senator Cedillo:

Our office has reviewed SB 2, and on the basis of our attached analysis of available information, we regret that we must oppose your legislation. If you feel that we may have overlooked factors that may be important in evaluating your legislation, please call me at 445-8610 and we will arrange any assistance necessary.

Sincerely,

TOM SHEEHY
Deputy Director

Attachment

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 19, 2007
POSITION: Oppose

BILL NUMBER: SB 2
AUTHOR: G. Cedillo

BILL SUMMARY: Local Planning: Development By Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends an oppose position for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
DOF ~~does~~ stated IN OPPOSITION.
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal (0740) K. Amann	Date	Program Budget Manager Mark Hill	Date
K. Amann	4/5/07	Mark Hill	4/5/07
Department Deputy Director Original Signed By: Thomas L. Sheehy			Date
Governor's Office: By: ORIGINAL SIGNED BY CURT AUGUSTINE	Date: APR 11 2007		Position Approved X Position Disapproved
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right." A special needs facility is defined to include any of the following if licensed and serving seven or more people: community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Related Bills:

SB 1322 (Cedillo) from last year was essentially identical to this bill. The veto message indicated that the bill would deny impacted groups from having imput on proposed developments and would lead to an increase in litigation brought against cities and counties that would deplete local government resources, rather than helping improve the availability of special needs housing.

Chapter 891, Statutes of 2006 requires local governments to analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites when developing the local housing element.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$0	C	$73	C	$145	0001

This SFA has NOT been filed

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478 Version:

SB 2

THIRD READING

Bill No: SB 2
Author: Cedillo (D)
Amended: 3/19/07
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 7-0, 3/27/07
AYES: Lowenthal, Cedillo, Corbett, Kehoe, Oropeza, Simitian, Torlakson
NO VOTE RECORDED: McClintock, Ashburn, Dutton, Harman
Senate Approps: 28.8

SUBJECT: Emergency shelters and special needs facilities

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as

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a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities

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and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, this bill amends housing element law to:

1. Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.

2. Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.

3. Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.

4. Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.

5. Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

This bill also amends the Housing Accountability Act to:

1. Apply the law to emergency shelters and special needs facilities.

2. Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the

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community has met the need for such facilities identified in its housing element analysis of special housing needs.

3. Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

This bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

Veto Message

This bill is identical in substance to SB 1322 (Cedillo), 2005-06 session, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

"Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (~~Verified~~ >) 4/16/7

American Federation of State, County and Municipal Employees
California Rural Legal Assistance Foundation
Central City Association of Los Angeles

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  Jericho
  Moller International
- National Association of Social Workers
- Progressive Jewish Alliance
- Shelter Partnership
- Union Rescue Mission
- Western Center on Law and Poverty

1) MCR Public Affairs
2) Housing CA
3) Northeast Democratic Club
4) Antonio Villaraigosa, Mayor City of L.A.
5) Gray Panthers
6) San Diego Housing Federation
7) CA Council of Community Mental Health Agencies

OPPOSITION: (Verified >)

>

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author's office believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

The author's offices states that this bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. This bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

ARGUMENTS IN OPPOSITION: >

JJA:mw 3/28/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

SUPPORT/OPPOSITION: NONE RECEIVED

CONTINUED

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**** END ****

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SENATE FLOOR ANALYSES WORKSHEET CONSULTANT: JJA

THIRD READING / CONSENT / (DO AHEAD)

Bill No.: SB 2
Author: Cedillo (D)
Amended: 3/19/7
Vote Required:: 21

SEN. T+H COM.: Vote 7-0, Date 3/27/7
SEN. APPROP. COM.: Vote_____, Date_____ / 28.8 / NONFISCAL
SEN. FLOOR: Vote_____, Date_____ / ASSY FLOOR: Vote_____, Date_____

SUBJECT: IX

SOURCE: Author

DIGEST: A

ANALYSIS: B, B_2 B_3 B_4 B_5

FISCAL EFFECT: Appropriation: N Fiscal Committee: Y Local: Y

SUPPORT: Verification Date _____

D

OPPOSITION: Verification Date _____

ARGUMENTS IN SUPPORT:

C

ARGUMENTS IN OPPOSITION:

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 2
AUTHOR: CEDILLO
VERSION: 3/19/07
FISCAL: YES

Analysis by: Mark Stivers
Hearing date: March 27, 2007

SUBJECT:

Emergency shelters and special needs facilities

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelters and special needs facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites for affordable housing within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for emergency shelters or special needs facilities be identified.

In addition, the Housing Accountability Act (formerly known as the anti-NIMBY law) requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;

- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the Housing Accountability Act.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters, requires cities and counties to identify zones where special needs facilities and transitional housing are permitted either by right or with a conditional use permit, and prohibits a city or county from disapproving applications for shelter facilities and special needs facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Define "special needs facility" to include those community care facilities, residential care facilities, and residential care facilities for the elderly, as defined in current law, that are licensed and serve seven or more persons.
- Require local governments, in their analysis of special housing needs, to additionally analyze the need for special needs facilities.
- Require local governments to identify in their site inventory specific sites suitable for the development of emergency shelters within the planning period and adequate to accommodate the need for emergency shelter identified in the housing element. Such sites shall be served by appropriate infrastructure and zoned to permit shelters as a use by right. In addition, the sites shall be zoned with appropriate development and management standards that effectively allow the community's shelter needs to be met.
- Require cities and counties, to the extent that the community's inventory of sites for emergency shelters is inadequate to accommodate the community's need as identified in the analysis, to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters as a use by right.
- Allow adjacent jurisdictions to satisfy their combined zoning requirement for emergency shelters through a regional agreement adopted and implemented by all the participating cities and counties.

The bill also amends the Housing Accountability Act to:

- Apply the law to emergency shelters and special needs facilities.
- Provide that a jurisdiction may not use the "not-needed" defense to disapprove an emergency shelter or special needs facility unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.
- Provide that a jurisdiction may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards appropriate to and consistent with meeting the jurisdiction's need for special needs facilities and emergency shelters.

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The bill also amends the Planning and Zoning law to require cities and counties to designate zones in which special needs facilities and transitional housing are permitted uses, either by right or subject to a conditional use permit.

COMMENTS:

1. ~~Purpose of the bill~~. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

   This bill seeks to help address homelessness in a manner that is equitable to all communities by requiring every city and county to identify sufficient sites where emergency shelters can locate by-right to address each community's own need. The bill also prohibits cities and counties from disapproving shelters and special needs facilities without legitimate grounds.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of facilities in many communities has the same effect by forcing people in need of shelter and residential care across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide housing and residential care for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to address the needs it self-identifies by zoning appropriate sites.

4. Regional approach encouraged. The goal of requiring each and every community to make sites available to address their own emergency shelters needs ensures equity across all communities. In areas with numerous small jurisdictions, however, regional or subregional approaches may be a more efficient way to provide shelter facilities. If adjacent communities can agree on a common strategy for identifying sites, the same objective is achieved. This bill allows communities to meet the site identification requirement for homeless shelters through a regional agreement adopted and implemented by all the participating jurisdictions that accommodates the combined shelter need. This approach has the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Veto message. This bill is identical in substance to SB 1322 (Cedillo) of 2006, which was vetoed by Governor Schwarzenegger. The veto message stated in relevant part:

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Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion [and] denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

6. Technical amendment. On page 18, line 4 strike "65574" and insert "65584".

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 21, 2007)

SUPPORT: AFSCME
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
Eimago, Inc.
Jericho
Moller International
National Association of Social Workers
Progressive Jewish Alliance
Shelter Partnership
Union Rescue Mission
Western Center on Law and Poverty

OPPOSED: None received.

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Manager

September 7, 2007

TO: **Members of the California Legislature**

FROM: **Roxanne Miller, Legislative Representative**
City of San Jose (916) 443-3946

RE: **SB 2 (Cedillo) – Emergency Shelters By-Right - OPPOSE.**
The bill is currently pending on Assembly Floor 3rd Reading – Item #142.

The City of San José writes today to express our opposition to SB 2 (Cedillo), as amended August 31, 2007, which would require local governments to pre-zone sites for emergency shelters and allow them "by-right." While we appreciate the author's intent to address the serious issue of homelessness, we believe that the bill will hinder our City's ability to address homelessness, using a variety of housing options as stated in our adopted 10-Year Strategy to End Chronic Homelessness. We have attempted to work with Senator Cedillo's office on amendments but feel that we may have a philosophical disagreement with the idea that jurisdictions should continue to maintain and warehouse the homeless through shelters, instead of solving the issue through transitional and permanent housing.

First, SB 2 does nothing to ensure that housing for the homeless will get built. The bill requires a jurisdiction to zone an area or areas for emergency shelters without a conditional use permit or other discretionary permits; however, there are several problems with this premise:

- The bill assumes that if a local jurisdiction takes such action, the shelter will be built and available shortly thereafter, which is not the case. The City believes that those local jurisdictions who have existing shelters should not be required to focus their time and efforts to try to pull the financing together to build and operate additional shelters, but instead should be focusing their energy and attention on permanent, supportive housing;

- The bill does nothing to ensure that the long-term needs of the homeless will be addressed;

- The bill ignores the fact that there are few resources to build or operate emergency shelters. Under current State law, 20% of redevelopment housing set-aside funds (which are often the most significant source of funding for housing) can't be used for emergency shelter construction in most jurisdictions; and

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LRI History LLC

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Assembly Policy Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 2
AUTHOR: CEDILLO
VERSION: 3/19/07
FISCAL: YES

Analysis by: Mark Stivers
Hearing date: March 27, 2007

SUBJECT:

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COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential care facilities that serve these populations. The current disproportionate availability of shelters and special needs facilities across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

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NAMI CALIFORNIA

The State's Voice on Mental Illness

DATE: June 27, 2007

TO: Anna M. Caballero, Assembly Local Government Chair

POSITION PAPER
SB 2 (Cedillo)

SUPPORT

NAMI California supports SB 2 (Cedillo).

Too many of our homeless are concentrated in ghettos of despair. It's estimated that 40% of the 90,000 homeless in Los Angeles County alone suffer from a mental illness.

This bill will begin to address and recognize the need of emergency, transitional, and supportive housing. In addition, SB 2 will help make communities aware of their local needs.

NAMI California is especially interested in this bill since so many people experiencing a mental illness live on the street. It's been shown that mental illness affects all communities, no matter what ethnicity or socio-economic status. Addressing homelessness is one vehicle to address the daunting issue of mental illness. We ask that you support this important legislation.

Contact: Jim Randall, NAMI California Member (818) 892-1373, jim.randall@verizon.net

Cc: Anya Lawler, Assembly Local Government Consultant
Assembly Local Government Committee Members
Assembly Housing and Community Development Committee
Senator Gilbert Cedillo

K:\Legislative\2007-2008\SB 2\SB 2Position Paper.doc

1010 Hurley Way, Suite 195 • Sacramento, CA 95825
Phone: 916.567.0163 • Fax: 916.567.1757
E-MAIL: support@namicalifornia.org ~ WEBSITE: www.namicalifornia.org

Provided by LRI History LLC

June 25, 2007

The Honorable Anna Caballero
Chair Assembly Local Government
State Capitol, Room 2209
Sacramento, California 95814

Re: Support of SB 2 (Cedillo) as amended June 19, 2007

Dear Assemblymember Caballero,

Providing special needs and emergency shelter facilities for an estimated 360,000 homeless Californians is challenging. Equally challenging for those working to provide shelter and services to improve people's situation are the obstacles often in the way of identifying adequate sites for facilities for those who need them.

SB 2 would include specific planning for emergency shelter, transitional housing and special needs facilities in the housing element of a city or county's general plan and allow local governments to identify sites suitable for the development of a zone or zones where emergency shelters under these provisions as a permitted use without a conditional use or other discretionary permit.

SB 2 permits a regional approach to facility siting and helps to promote the development of emergency and supportive housing by removing some of the obstacles that are used to block needed residential programs and services.

Community-based programs have shown through the years that services cost less when they are available at the time they are needed. Support services offered through residential programs enable people to move on with their lives. Let's assist Californians to return to the workforce by providing service in a community-based setting.

JERICHO members urge a "Yes" vote on SB 2.

Sincerely,

for

Sister Marti McCarthy, SSS
Executive Director

cc: Senator Gil Cedillo
J. Stacey Sullivan, Chief Consultant
Hon. Houston
Hon. De La Torre
Hon. Smyth
Hon. Soto
Hon. Saldana
Hon. Lieber

Since 1987 JERICHO has engaged the interfaith community throughout California in shaping state public policy that affects individuals and families living in poverty.

1225 8th Street, Suite 500 • Sacramento, CA 95814
Voice: (916) 441-0387 • Fax: (916) 441-0388 • www.jerichoCA.org

Provided by LRI History LLC
JUN-25-2007 01:25PM FROM:JERICHO 916-441-0388 TO:3192120
2007-633 : Page 424 of 1377

PAI Protection & Advocacy Inc.

Advancing the rights of Californians with disabilities

LEGISLATION & PUBLIC INFORMATION UNIT
1029 J Street, Suite 150
Sacramento CA 95814
Telephone: (916) 497-0331
Fax: (916) 497-0813
www.pai-ca.org

June 25, 2007

Honorable Gilbert Cedillo
California State Senate
Capitol Building, Room 5100
Sacramento, CA 95814

RE: SB 2 (Cedillo) - SUPPORT

Dear Senator Cedillo:

Protection & Advocacy, Inc. (PAI), a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities, supports your bill, SB 2, as amended on June 19, 2007. The bill is being heard in the Assembly Local Government Committee on June 27, 2007.

SB 2 is an important bill because addresses the housing needs of people with disabilities, including individuals who need housing with supports, through the local land use and planning process.

There exists a lack of housing with supports for individuals with disabilities. As a result, persons with disabilities who need housing often face discrimination and homelessness. PAI believes that it is critically important that constraints on housing, including housing with supports, be analyzed and eliminated at the local level. This measure, as recently amended, is a positive step toward achieving this goal and addressing housing needs for people with disabilities.

We look forward to continuing to work with you as the legislation move through the legislative process. Please feel free to contact me if you have any questions about our position.

Provided by LRI History LLC

Sincerely,

Evelyn M. Abouhassan

Evelyn M. Abouhassan
Protection & Advocacy, Inc.
Senior Legislative Advocate

CC: Honorable Anna Caballero, Chair, Assembly Local Government Committee
CC: Honorable Members of the Assembly Local Government Committee
CC: Megan Garcia, Legislative Aide, Assembly Member Cedillo's Office
CC: Anya Lawler, Senior Consultant, Assembly Local Government Committee

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OFFICE OF THE MAYOR
ANTONIO R. VILLARAIGOSA

June 22, 2007

The Honorable Anna Caballero
Chair, Assembly Local Government Committee
California State Assembly
1020 N Street, Rm 157
Sacramento, CA 95814

RE: SB 2 (Cedillo): Fair Share Zoning –SUPPORT
Set for hearing Wednesday, June 27, 2007
Assembly Local Government

Dear Assembly Member Caballero:

On behalf of the City of Los Angeles, I would like to communicate our support for SB 2, authored by Senator Gil Cedillo, as part of a regional and statewide effort to help tackle the problem of homelessness.

There are an estimated 360,000 homeless individuals in California and the Los Angeles Homeless Services Authority recently conducted a countywide count of the homeless population that showed that Los Angeles has the highest homeless population in the country. Of the over 80,000 homeless individuals in Los Angeles County, approximately 58%-nearly 50,000- of those individuals can be found throughout the City of Los Angeles with the largest concentration in the Skid Row area of downtown Los Angeles.

Homelessness affects people of all races, gender, age and geographic location. In addition to the need for shelter, many of these individuals also have a need for substance abuse and mental health services. In Los Angeles County, for example, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among the chronically homeless.

Unfortunately, the availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the disproportionate concentration of services in inner cities and poor communities such as Skid Row, in downtown Los Angeles.

SB 2 would require local government general plans to provide in their housing elements for emergency shelters and transitional and supportive housing as use by right. SB 2

MAYOR'S OFFICE OF INTERGOVERNMENTAL AFFAIRS
1400 K STREET, ROOM 208 • SACRAMENTO, CALIFORNIA 95814
(916) 321-5500 • (916) 448-7162

Provided by LRI History LLC

would allow for easier access to these shelters and support services by these homeless individuals at a regional level.

In order to ensure access to services for the homeless in every city and county, it is important that local governments plan for these services to address the special needs and services of the homeless population. The City of Los Angeles supports SB 2 as an important component of a regional approach to solving the problem of homelessness and requests your support of this bill when it is heard in the Assembly Committee on Local Government. If you have any questions about the City's position, please contact me at our Sacramento office of Legislative and Intergovernmental Relations at 916.321.5500.

Sincerely,

Silvia Y. Solis
Legislative Representative

cc: Members, Assembly Local Government Committee
Senator Gil Cedillo

Provided by LRI History LLC

California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Brian Augusta
Staff Attorney
brian@housingadvocates.org

June 19, 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

Re: Support for SB 2

Dear Senator Cedillo:

On behalf of our low-income clients we are pleased to continue to support SB 2, which would require that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. Doing so will help ensure that each city and county is doing its part to help meet this critical need for its homeless citizens.

Earlier this year, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Brian Augusta
Staff Attorney

cc: Assembly Local Government Committee

Provided by LRI History LLC

WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento CA 95814
Telephone: (916) 442-0753
Fax: (916) 442-7966

June 19, 2007

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California State Senate
State Capitol
Sacramento, California

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Earlier this year, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Assembly Local Government Committee

Provided by LRI History LLC

HOUSING California

AN END TO HOMELESSNESS. AFFORDABLE HOUSING FOR ALL.

JUN 20 2007

The statewide coalition of nonprofit housing developers, homeless services organizations and other affordable-home advocates.

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801 12th Street, Suite 512
Sacramento, CA 95814

916-447-0503 Phone
916-447-1900 Fax
www.housingca.org

June 18, 2007

The Honorable Anna Caballero
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0028

Dear Local Government Committee Chair Caballero:

Housing California is pleased to support SB 2, which would add emergency shelters and rental multifamily residential developments to the types of housing that must be accommodated under the housing element and ensure that homeless shelters can be built to meet local needs throughout California.

Shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and affordable residential facilities. SB 2 will help to reduce red tape and community struggles to develop and operate the emergency shelters that are integral to many within California communities. Housing California requests your aye vote on SB 2 when it is heard in Assembly Local Government Committee on June 27, 2007.

Sincerely,

Zack Olmstead
Homeless Policy Advocate

cc: Senator Gil Cedillo

Provided by LRI History LLC

June 11, 2007

TO: The Honorable Anna Caballero, Chair
And Members of the Assembly Local Government Committee

RE: Senate Bill 2 (Cedillo) – AFSCME SUPPORT

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, would like to inform you of our **support** of **Senate Bill 2**, as amended.

Affordable housing and emergency shelters are absolutely essential components to creating a livable community. In communities across the State, the cost of housing continues to rise precipitously, pricing lower income residents further away from cities and jobs. Meanwhile, those who have no shelter have few options to turn to when the need for emergency shelter arises.

AFSCME supports Senate Bill 2, as it will be a helpful tool in facilitating the approval of affordable housing and emergency shelter projects, ensuring that these facilities are available on a more widespread basis. There is no reason that a basic need such as shelter should be denied to the residents of this State. This legislation would help to close the gap between the number of people who are in need of housing assistance and the amount of housing available.

Please join us in supporting Senate Bill 2.

Should you have any questions regarding our position in this matter, you may call me at your earliest convenience. AFSCME also reserves the right to change our position in the event of further amendments.

Sincerely,

Willie L. Pelote, Sr.
Assistant Director of Political Action, International

CC: committee consultant(s)
WLP/crd

1121 L Street • Suite 904 • Sacramento, California 95814-3926 • (916) 441-1570 • (916) 441-3426 FAX

Provided by LRI History LLC

NASW. CALIFORNIA CHAPTER ...the power of social work
National Association of Social Workers

June 8, 2007

The Honorable Anna Caballero
Chair, Assembly Committee on Local Government
State Capitol, Room 3132
Sacramento, CA 95814

RE: SB 2 (Cedillo) – Support

Dear Assemblymember Caballero,

The National Association of Social Workers, California Chapter (NASW-CA) supports SB 2 (Cedillo), which calls for an increased availability of homeless shelters and transitional housing across California.

SB 2 would require cities and counties to include emergency shelters, transitional housing, and special needs facilities in the housing portion of their general plans for development. SB 2 would also require local governments to designate zones where special needs emergency shelters and transitional housing facilities are permitted, all of which are necessary for the welfare and safety of California's homeless population. At this time, such services are sparsely available, leaving many homeless without shelter and resources. Such needed resources for the homeless are often unequally distributed and concentrated in inner cities and impoverished communities. SB 2 would provide better opportunities for the homeless population of California by requiring an equal dissemination of homeless services.

The National Association of Social Workers, California Chapter represents over 12,000 professional social workers in California who have degrees from accredited social work programs across the country. NASW-CA advocates, on behalf of our members and their clients, for the implementation and improvement of programs and policies designed to enhance human well-being and help meet the basic needs of all people. SB 2 will help the homeless population of California, by increasing the availability of shelters and related services, many of which are provided by social workers. The National Association of Social Workers urges your support of SB 2.

Should you have any questions regarding our position on SB 2, please feel free to contact me at (916) 442-4565, ext. 12 or whill@naswca.org.

Sincerely,

Wendy Rae Hill, BSW

Wendy Rae Hill, BSW
Director of Government Relations and Political Affairs

Cc: Members of the Assembly Committee on Local Government
Senator Cedillo

1016 23rd Street, Sacramento, California 95816
(916) 442-4565 • (800) 538-2565 • FAX (916) 442-2075 • naswca@naswca.org • www.naswca.org

Provided by LRI History LLC

Lynn M. Suter
and Associates
Government Relations

June 7, 2007

Assemblywoman Anna Caballero
California State Assembly
State Capitol, Room 3132
Sacramento, California 95814

Re: SB 2 (Cedillo) Local planning – **SUPPORT**
Assembly Local Government Committee – June 27, 2007

Dear Assemblywoman Caballero:

On behalf of the City and County of San Francisco, I would like to inform you of San Francisco's support for SB 2 (Cedillo). Their support letter is attached. If you have any questions or need additional information, please contact our office at (916) 442-0412.

Sincerely,

Nicole Wordelman

Cc: Members and Consultant to the Assembly Committee on Local Government
Senator Gil Cedillo
San Francisco Legislative Delegation
Amiee Albertson

1127 11th Street, Suite 512 Sacramento, CA 95814 Telephone 916/442-0412 Facsimile 916/444-0383

Provided by LRI History LLC

Office of the Mayor
City & County of San Francisco

Gavin Newsom

May 17, 2007

The Honorable Gil Cedillo
State Senator, 22nd District
California State Senate
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 2 – Planning for homeless housing

Dean Senator Cedillo,

The City and County of San Francisco is pleased to support SB 2, you legislation to help meet the growing need for cities and counties to plan for shelters, transitional housing and special needs facilities.

SB 2 would require cities and counties to designate areas that allow, with conditional use, special needs facilities like clinics for mentally ill patients. It would also require communities to plan for transitional housing for people trying to practice a clean and sober lifestyle. SB 2 would also prohibit cities and counties from blocking planning for shelters and special needs facilities in their communities without a legitimate reason. SB 2 would give cities and counties the option of planning for their homeless population as a region.

Historically, homelessness has been viewed as an urban problem. The reality is that homelessness, mental illness, and substance- abuse affect people of all races, gender, age, and geographic location. Each community has a responsibility to provide services and housing for its homeless residents. Thank you for your leadership on this important issue.

Sincerely,

Gavin Newsom
Mayor

CC: Honorable members of the San Francisco delegation
Lynn Suter

Provided by LRI History LLC

Office of the Mayor
City & County of San Francisco

Gavin Newsom

May 17, 2007

The Honorable Gil Cedillo
State Senator, 22nd District
California State Senate
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 2 – Planning for homeless housing

Dean Senator Cedillo,

The City and County of San Francisco is pleased to support SB 2, you legislation to help meet the growing need for cities and counties to plan for shelters, transitional housing and special needs facilities.

SB 2 would require cities and counties to designate areas that allow, with conditional use, special needs facilities like clinics for mentally ill patients. It would also require communities to plan for transitional housing for people trying to practice a clean and sober lifestyle. SB 2 would also prohibit cities and counties from blocking planning for shelters and special needs facilities in their communities without a legitimate reason. SB 2 would give cities and counties the option of planning for their homeless population as a region.

Historically, homelessness has been viewed as an urban problem. The reality is that homelessness, mental illness, and substance- abuse affect people of all races, gender, age, and geographic location. Each community has a responsibility to provide services and housing for its homeless residents. Thank you for your leadership on this important issue.

Sincerely,

Gavin Newsom
Mayor

CC: Honorable members of the San Francisco delegation
Lynn Suter

Provided by LRI History LLC

I, Sheriff Lee Baca, pledge to be a champion for California Senate Bill 2. As the Sheriff of Los Angeles County, I witness the effects homelessness has on police enforcement. Criminalizing the homeless will not alleviate the problem. The state of California is paying $64 a day to incarcerate a homeless person in jail and $85 for a day in prison. Providing shelter for the homeless would cost only $37 per day. In valuing the inherent dignity of each human being and remaining dedicated to the best interest of the county of LA, I publicly support and encourage the passage of California Senate Bill 2.

Leroy D. Baca
Signature

2-7-07
Date

ACLU
AMERICAN CIVIL LIBERTIES UNION

CALIFORNIA LEGISLATIVE OFFICE
1127 Eleventh Street, Suite 534
Sacramento, CA 95814
Telephone: (916) 442-1036
Fax: (916) 442-1743

April 13, 2007

The Honorable Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

SB 2 -- Support

Dear Senator Cedillo:

The American Civil Liberties Union is pleased to support SB 2, which would require cities or counties to identify zones in the housing element of their general plan where emergency shelters may locate by-right, and to identify zones where special needs and transitional housing facilities may locate either by-right or through a conditional-use permit.

There are currently 360,000 homeless individuals and families across the state of California, many of whom are struggling with problems such as mental illness and substance abuse, but who lack access to basic services such as stable housing which can help them get off the street and begin to rebuild their lives.

When shelters and low-income housing are unavailable to those who lack the immediate resources to secure housing for themselves, their only option is to stay on the streets – an activity for which they are often arrested and penalized. We cannot allow ourselves to unfairly punish individuals for their poverty and lack of housing – for being on the street when they, literally, have no where else to go.

This legislation will help our state address the problem of homelessness in a manner which incorporates the needs of local communities while addressing the needs of the poor.

If you wish to discuss this matter further, please do not hesitate to contact our office.

Very truly yours,

Francisco Lobaco
Legislative Director

Provided by LRI History LLC

California Council of Community Mental Health Agencies

Leaders in the partnership that developed and promoted Proposition 63

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Davis

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Tulare Youth Service Bureau, Inc.
Tulare

Roy Marshall
Child and Family Guidance Center
Northridge

Nancy Rubin
Edgewood Center for Children and Families
San Francisco

Liz Selpel
Child and Family Center
Santa Clarita

Miguel Valencia PHD
Gardner Family Care Corporation
San Jose

Richard Van Horn
National Mental Health Association of Greater Los Angeles
Los Angeles

EXECUTIVE DIRECTOR
Rusty Selix

MEMORANDUM

DATE: April 10, 2007

TO: The Honorable Gil Cedillo
Senator, District 22

FROM: Rusty Selix, Executive Director

RE: **SB 2 – Notice of Support from the California Council of Community Mental Health Agencies (CCCMHA) – Local Planning**

The California Council of Community Mental Health Agencies (CCCMHA) is a California association of non-profit agencies, which represents mental health providers in a wide variety of California communities--metropolitan, suburban, and rural. CCCMHA continues to work together for success by finding new ways to achieve the level of mental health services needed in California.

We are pleased to support SB 2, which would add emergency shelters and rental multifamily residential development to provisions of the housing element, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

There are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, CCCMHA believes there is a growing need for every city and county to plan for the location of adequate shelters and multifamily residential development to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

For all of these reasons, CCCMHA strongly supports SB 2.

CC: Honorable Members, Senate Appropriations Committee Members
Committee Consultant, Senate Appropriations
CCCMHA Members

1127 – 11th STREET SUITE 925 SACRAMENTO, CA 95814
(916) 557-1166 FAX: (916) 447-2350 EMAIL: mail@cccmha.org WEBSITE: www.cccmha.org

Provided by LRI History LLC

An affiliate of the National Mental Health Association, honored as the nation's "most cost-efficient health charity." — Money magazine, December 1994

Mental Health Association in California

1127 – 11th Street, Suite 925, Sacramento, CA 95814
tel: 916-557-1167 • fax: 916-447-2350 • e-mail: *mail@mhac.org* • website: *www.mhac.org*

MEMORANDUM

DATE: April 10, 2007

TO: The Honorable Gil Cedillo
Senator, District 22

FROM: Rusty Selix, Executive Director

RE: MHAC Support of SB 2: Local Planning

The mission of the Mental Health Association in California (MHAC) is to provide advocacy, education, information and other assistance necessary to ensure that all people who require mental health services are able to receive the mental health and other services that they need, and are not denied any other benefits, services, rights, or opportunities based on their need for mental health services.

MHAC is pleased to support SB 2, which would add emergency shelters and rental multifamily residential development to provisions of the housing element, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

There are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, MHAC believes there is a growing need for every city and county to plan for the location of adequate shelters and multifamily residential development to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

For all of these reasons, MHAC strongly supports SB 2.

CC: Honorable Members, Senate Appropriations Committee Members
Committee Consultant, Senate Appropriations
MHAC Members

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Provided by LRI History LLC

GRAY PANTHERS

P.O. Box 19438
Sacramento, CA 95819
916-332-5980
www.gpcal.org

April 6, 2007

The Honorable Gilbert Cedillo
State Capitol
Sacramento, CA 94814
FAX 327-8817

RE: SB 2 – Local Planning

Dear Senator Cedillo:

Gray Panthers California wishes to be listed among supporters of SB 2, your measure which would add emergency shelters and transitional housing into hosing element assessments of housing needs. We strongly support this measure as a piece of the overall planning to provide for adequate housing for this population.

We in Sacramento have lived for years with the problem of lack of services and housing, ghettoizing of homeless persons attempting to transition into the mainstream, and NIMBY problems. These are a few of the reasons we cannot and will not solve the problems of the homeless. Your measure will be a strong step toward requiring city and county to do the right thing.

Sincerely,

Joan B. Lee
Legislative Liaison
Gray Panthers California

Cc CARA

Provided by LRI History LLC

SAN DIEGO HOUSING FEDERATION

110 West C Street, Suite 1013
San Diego, CA 92101-3906
Phone: (619) 239-6693
Fax: (619) 239-5523
info@housingsandiego.org

Promoting Quality Affordable Housing and Community Development Throughout San Diego County

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Jenny Ho
Father Joe's Villages

Matthew Jumper
San Diego Interfaith Housing Foundation

Anne Wilson
Community HousingWorks

Ex Officio

Tom Scott, *Secretary*
Executive Director

Karolina Ericsson, *Of Counsel*
Luce, Forward, Hamilton & Scripps, LLP

April 4, 2007

Honorable Gilbert Cedillo
California State Senate
Room 5100
State Capitol
Sacramento, CA 95814

Re: Support for SB 2, Local Planning

Dear Senator Cedillo:

At its meeting March 21, 2007, The San Diego Housing Federation Board of Directors voted unanimously to **support SB 2**, Local Planning. We appreciate your persistence in sponsoring this legislation and look forward to providing any assistance in securing its passage.

The San Diego Housing Federation is a coalition of affordable housing developers, advocates and other organizations who promote the creation of quality affordable housing focused on lower income families and people in need. Our members and others have experienced severe challenges in siting special needs housing. Your bill would ease the way for future affordable housing development.

Thank you for your support of legislation to benefit California's most needy and vulnerable residents.

Respectfully,

Tom Scott

Tom Scott
Executive Director

Provided by LRI History LLC

Northeast Democratic Club
940 Elyria Dr.
Los Angeles, CA 90065
March 22, 2007

Sen. Gilbert A. Cedillo
Oviatt Building
617 S. Olive St., Suite 710
Los Angeles, CA 90014

Dear Sen. Cedillo:

At its March monthly meeting last night, the Northeast Democratic Club voted to support three bills which you have written- SB 2 (Fair Share Zoning), SB 119 (Medi-Cal: Drug Treatment for Minors), and SB 275 (Hospital Dumping.)

We are convinced that each bill addresses one aspect of the problem of homelessness in California. In our judgment, if all three are enacted into law, they would greatly assist in alleviating the problem.

Please advise me as to specific actions that club members may take in order to assist passage of the bills.

The Northeast Democrats prize the close working relationship we have with you and your staff and look forward to assisting you in common endeavors in the future.

Sincerely,

Bill Rumble
President
Northeast Democratic Club

Shelter Partnership
523 West Sixth Street, Suite 616 ■ Los Angeles, California 90014 ■ Fax (213) 689-3188 ■ (213) 688-2188

March 14, 2007

Honorable Gilbert Cedillo
State Senator
State Capitol, Room 5100
Sacramento, CA 95814

RE: Support of SB 2: Fair Share Zoning

Dear Senator Cedillo:

On behalf of the board and staff of Shelter Partnership, Inc., we are pleased to support your legislation, SB 2. If enacted, this bill would require that local jurisdictions identify in their housing element sites where emergency homeless shelters can locate by right.

As you know, this law is critically needed. In 2005 Shelter Partnership conducted a study in which we reviewed the housing elements of the County of Los Angeles and all 88 cities within the County. Only three jurisdictions, the City and County of Los Angeles and the City of Santa Monica, explicitly allow emergency shelters by right in specific zones, subject to bed limits. *Most disturbing, 61 cities, or more than two-thirds of all jurisdictions in Los Angeles County, made no provision for emergency shelters or transitional housing in their zoning ordinances.* As a result, nearly two-thirds of the short-term housing beds for the homeless are located in the City of Los Angeles.

We will never solve homelessness in our State if all jurisdictions do not do their part in helping to solve this problem. Your legislation will go a long way toward that end.

We thank you for your important leadership on this issue. Please let us know how we can assist you in securing passage of this important measure.

Sincerely,

Ruth Schwartz
Executive Director

EIMAGO INC

The Center for Human, Economic and Community Development

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already familiar with Eimago, Inc and our work in the field of homeless services and reentry. You may also know that Eimago is a 501(c)(3) public benefit corporation dedicated to serving the homeless and working poor with programs that assist them in becoming productive citizens. Eimago. is a strategic partner with the Union Rescue Mission, building on its over 115 years of service to the homeless men, women, and children in downtown Los Angeles.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. This area has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

You also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the street.s for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are thrilled to see that you have authored this very important bill and are pleased to offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Deepest Gratitude,

CARRIE GATLIN

Carrie Gatlin
Vice President

545 S. San Pedro Street
Los Angeles, CA 90013
213.673.4839

Provided by LRI History LLC

Union Rescue Mission®
the way home

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already quite familiar with the Union Rescue Mission (URM) and our efforts since 1891 to provide a comprehensive array of emergency and long-term services to low-income and chronically homeless people; including food, emergency shelter, clothing, personal hygiene items, medical care, dental services, recovery programs, transitional housing, legal aid, education, counseling, mentoring and job training for men, women, and children.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. Skid Row has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted to drugs and alcohol. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

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Sincerely,

Andrew J. Bales
President

MCR Public Affairs & Advocacy

Senator Cedillo
State Capital
Sacramento, CA. 95833

3/5/2007

Re: SB 2 – SUPPORT - suggested amendment(s) – 1/22/07 version

Dear Senator Cedillo;

I am writing today on behalf of Moller International Inc., a California corporation involved in designing, developing, manufacturing and marketing new transportation products, specifically a 4-passenger Vertical Take-off and Landing ("VTOL") aircraft that combines the cruise performance of an airplane with the vertical-flight capabilities of a helicopter. The aircraft is designated the "M400 Skycar®."

The concept of the Skycar is simple: designed as a personal transportation vehicle, this VTOL is practical and affordable, and will replace both the automobile and private or commercial aircraft for trips of 750 miles or less, making it a preferred medium range transportation choice of the future.

With that in mind, we are bringing this product to market in California. As such, we support the concepts and principles embodied in your SB 2. Even so, in an effort to make the bill more effective, we would like to suggest that an element is missing – emergency transportation, especially helipads and vertiports.

As such, we would like to make the following suggestion on how to make your bill more effective:

When discussing "special needs facilities", community plans should be required to include heli-stops for medivac and public safety, especially when planning for community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities and residential care facilities for the elderly are discussed.

In closing, we look forward to working with you as this measure winds its way through the 2007-2008 legislative session.

Sincerely;

Michael Ross, Legislative Advocate for Moller International. Inc.
(916) 923-2215

37 Derow Court, Sacramento, CA. 95833 – 916.923.2215 – ssorleahcim@comcast.net – fax 916.923.2216

Provided by LRI History LLC

CCA | Central City Association of LOS ANGELES

626 Wilshire Blvd
Suite 200
Los Angeles, CA 90017

telephone 213.624.1213
facsimile 213.624.0858
www.ccala.org

F I C E R S
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Jane Wingfield
Johnson Fain Partners
Kaweah Company of America
Killefer Flamunang Architects
King's Seafood Company
L & R Investment Company
L.A. Mart
LA Fashion District BID
LA Inc.
Latham & Watkins
LBA Realty
Lennar Communities
Los Angeles Athletic Club
Los Angeles Business Journal
Los Angeles Dodgers
Los Angeles Magazine
Los Angeles Times
Los Angeles United Investment Company
Los Angeles World Airports
Macias Government Relations
Maguire Properties
Manatt, Phelps, & Phillips
Marsh Risk & Insurance Services
Metropolitan Water District
MJW Investments
Munger, Tolles & Olson
NBC Universal
Old Cathedral, LLC
O'Melveny & Myers
Orthopaedic Hospital Foundation
Pacific Energy Partners, L.P.
Palmer Investments, Inc.
Parsons, Brinckerhoff, Quade & Douglas, Inc.
Paul Hastings, Janofsky & Walker LLP
PCL Construction Services, Inc.
Planning Company Associates
Playa Vista Capital Company
Port of Los Angeles
Related Companies of California
Safeway, Inc.
Shamrock Group
Sheppard, Mullin, Richter & Hampton
Smith, Hinkle & Munselle
South Group
Southern California Edison
Southern California Gas Company
Southwest Airlines
Standard Parking Corporation
Staples Center/Los Angeles Arena Co.
State Farm Insurance Company
Stonebridge Holdings, Inc.
Thomas Properties Group
Transamerica Occidental Life Insurance
Trizec Properties, Inc.
Turner Construction
UCLA
Union Bank of California
University of Southern California
Univision KMEX TV-34
Walt Disney Company
Warner Bros. Entertainment Inc.
Washington Mutual
...Fargo
...Traveurture Hotel & Suites
...n Company

March 2, 2007

The Honorable Gilbert Cedillo
Office of State Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Request Approval of SB 2 – "Fair Share Zoning"

Dear Senator Cedillo,

Central City Association of Los Angeles (CCA) is L.A.'s premier business advocacy association, shaping public policy on a broad range of issues and leading the renaissance in Downtown Los Angeles. Established in 1924, CCA is a membership organization representing more than 450 businesses, trade associations, and non-profit organizations employing more than 300,000 people in Los Angeles County.

On behalf of the 500,000 residents, visitors, business owners, and employees in Downtown Los Angeles, CCA requests your support for Senate Bill 2. Long overdue, this bill will help Los Angeles reach a regional solution to the homelessness crisis, rather than concentrating services in inner cities and poor communities such as Skid Row in Downtown Los Angeles.

SB 2 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such services in the community.

SB 2 simply requires cities and counties to plan for their homeless populations and add emergency shelters, special needs facilities, and transitional housing to the already established requirements of the housing element and planning and zoning law. Under SB 2, cities and counties also have the option of meeting the requirement as a region.

Presently, Downtown Los Angeles has the highest concentration of homeless services in the nation. More than 11,000 homeless persons sleep on the streets each night in Downtown. This is unacceptable. Most of these individuals find themselves in Downtown because their own community does not provide appropriate services.

Your support for SB 2 will go a long way in helping the destitute get help at home and escape the crowded and neglected conditions of Skid Row. SB 2 will also help alleviate Downtown Los Angeles of the burden it has withstood for too long. It's past time to give Skid Row a chance for recovery.

Sincerely,

Carol E. Schatz
President & CEO

pja Progressive Jewish Alliance

February 14, 2007

Senator Gilbert Cedillo
State Capitol
Room 5100
Sacramento, CA 95814

Dear Senator Cedillo,

Progressive Jewish Alliance (PJA) is a nonprofit organization dedicated to Jewish traditions of pursuing peace, promoting equality and diversity, and working for social and economic justice. We are a California-based organization with thousands of members throughout the state.

We are writing to in support of SB 2. Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and transitional housing facilities is an important first step in providing all California inhabitants with the basic human right of safe housing. We applaud the provision to remove NIMBY laws that exclude the building of shelters, transitional housing and special needs facilities in our local communities.

As the Jewish tradition mandates, we are deeply concerned about the welfare of our cities and state and all who reside within them. We therefore support SB 2.

Please do not hesitate to contact me with any questions.

Sincerely,

Catherine Schneider
Assistant Director

S. California
T 323.761.8350
F 323.761.8355
5870 W. Olympic Blvd.
Los Angeles, CA 90036

Bay Area
T 510.527.8640
F 510.527.8680
409 Liberty Street
El Cerrito, CA 94530

www.pjalliance.org

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Ayala, Cori

From: Rabbi Kenneth Chasen [kchasen@LeoBaeckTemple.org]
Sent: Monday, April 23, 2007 1:50 PM
To: Ayala, Cori
Subject: For Sen. Cedillo re: SB 2

April 23, 2007

Office of State Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Dear Senator Cedillo,

I am writing in reference to SB 2, the Fair Share Zoning legislation that is currently receiving consideration within the Senate. So many of us in the faith community are deeply grateful to you for demonstrating leadership on this essential issue of human dignity. Given the urgent need of the California citizens who will be served by this bill, I wanted to express my strong support and request that you share my endorsement with the full Senate.

Clearly, you have introduced this legislation to address the tragic lack of permanent supported housing and emergency shelter space in our state. This failure is, as you know, a very direct threat to the economic, environmental and social quality of life in California, where housing prices are higher than in any other state. If we could count upon local government bodies to address this matter within their own communities, SB 2 might not be as desperately needed; but the reality is that our localities are paying scant attention to this crisis, as discrimination against low-income and minority households continues to be widespread and advancing.

SB 2 is the necessary solution to this unacceptably apathetic response to California homelessness. With each city and county bound by law to develop a comprehensive permanent housing plan for their residents, we can at last be assured that our state leaders will not look the other way as so many Californians suffer the indignity of homelessness. Our state is worthy of a far greater humanity, and on behalf of the 700 member families of Leo Baeck Temple, I will be following this promising legislation carefully, with the hope and expectation that you, your colleagues in the Legislature, and the Governor will take action on this critical matter of conscience.

I cannot urge the Legislature more strongly to pass SB 2. I hope you will convey this robust measure of support to Mr. Bill Higgins at the League of Cities, and that you will pass along my deep conviction to Governor Schwarzenegger that this legislation must be signed into law.

With appreciation for your leadership,

Kenneth Chasen

Kenneth Chasen
Senior Rabbi
Leo Baeck Temple

****

Rabbi Kenneth Chasen
Leo Baeck Temple
1300 N. Sepulveda Blvd.
Los Angeles, California 90049
310-476-2861
kchasen@leobaecktemple.org

APPROVED AS TO FORM AND LEGALITY:

DEPUTY CITY ATTORNEY

OFFICE OF THE CITY CLERK

2007 MAY 2 PM 3:26

REVISED

OAKLAND CITY COUNCIL

RESOLUTION NO. 80580 C. M. S.

INTRODUCED BY COUNCILMEMBER BROOKS

RESOLUTION TO OPPOSE SB 2 (CEDILLO), LOCAL PLANNING REQUIREMENTS FOR HOMELESS AND SPECIAL NEEDS HOUSING

WHEREAS, the City of Oakland seeks to encourage the distribution of affordable housing, including housing for homeless families and individuals, equitably among all areas of the City and avoid undue concentrations in any one area; and

WHEREAS, the City of Oakland seeks to mitigate any adverse impacts of such housing on neighborhoods by ensuring that certain management and siting conditions are adhered to; and

WHEREAS, in furtherance of this objective Section 17.102.212 of the City's Zoning Regulations establish certain conditions of approval for residential care, service-enriched permanent housing, transitional housing and emergency shelter residential activities; and

WHEREAS, State Senator Gil Cedillo has introduced SB 2 into the 2007 session of the California Legislature; and

WHEREAS, SB 2 would limit the ability of cities to regulate such facilities and would further require that cities identify sites where such facilities could be developed "by right" without the ability of the jurisdiction to impose conditions of approval; and

WHEREAS, these limitations would impede the City's ability to reasonably regulate the siting and management of such facilities; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby opposes SB 2 (Cedillo); and be it

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FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or her designee, to work actively to seek the defeat of SB2.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 15 2007, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: LaTonda Simmons

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 5100
Sacramento, CA 95814
(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

May 4, 2007

To: Members of the Assembly and Senate
From: Senator Gil Cedillo
Re: Co-Author Request: SB 2 Fair Share Zoning

I invite you to join me in authoring SB 2 Fair Share Zoning. SB 2 would help meet the growing need for cities and counties to plan for shelters, transitional housing and special needs facilities. Currently there are 360,000 homeless people in California. 254,000 men, women and children experience homelessness over the course of each year. There is a disproportionate availability of these facilities in Skid Row for example, where a majority of homeless go to seek services. Areas, like Skid Row need surrounding cities and counties to take responsibility for offering such services in their communities.

SB 2 requires cities and counties to designate areas that allow, with conditional use, special needs facilities like clinics for mentally ill patients. It would also require communities to plan for transitional housing for people trying to practice a clean and sober lifestyle or even for the elderly for example. SB 2 also prohibits cities and counties from blocking planning for shelters and special needs facilities in their communities without a legitimate reason. SB 2 would give cities and counties the option of planning for their homeless population as a region.

Historically, homelessness has been viewed as an urban problem. The reality is that homelessness, mental illness, and substance- abuse affect people of all races, gender, age, and geographic location. Each community has a responsibility to provide their fair share in caring for homeless people.

I am pleased to report that we have been working with the Department of Housing and Community Development, the Governor's office and other interested parties. I am encouraged that this bill directly relates to some of the action items in the Governor's 10 Year Chronic Homelessness Action Plan.

Please join me in authoring SB 2 Fair Share Zoning

Yes, I would like to co-author SB 2 Fair Share Zoning

PATRICIA WIGGINS — Patricia Wiggins
Member — Signature

Please return to Megan Garcia in Room 5100

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MAY 7 2007

SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 5100
Sacramento, CA 95814
(916) 445-3456

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617 S. Olive Street, Suite 710
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Please join me in authoring SB 2 Fair Share Zoning

Yes, I would like to co-author SB 2 Fair Share Zoning

Member _____ Signature _____

Please return to Megan Garcia in Room 5100

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Yes, I would like to co-author SB 2 Fair Share Zoning

EDWARD VINCENT

Member

Signature

Please return to Megan Garcia in Room 5100

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AMENDMENTS TO SENATE BILL NO. 2
AS AMENDED IN ASSEMBLY JULY 2, 2007

Amendment 1
On page 5, line 9, strike out "provided" and insert:

except

Amendment 2
On page 5, lines 10 and 11, strike out "demonstrates that the identified zone or zones" and insert:

shall identify a zone or zones that

Amendment 3
On page 5, line 11, after "one" insert:

year-round

Amendment 4
On page 5, line 13, after "shall" insert:

include a program to

Amendment 5
On page 5, line 15, strike out "prior to or concurrent with" insert:

within one year of

Amendment 6
On page 5, line 30, after "parking" insert:

based upon demonstrated need

Amendment 7
On page 5, lines 32 and 33, strike out "based upon demonstrated need"



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Amendment 8
On page 5, line 35, strike out "client"

Amendment 9
On page 5, line 36, after "and" insert:

client

Amendment 10
On page 6, line 14, after the period insert:

(C) 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 for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

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

Amendment 11
On page 6, lines 30 and 31, strike out "multifamily dwellings" and insert:

residential dwellings of the same type

Amendment 12
On page 6, line 39, after the period insert:

The need for emergency shelter shall be assessed based on annual and seasonal need. 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.

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Amendment 13
On page 10, line 17, after the period insert:

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

Amendment 14
On page 10, line 18, strike out "(d)" and insert:

(e)

Amendment 15
On page 13, line 38, strike out "reasonably"

Amendment 16
On page 14, line 1, strike out "realistically"

Amendment 17
On page 14, line 2, strike out "of a feasible size"

- 0 -

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BILL NUMBER: SB 2 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 19, 2007
AMENDED IN SENATE MARCH 8, 2007
AMENDED IN SENATE JANUARY 22, 2007

INTRODUCED BY Senator Cedillo

DECEMBER 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters ~~, transitional housing,~~ and rental multifamily residential development to these provisions, as specified, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. The bill would also delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add special needs facilities and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of a special needs facility or an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community

treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council

created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

~~(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.~~

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. ~~For the purposes of the analysis required by paragraph (3) of this subdivision and paragraph (1) of subdivision (c), local~~ *Local* agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3)(A) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

Deleted: ¶

Deleted: *(f) "Special needs facility" includes all of the following if the¶ facility is licensed and serves seven or more persons: ¶*
(1) A "community care facility," "residential facility," "social¶ rehabilitation facility," "community treatment facility,"¶ "transitional shelter care facility," and "transitional housing¶ placement facility," as those terms are defined in Section 1502 of¶ the Health and Safety Code.
(2) A "residential care facility," as defined in Section 1568.01¶ of the Health and Safety Code. ¶
(3) A "residential care facility for the elderly," as defined in¶ Section 1569.2 of the Health and Safety Code.

zone

(B) The inventory of sites shall identify the zones where emergency shelters are allowed as a permitted use without a conditional use permit or other similar type of permit and shall demonstrate how identified zones include sufficient capacity to realistically accommodate the development of emergency shelters in a manner reasonably related to the need for emergency shelters identified in paragraph (6), provided that each local government demonstrates that the identified zones can realistically accommodate at least one emergency shelter of a feasible size. The local government is encouraged to identify additional zones where emergency shelters are permitted with a conditional use permit. The inventory shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that relate to the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility;

(ii) Off-street parking;

(iii) The size and location of client intake areas; and

(iv) The provision of on-site management.

Weds. 30th 1:30

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other multifamily dwellings in the same zone.

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of transitional housing, supportive housing, and emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs

Deleted: and ~~transitional housing~~¶ *special needs facilities*

Deleted: An inventory of sites suitable for the development within the¶ planning period of emergency shelters that are zoned to permit the¶ development of these shelters as a use by right, as defined in¶ subdivision (i) of Section 65583.2. The sites shall be zoned with¶ appropriate development and management standards and served with¶ appropriate infrastructure to accommodate the community's need for¶ emergency shelters identified pursuant to paragraph (6).¶ (8)

Deleted: 9

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listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy

programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing , *single-room occupancy units* , emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to subparagraph (B) of paragraph (3) of subdivision (a) does not identify zones that allow emergency shelters as a permitted use, that are subject to appropriate development and management standards, or that have capacity to accommodate the need for emergency shelters, the element shall include a program to complete an amendment to the zoning ordinance within the first year of the planning period to fulfill the requirements of subparagraph (B) of paragraph (3) of subdivision (a).

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of

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Deleted: adequate sites to accommodate the¶ need for emergency shelters identified pursuant to paragraph (6) of¶ subdivision (a), the program shall identify actions that will be¶ taken to make available adequate sites that can be developed within¶ the planning period to meet the need for emergency shelters. The¶ sites shall be zoned to permit the development of shelters as a use¶ by right, as defined in subdivision (i) of Section 65583.2, and shall¶ be zoned with appropriate development and management standards and¶ served with appropriate infrastructure to accommodate the community's¶ need for emergency shelters.

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race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including special needs facilities and emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject ~~or make infeasible emergency shelters and housing~~

Deleted: (d) A local government may satisfy the requirements to identify¶ sites suitable for the development of emergency shelters pursuant to¶ paragraph (7) of subdivision (a) and to include a program to identify¶ sufficient sites for these shelters pursuant to subparagraph (C) of¶ paragraph (1) of subdivision (c) by adopting and implementing a¶ multijurisdictional agreement with adjacent communities that commits¶ the participating jurisdictions to identify sufficient sites suitable¶ for development within the planning period of emergency shelters¶ that are zoned to permit the development of these shelters as a use¶ by right, as defined in subdivision (i) of Section 65583.2. The sites¶ shall be zoned with appropriate development and management standards¶ and served with appropriate infrastructure to accommodate the¶ combined need for emergency shelters of all the participating¶ jurisdictions, as identified by each jurisdiction pursuant to¶ paragraph (6) of subdivision (a). ~~Except~~

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Deleted: SEC. 4. Section 65583.2 of the Government Code is amended to read:¶ ¶ 65583.2. (a) A city's or county's inventory of land suitable for¶ residential development pursuant to paragraph (3) of subdivision (a)¶ of Section 65583 shall be used to identify sites that can be¶ developed for housing within the planning period and that are¶ sufficient to provide for the jurisdiction's share of the regional¶ housing need for all income levels pursuant to Section 65584. As used¶ in this section, "land suitable for residentia ... [1]

~~developments~~ *or make infeasible housing developments and emergency shelters,* that contribute to meeting the needs determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households or for the use of an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan

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land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

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(5) The development project, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

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(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed ~~in accordance with Section 65583.2,~~ to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section

21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section ~~65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development~~ *65584. However, the development* standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. *A local agency may also require emergency shelters to comply with objective, quantifiable, written management standards appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelters, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.* This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including special needs facilities and emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a

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monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

~~(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:~~

~~(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.~~

~~(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.~~

~~(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.~~

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is

Deleted: *"Special needs facility" has the same meaning as defined in¶ subdivision (f) of Section 65582.* ¶ (5)

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disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in ~~paragraph~~ *subdivision* (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely

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without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

Deleted: SEC. 6. Section 65852.12 is added to the Government Code, to read:¶
¶
65852.12. A local agency *, including a charter city, county,*¶
or city and county, shall designate zones where special needs¶
facilities, as defined in Section ~~65589.5~~ ¶
65582 , and transitional housing, as defined in Section 50801¶
of the Health and Safety Code, are a permitted use, either by right¶
or subject to a conditional use permit. A local agency shall not¶
enact or enforce an ordinance, regulation, or resolution that would¶
prohibit special needs facilities and transitional housing from¶
locating within the jurisdiction.

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SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited

to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in ~~a~~ an MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in ~~a~~ an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary

local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

Provided by LRI History LLC

Points for Discussion

- Definition of Supportive and Transitional Housing
- Same Process Emergency, Transition, and Supportive Housing
- Development Standards
- Local Analysis of Special Needs Housing
- Zoning Code vs. Housing Element
- Enforcement
- Mandate Issue

BILL NUMBER: SB 2 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 19, 2007
AMENDED IN SENATE MARCH 8, 2007
AMENDED IN SENATE JANUARY 22, 2007

INTRODUCED BY Senator Cedillo

DECEMBER 4, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

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

Comment [h1]: Funding Issue

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness,

primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

~~(f) "Transitional housing" has the same meaning as defined in subdivision (i) of Section 50801 of the Health and Safety Code.~~

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code that also receive federal or state funding.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code that also receive federal or state funding..

SEC. 3. 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:

(1) An analysis of population and employment trends and

Deleted: .

Deleted: *(f) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:*

(1) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(2) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(3) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.
~~For the purposes of the analysis required by paragraph (3) of this subdivision and paragraph (1) of subdivision (c), local~~
Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) The local government shall identify a zone or zones where transitional housing, supportive housing, and emergency shelter, is allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to reasonably accommodate the need for transitional housing, supportive housing, and emergency shelter identified in paragraph (7). The local government may identify additional zones where such facilities are permitted with a conditional use or other discretionary permit. The application process shall be substantially similar to the process for either the residential or commercial development within the zone or zones, except that a local government may apply written, objective standards for emergency shelters that relate to the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility;

~~(ii) Off-street parking;~~

(iii) The size and location of client intake areas;

(iv) The proximity to other shelters

(v) The length of stay

(vi) ~~The lighting using illumination which will not pose hazard to occupants~~

(vii) ~~Basic provider requirements~~

(viii) ~~Noise restrictions~~

(ix) Signage

(x) ~~A plan and~~ provision for on-site management, and

(xi) ~~Design requirements, provided they are limited to addressing issues of landscaping,~~ lighting, ~~refuse storage, common facilities, and~~ security.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph

Comment [h2]: Housing Element or Zoning Code. APA originally recommended these changes in the zoning code, not the H.E.

Deleted: inventory of sites

Deleted: the

Comment [h3]: Brainstorm, not cleared through policy process yet.

Deleted: s

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Deleted: permit

Deleted: similar type of

Deleted: and

Deleted: shall demonstrate how

Deleted: realistically

Deleted: development of emergency shelters in a manner reasonably related to the

Deleted: for emergency shelters

Deleted: , provided that each local government demonstrates that the identified zones can realistically accommodate at least one emergency shelter of a feasible size

Deleted: is encouraged to

Deleted: emergency shelters are

Deleted: The inventory shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone

Comment [h4]: List taken from standards from LA, LA County, and Santa Monica

(1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of transitional housing, supportive housing, and emergency shelter. The Department shall accept a reasonable calculation of special housing needs developed by the local government.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be

Deleted: Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other multifamily dwellings in the same zone.

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Deleted: and ~~transitional housing~~¶
special needs facilities

Comment [h5]: This provision is declaratory of existing law, but clarifies that special needs numbers will not derive from a number like RHNA.

Deleted: 7

Deleted: An inventory of sites suitable for the development within the¶ planning period of emergency shelters that are zoned to permit the¶ development of these shelters as a use by right, as defined in¶ subdivision (i) of Section 65583.2. The sites shall be zoned with¶ appropriate development and management standards and served with¶ appropriate infrastructure to accommodate the community's need for¶ emergency shelters identified pursuant to paragraph (6).¶
(8)

used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing , *single-room occupancy units* , emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of

subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) *Except* as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SECTION 65589.5 remains as it is in current law

Comment [h6]: Deleted proposed subsection (C) because Emergency Shelter Designation is not in the inventory.

Deleted: (C) Where the inventory of sites pursuant to subparagraph (B) of paragraph (

Deleted: 7

Deleted: 3) of¶ subdivision (a) does not identify

Deleted: adequate sites to accommodate the¶ need for emergency shelters identified pursuant to paragraph (6) of¶ subdivision (a), the program shall identify actions that will be¶ taken to make available adequate sites that can be developed within¶ the planning period to meet the need for emergency shelters. The¶ sites shall be zoned to permit the development of shelters as a use¶ by right, as defined in subdivision (i) of Section 65583.2, and shall¶ be zoned with appropriate development and management standards and¶ served with appropriate infrastructure to accommodate the community's¶ need for emergency shelters.

Deleted: zones that allow emergency shelters as a permitted use, that are subject to appropriate development and management standards, or that have capacity to accommodate the need for emergency shelters, the element shall include a program to complete an amendment to the zoning ordinance within the first year of the planning period to fulfill the requirements of subparagraph (B) of paragraph (3) of subdivision (a). ¶

Deleted: (d) A local government may satisfy the requirements to identify¶ sites suitable for the development of emergency shelters pursuant to¶ paragraph (7) of subdivision (a) and to include a program to identify¶ sufficient sites for these[1]

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MARY CURRAN-DOWNEY

Escondido can redeem self on shelter

January 7, 2007

It's a rare moment when a government entity can take a public-relations nightmare and turn it around, with positive and financially sound results. The Escondido City Council has that chance.

How often does something like this happen? I'd say never.

You know the issue, unless you've been living under a rock: A council majority refused the Salvation Army's request to open a cold-weather shelter on its property within hours of Christmas Eve, reasoning that the city has done more than enough to help the poor, and that allowing a shelter would draw the down-and-out from other areas.

The shelter does manage to open for about two weeks, through a loophole. Although there's support for the council's decision, the terms "heartless" and, of course, "Scrooge" are tossed around with much frequency. It becomes a battle of slogans, not solutions.

But it doesn't have end like that, because there are ways to begin finding answers. One, proposed by Mayor Lori Holt Pfeiler and others, is to convene a task force of agencies and government entities from throughout the region, not just Escondido. That would be as easy as reviving the old North County Task Force on Homelessness, a group that lasted for about seven years, got the parties talking and helped to create some shelter beds. But, like a lot of things, it needed regional leadership to keep it going.

■■■

Keep in mind that Oceanside's Bread of Life and Vista's Operation HOPE are providing shelter beds, and the Community Resource Center in Encinitas provides motel vouchers, as does San Marcos. Other North County cities have it in their best interest to get involved.

While the situation in Escondido was an emergency, the homeless problem "has been worked on diligently and with great strategy and with some reasonable success," said Suzanne Stewart Pohlman, executive director of Interfaith Community Services.

Interfaith operated a winter shelter in Escondido for two decades, but remodeled the building and changed its mission to more permanent housing.

The Escondido council also could do itself a favor by endorsing the procedures the shelter there would use. They start at 6 a.m., when a decision is made whether the weather warrants opening the shelter that night. There would also be a screening process by Interfaith staffers, sending Oceanside residents back to Bread of Life, Vista families to Operation HOPE and anyone who's drunk to detox, even if it means calling the police.

Another recommendation for the council: Listen to the wisdom of people such as Victor Kops, a clinical

psychologist who practices in San Diego and Solana Beach. Kops has been involved with the issue for 30 years as a longtime member of the Regional Task Force on the Homeless.

Kops said that in his experience, the idea that homeless people travel many miles to find a city shelter is "an urban myth," while not providing a clean, dry space for them can end up being very expensive.

"It's not even good business practice," he said. "It costs maybe $10 a night to put people in a minimal shelter. If they get sick and we take them to an emergency room, it will cost thousands of dollars. It makes no sense as a society."

■■■

Kops and other task-force members such as former Coronado Mayor Mary Herron are working on a pilot project that should be considered not only in Pacific Beach, where it's getting under way, but also throughout the county.

Here's how the Opening New Doorways Initiative will work: Pacific Beach United Methodist Church will refurbish and then rent out a church-owned house for a maximum of six people at a reasonable rate. People who have been on the street will get the services they need to find their way back from the brink, helped by a faith community that's serious about outreach.

A three-year, $105,000 grant from the California Wellness Foundation, along with support from the Alliance Healthcare Foundation and other local foundations as well as private donations, will pay for the early stages of the program.

"What we hope is we are reaching a tipping point in terms of social consciousness and some innovative things will continue to happen," Herron said about the project.

No one believes this problem will be solved tomorrow, but if it's cold enough, some people will need a place to sleep tomorrow night.

The Escondido City Council can go from Scrooge to Good Samaritan – a fiscally sound, forward-thinking and prudent urban-planning Good Samaritan at that – by helping promote a regional approach to the issue, supporting strict guidelines for all future shelters and studying what's being done elsewhere in the county.

▪Mary Curran-Downey can be reached at **mary_currandowney@hotmail.com**

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Provided by LRI History LLC 2007-633 Page 484 of 1377

Need vs. 'fair share'

Influx of low-income projects in Old Folsom protested

By Walter Yost - Bee Staff Writer
Published 12:00 am PST Tuesday, January 2, 2007

Residents and business owners in Folsom's historic district fear that two proposed low- income projects will change the character of their neighborhood, turning it into a dumping ground for facilities no one else apparently wants.

If the projects go forward, a 19-unit apartment complex for people with mental illnesses and a transitional housing program for up to 20 homeless people will be within five blocks of each other on Bidwell Street.

It would be one of the highest concentrations of such housing in the area outside of downtown and midtown Sacramento.

Residents are asking "Why us?" The answer is rooted in the conflicting goals of peoples' desire to preserve their neighborhood vs. the need for low-income housing and social services throughout the region.

The conflict was no better illustrated than during an emotional meeting in November at the Folsom Community Center.

Architect Craig Stradley was barely two minutes into his talk on the design merits of the proposed psychiatric housing project, when the questions began raining on him.

His audience, anxious historic district residents, didn't care what the project looked like.

They wanted to know who would be living there, what type of supervision would be provided and why another low- income housing project was coming to their neighborhood.

"We're inundated. You're saturating us," one woman said.

After listening to the concerns, staff members with Transitional Living and Community Support Inc., operator of the psychiatric housing, acknowledged they weren't going to win any converts.

"I don't think we're going to convince you," Executive Director Jane Ginsberg said.

While the region's largest, most visible homeless services are in Sacramento, Joan Burke, director of advocacy at Loaves & Fishes, said it's a myth that homelessness is confined to cities.

"Even in affluent suburbs like Folsom, people can have a run of bad luck," Burke said.

Although the region has small-scale, emergency shelter programs like Family Promise in Sacramento County and Gathering Inn in Placer County, a permanent transitional housing program like Folsom's Powerhouse Ministries is rare.

Putting such programs in local communities makes sense to Burke. "If your child or sister was on drugs or needed help, wouldn't you want somebody to help her in your town?" she asked.

But historic district residents like Dean Bullock say they're already doing their part when it comes to low-income housing.

"We expect other parts of the city to do theirs," he said. The historic district, he said, has more than its "fair share" -- including apartment complexes and a trailer park along its border.

Bullock and others fear additional low-income projects will increase crime and decrease property values.

"We don't want to sound like we're being hard-nosed about it," said Karen Wilson, a board member with the Historic Folsom Residents Association. "Our concern is on the concentration of services."

City planners say the proposed uses are consistent with the general plan. Advocates say the residents' fears are unfounded.

"Initially, when people hear about folks with psychiatric diseases, the worst comes to mind. But that's not typically what we see," said Paul Powell, associate director of Transitional Living and Community Support.

Powell said the proposed Bidwell Street project isn't a psychiatric facility -- but rather "decent, safe, affordable housing" for people with major depression, bipolar disorder and schizophrenia.

Nancy Atchley, director of Powerhouse Ministries' homeless shelter in Folsom, said her organization plans to move its transitional housing program for children and adults to a new site on Bidwell Street that is occupied by Crossroads Family Ministries.

Atchley admits that putting two projects on one street "is a lot," but she added, "I think they'll (neighbors) find that their fears are not based on reality. What we're putting in the historic district are families."

Neither project is a done deal.

Atchley said Powerhouse is no longer under contract to purchase the Crossroads Ministries site.

"We're still interested in the property, but they'll be free to sell it to someone else," she said.

The city Planning Commission is scheduled to hold a hearing Jan. 17 on a rezoning of the psychiatric housing site, and the matter will likely go before the City Council in February.

Provided by LRI History LLC

Students back homeless legislation

Several classes in the School of Social Work present research to officials.

By: Katie Hill and Amanda Springer

Posted: 4/18/07

Graduate students in the School of Social Work presented research Tuesday in support of state legislation aimed at curbing homelessness to an audience of peers and local officials.

Senate Bill 2, sponsored by State Senator Gil Cedillo, D-Los Angeles, "mandates each county (and) each city to share in the responsibility for providing housing for the homeless," said Graciela Vargas, a graduate student who was one of the presenters. Several classes at USC have been studying homelessness in different districts in California and working to advocate SB2.

There are nearly 90,000 homeless people sleeping on the streets of Los Angeles County on any given night, said Patricia Makonen, a first-year graduate student in the School of Social Work. Of those 90,000, 42 percent are chronically homeless, she said.

Graduate student Kaitlyn Kim demonstrated to the audience how homelessness could strike anyone unexpectedly.

"How far are you from being homeless? One missed paycheck? One natural disaster?" Kim asked.

The groups encouraged the audience to get involved in combating homelessness, citing a growing problem of "NIMBY-ism." NIMBY, an acronym that stands for "not in my backyard," refers to the attitude with which many people regard homelessness, the students said.

"It's up to all of us to do something about (homelessness)," graduate student Joseph R. Herrera said.

Students said by providing government-regulated shelter, SB2 could be a solution that would please

04/18/2007

both sides.

"This bill allows each city to completely control when and where their housing will go," Vargas said. "Housing for the homeless is not just a homeless right, it's a human right."

The low-income housing services and free shelters will help keep the homeless population safe and reduce government cost, Vargas said.

It costs $30 a day to provide low-income housing to a homeless person as opposed to $64 a day for a jail cell, she added.

Students addressed specific issues in the homeless community including children, veterans and the mentally ill.

According to the students' Powerpoint presentation, one-third of homeless men are veterans.

Graduate student Jennifer Sato said that support for the troops dwindles after their deployment.

"Anyone who has fought for our homeland should never be homeless," Sato said.

Fellow graduate student Laura Rosko said 250,000 veterans are living on the street.

Bill Rosendahl, a member of the Ad Hoc Committee on Homelessness, showed his support during the presentation by signing a petition that, in conjunction with SB2 could further alleviate veteran homelessness, proponents say.

At first, graduate student Carmen McCorvey said she did not see how SB2 fit into her area of study; the foster care system and emancipated youth. But after researching the issues, she said she was surprised at the effect the bill would have on area youth.

McCorvey said that while most 18-year-olds continue to enjoy parental support, foster children are cast into the real world alone. Without the knowledge of available resources, she said, funding goes unused.

"That's an issue we can no longer ignore," she said.

Rabbi Allen Freehling, executive director of the Los Angeles County Commission on Human Relations, said civilian awareness of the issues and available resources is key to combating homelessness.

"Government cannot and will not do it by itself."

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mshea@modbee.com

Last Updated: May 2, 2007, 11:49:32 AM PDT

TURLOCK — With blond frazzled hair and a worn red flannel shirt, a homeless woman frantically bunched 60-gallon trash bags from the cold weather homeless shelter's supply closet into a dirty, plastic Wal-Mart bag.

Her eyes shot across at Dawn Saxbury, who works at the city's shelter. The woman expected a reprimand.

"It's going to rain on my stuff out there," the homeless woman said.

"It's OK, hon,'" Saxbury said, telling her to take the bags. "It's OK."

The woman was one of 65 people to step outside the city's only shelter and into the unknown Tuesday morning.

For a series of stories published in January, The Bee chronicled the lives of several homeless people when they moved into the shelter in November. When the shelter closed Tuesday, some had their own homes, but others returned to the streets.

Terry and Linda Cool have moved into a Modesto home, part of a housing program for low-income people with disabilities. Steve Harris, who lived in a shanty off First Street, has been taken in by family in Arizona. Mick Matthews and his girlfriend, Donna Lofton, who used the pseudonym Marlene in January, and their friend Blue Bike Mike Roark are back on the street.

More than 260 people used the shelter since November, said Maris Sturtevant, who sits on the shelter's board of directors. Of those, 32 found housing, 29 found employment, four bought an automobile, three entered a drug and alcohol program, and one was placed in the care of county mental health services.

The city opened the cold weather shelter in January 2003 to protect the homeless from the worst months of the year. It opened early this season, on Nov. 20, and was set to close on April 1 before the City Council extended it 30 days.

In the B Street shelter — an old warehouse built off a railroad spur with 65 wooden beds lined up 18 inches apart — Saxbury, who's worked there six months, shouted the wake-up call at 6:45. Some of the homeless already were outside smoking; many got out of bed and staggered to the large urn of coffee, cigarettes dangling from lips.

"The lights are on, but nobody's home," Mick Matthews said, reaching for that first, necessary cup of coffee.

Struck down by a stroke in April 2005 and without insurance, Mick spent his $200,000 savings on medical bill after medical bill. Lying half-paralyzed in a hospital bed, the truck driver of 30 years lost his big rig when he missed a monthly $3,500 payment. His apartment went next.

In January, after a year on the street, Mick's request for Social Security disability insurance was denied. A few weeks later, he had his second embolic stroke and spent a week in Emanuel Medical Center. He was given a prescription for medicine he couldn't afford.

"His motor skills still aren't right, and see how he stutters more," Donna said.

"Hey, it's still me, babe," Mick said in his rich Australian drawl. "I'm still breathing. You know?"

City officials planned to knock down the B Street shelter and build a year-round facility, but downtown religious and business leaders mobilized against the shelter early last year. Plans for a long-term homeless solution have been stalled while the Center for Public Policy at California State University, Stanislaus, gauges community opinion on homelessness in a locally funded $70,000 report expected in August.

Out of the van and home again

Terry and Linda Cool moved into the shelter with Mick on opening day in November, but weren't there to see it close Tuesday. After two years living in shelters and their Ford Windstar van, parking in the United Samaritans and Salvation Army parking lots, the Cools were placed in a Modesto home in early April.

Pillows and blankets and black garbage bags filled with clothes crowded their van's tinted windows back then, but today the clothes are in a dresser, the pillows on the bed and the blankets on the couch.

Last week, Terry sat in a chair on his front porch, a gallon jar of tea brewed in the sun. "This is it," he said, his arms spread wide. "This is our home."

Two months into living at the cold-weather shelter, Linda's fragile health worsened. The remnants of congestive heart failure, her asthma and complications from a lung disease similar to emphysema led to a fluid buildup in her body. Her legs swelled, she couldn't stay awake and any movement meant pain. From January to March, she spent more than a dozen days in Doctors Medical Center in Modesto. She was put on oxygen.

Terry and much of the shelter staff worried for her life when Sturtevant brought their case to the Stanislaus Community Assistance Project, or SCAP.

"Even the doctors told us," Terry said, "she will not survive another summer in the van."

They entered a new program for the disabled where 30 percent of their income — Terry's $800 Social Security disability check — would go to pay rent.

"They were at a time when they really, really, needed something," Sturtevant said Tuesday.

Ironically, when Linda was being ferried between the shelter and the hospital, she was denied her disability check. They've since employed a Denair attorney to fight the ruling, and he will be paid only if he wins.

"We learned a lot on the homeless side," Linda said sitting in an easy chair, a glass of sun tea in her hand and computer on her lap, "but we had a goal. And we knew God had a plan for us."

Circled wagons

Stephen Harris, whom we first met in a hovel built built of scrap metal and plastic on the side of a brick building near First Street, moved into his brother's three bedroom, two bath home with a big back yard and in-ground pool in Mesa, Ariz. One of 11 children in a big Turlock family, Steve's sister found him after she read The Bee in January.

The family circled the wagons.

After a semi-truck accident in 2000 crippled him — fractured vertebrae, a crushed knee — Harris' wife left him. Unable to hold a job, and with back pain keeping him in bed some days, he slowly drifted from home to friends to the street.

On the good days, he'd ride around Turlock on his bicycle, usually pulling a cart with a pinwheel antenna flitting in the wind. These days, when his health is good, he helps his brother and sister-in-law at craft shows, where they sell figurines and clocks and small, homemade furniture, or with the three kids.

"I miss the streets from time to time," Harris said in a phone interview, with children playing and crying in the background. "I think about them, the problems we go through and how we took care of our problems. We always had to be creative. I don't have to use my creativity here."

But nothing, Harris said, comes close to being with his family again, getting back involved with their church, and helping at the craft shows and with the kids.

"I don't have to worry about cops throwing me around," he said. "I don't have to hunt for things to eat."

Starting today, many of the homeless don't have that luxury.

Under a new chief, Turlock police have made strides in the past year to work with the homeless. The shelter has helped, said Sgt. Sue Steele, because it gives officers a viable option to offer the city's homeless when they're found sleeping on the street or in a park.

Now, with no place to go in Turlock, the Police Department's answer is Modesto. "We'll do what we've done in the past, refer them to Modesto," Steele said. "There's a shelter up there."

The 250-bed Modesto Gospel Mission is the only year-round homeless shelter in the county. Modesto's 100-bed, cold weather shelter at The Salvation Army also closed Tuesday.

Most of the popular homeless haunts in Turlock that The Bee found in November have changed significantly in the past six months. The Weeds, a patch of overgrown scrub brush in an abandoned lot off High Street, has been cut low. The Sunflower Patch, where Mick first moved when he became homeless, near the Golden State Boulevard overpass, also has been cut. The area under the overpass has been fenced.

"There's no place to hide," Blue Bike Mike Roark said Tuesday morning. "We'll basically be right in the streets, in the alleys and on the sidewalks."

The California State University, Stanislaus, resource center is looking to help the homeless. The Community Action and Resources for Empowerment and Sustainability (CARES) program, which opened last year, holds weekly homeless council meeting where the community decides what needs to be addressed.

Last week, the group discussed a central problem to homelessness: food.

During the week, the United Samaritans Foundation and, on Sundays, Food Not Bombs provide meals for the homeless. On Saturdays, they're left to their own devices.

Most homeless can make $20 to $50 a week collecting cans. Some, Blue Bike Mike among them, have under-the-table jobs. Food stamps are worth $155 a month, and for the lucky few, there's Social Security. But for many, Saturday is the day Dumpster diving produces the most table fare.

Churches successfully provided dinners to the shelter each night it was open. The center is working to coordinate a brown bag drop-off where religious and civic groups could donate 40 to 50 meals every Saturday at noon.

"Again this summer, they'll be chasing people around all summer, wasting city resources, with no place to go," Mick told the group. He and several other homeless men want to see a tent city like that in Fresno.

— contact him to see if he wants to help.

Fresno Mayor Alan Autry, with the help of the county, set aside space

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near the city's two shelters for a public restroom, a county-staffed public health trailer and a space for homeless people to raise tents. Autry called it a "short-term solution that could lead to a long-term solution."

But it isn't any kind of solution for Turlock, at least not yet, said Community Development Director Charlie Woods. Turlock isn't ready to make any moves on homelessness until the university completes its public input study, he said.

In a proposal Mick sent to the city in April, he asked for a site near the Golden State Boulevard overpass and a city-supported Dumpster and portable toilets.

The idea will probably never reach the City Council, Woods said. It came too late and has too many holes.

"We're not going to go around hunting down where we can put running water," Woods said. "For now, things will be the status quo, a holding pattern, if you know what I mean, until the pol-icy study comes out."

They call Blue Bike Mike "Blue Bike Mike" because his eyes match his bicycle. He moved into the cold-weather shelter in December.

He was then promoted from handing out satellite TV fliers to installing the devices. Last week, he hoped to move into a trailer at Almond Street and Golden State Boulevard. Tuesday morning, he wasn't so sure.

"I'll be on the sidewalks," he said.

Last week, though, with a few drinks after work and a big meal at the shelter, he wasn't as pessimistic as he was at 6:30 a.m. Tuesday: "I got it more together than most of these people. I work every day. I work every day."

Blue Bike Mike said he's working with the Veterans Affairs clinic in Modesto and hopes the change in address, job promotion and some medical attention can alter his drinking pattern.

"I need a swift kick in my a--. Wake up, smell the coffee and 'Git-R-Done!'" he said, pulling on the camouflage brim of his hat, which reads, 'Git-R-Done,' he yelled with a laugh: "Git-R-Done!"

Old routines and new behaviors

Sammy, who had his long hair and beard in braids in November, had been sleeping in a Dumpster when the shelter opened. He said he'd probably be back there Tuesday night.

So has anything changed in these six months?

"The date," he said.

Harold, whom Mick first met at the homeless resource center last summer, was a rail of a man, with sunken cheeks, unsteady gait and sallow, almost translucent skin. Along with the ravishes of substance

abuse, Harold discovered he had diabetes running unchecked. When we met him in November at the shelter, he had put on 35 pounds. His life has continued to improve.

"I've been clean and sober eight months," he said Monday. "It was time to change my lifestyle, to stop drinking, stop all that."

On the streets, Harold was separated from his wife, Pam, who was in a sober-living house. Harold joined her — enrolling in a men's sober house, frequently attending Alcoholics Anonymous meetings and finding a job. He works sanitation at Valley Fresh, 48 hours a week, the graveyard shift, at minimum wage.

"I owe it all to my higher power," he said.

Charles, who used to be called Chuck, and his black pooch, Emmitt Smith, are still in a tent behind a downtown business. He didn't stay at the shelter because it didn't take dogs.

Mad Dog Charles, with his wild eyes and shouts at the moon, still stalks the Turlock streets. On rare nights he stayed at the shelter, but not recently.

When we first met Mick in November, his only two possessions that hadn't been lost or stolen on the street were a long black raincoat and a pair of black ostrich-skin cowboy boots with silver-tipped toes. Tuesday morning, the jacket was packed into a Big Lots shopping cart, the boots were on his soon-to-beempty shelter bed.

"No, I'm not taking them," he said. "What's the use? Huh? In three weeks all the stuff in here," he pointed at the shopping cart, "will be gone anyway. What's the use?"

Turning 55 this year, Mick is eligible for his Teamsters pension, which he thinks will get him into an apartment in the fall. More than anything, he wants a small job he can handle, like something behind a counter, he said.

"I don't want to do this again, but we have no choice," he said folding a sleeping bag into his cart.

A box filled with books was next to the boots: "The Unfinished Journey," "Down & Out in Africa," "Power & Politics in America," "New Believer's Bible." Mick pushed his shopping cart out the shelter door.

Donna has made $500 since December selling ornate paper flowers made out of things found in the street. She packed the supplies into a small bag. Mick didn't say anything as he left. The couple of four years had been on the outs for a day or two.

Outside the shelter, he pushed his cart toward Broadway, his brow wrinkled, eyes wet. He looked angry:

"I'm scared, to tell you the truth."

Bee staff writer Michael R. Shea can be reached at mshea@modbee.com or 578-2391.

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Mick Matthews puts on his shoes as he gets ready to leave. The shelter opened Nov. 1 and usually closes April 1. However, this year's closing was extended by 30 days.

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2007-2008 COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 2
AUTHOR : Cedillo
TOPIC : Local planning.
TYPE OF BILL :

INACTIVE BILL	NON-URGENCY
NON-APPROPRIATION	MAJORITY VOTE
STATE-MANDATED LOCAL PROGRAM	FISCAL
NON-TAX-LEVY	

BILL HISTORY

2007

Oct. 13 Chaptered by Secretary of State. Chapter 633, Statutes of 2007.
Oct. 13 Approved by Governor.
Sept. 19 Enrolled. To Governor at 11:45 a.m.
Sept. 12 Senate concurs in Assembly amendments. (Ayes 26. Noes 12. Page 2663.) To enrollment.
Sept. 11 In Senate. To unfinished business.
Sept. 10 Read third time. Passed. (Ayes 42. Noes 31. Page 3204.) To Senate.
Sept. 6 Withdrawn from committee. Ordered placed on third reading.
Aug. 31 Read second time. Amended. Re-referred to Com. on RLS.
Aug. 30 From committee: Do pass as amended, but first amend, and re-refer to Com. on RLS. (Ayes 10. Noes 6.)
Aug. 22 Set, first hearing. Referred to APPR. suspense file.
July 11 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 4. Noes 2.) Re-referred to Com. on APPR.
July 2 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on H. & C.D.
June 28 From committee: Do pass, but first be re-referred to Com. on H. & C.D. (Ayes 5. Noes 2.) Re-referred to Com. on H. & C.D.
June 19 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
June 13 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
May 24 To Coms. on L. GOV. and H. & C.D.
May 17 In Assembly. Read first time. Held at Desk.
May 17 Read third time. Passed. (Ayes 27. Noes 11. Page 987.) To Assembly.
Apr. 24 Read second time. To third reading.
Apr. 23 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.
Apr. 16 Hearing postponed by committee. Set for hearing April 23.
Mar. 29 Set for hearing April 16.
Mar. 28 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 7. Noes 0. Page 414.) Re-referred to Com. on APPR.
Mar. 19 From committee with author's amendments. Read second time.

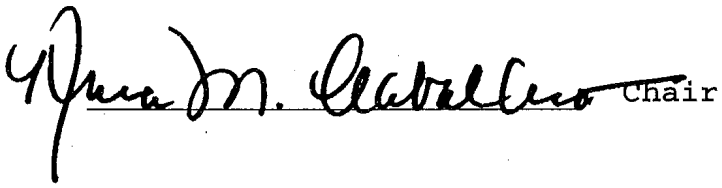
Amended. Re-referred to Com. on T. & H.
Mar. 8 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.
Mar. 5 Set for hearing March 27.
Jan. 22 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.
Jan. 18 To Com. on T. & H.
2006
Dec. 5 From print. May be acted upon on or after January 4.
Dec. 4 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Local Government

Date of Hearing: 06/27/2007

BILL NO.	SB 2	SB 10	SB 114	SB 162
ACTION VOTED ON	Do pass; re-refer to Cmte on H. & C.D.	Do pass as amended and re-refer to the Cmte on Appr.	Do pass; re-refer to Cmte on Appr., Rec. Consent	Do pass; re-refer to Cmte on Appr.
	Aye : No	Aye : No	Aye : No	Aye : No
Caballero (Chair)	X :	X :	X :	X :
Houston (V. Chair)	: X	X :	X :	: X
De La Torre	X :	X :	X :	X :
Lieber	X :	X :	X :	X :
Saldana	X :	X :	X :	X :
Smyth	: X	X :	X :	: X
Soto	X :	X :	X :	X :
	Ayes: 5 Noes: 2	Ayes: 7 Noes: 0	Ayes: 7 Noes: 0	Ayes: 5 Noes: 2

RECEIVED:_____


Chair

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(2)REPORTS OF STANDING COMMITTEES<c2>

(2)Committee on Local Government

[t8] Date of Hearing: June 27, 2007 [_]<r>

¶ Mr. Speaker: Your Committee on Local Government reports:

¶Senate Bill No. 2 (5-2)

(1)With the recommendation: Do pass, and be re-referred to the Committee on Housing and Community Development. <1>

Juan M. Caballero, Chair
CABALLERO

(5)Above bill(s) re-referred to the Committee on Housing and Community Development.

CONFLICT NOTIFICATION

May 25, 2007

S.B. 2

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Assembly Local Government Committee

appears to be in conflict with

A.B. 382 - Assembly Housing and Community Development Committee
A.B. 414 - Jones
A.B. 1213 - Price
A.B. 1497 - Niello
S.B. 303 - Ducheny

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

We urge you to consult our Corrections Section at Corrections.Section@legislativecounsel.ca.gov or 916-341-8230 at your earliest convenience.

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TODAY'S DATE 8-31-07 COMMITTEE LGOV

ASSEMBLY APPROPRIATIONS COMMITTEE AMENDMENTS

As Amended: 8/31

ASSEMBLY THIRD READING ANALYSIS DUE BY: NOW

[NOTE: If you have already sent your analyses, please check to verify that everything is correct.]

ON THE FOLLOWING BILLS:

SB 2

ASSEMBLY FLOOR ANALYSIS

319-2557

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April 13, 2007

The Honorable Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

SB 2 – Support

Dear Senator Cedillo:

The American Civil Liberties Union is pleased to support SB 2, which would require cities or counties to identify zones in the housing element of their general plan where emergency shelters may locate by-right, and to identify zones where special needs and transitional housing facilities may locate either by-right or through a conditional-use permit.

There are currently 360,000 homeless individuals and families across the state of California, many of whom are struggling with problems such as mental illness and substance abuse, but who lack access to basic services such as stable housing which can help them get off the street and begin to rebuild their lives.

When shelters and low-income housing are unavailable to those who lack the immediate resources to secure housing for themselves, their only option is to stay on the streets – an activity for which they are often arrested and penalized. We cannot allow ourselves to unfairly punish individuals for their poverty and lack of housing – for being on the street when they, literally, have no where else to go.

This legislation will help our state address the problem of homelessness in a manner which incorporates the needs of local communities while addressing the needs of the poor.

If you wish to discuss this matter further, please do not hesitate to contact our office.

Very truly yours,

Francisco Lobaco
Legislative Director



AFSCME®
in the public service

June 11, 2007

TO: The Honorable Anna Caballero, Chair
And Members of the Assembly Local Government Committee

RE: Senate Bill 2 (Cedillo) – AFSCME SUPPORT

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, would like to inform you of our **support** of **Senate Bill 2**, as amended.

Affordable housing and emergency shelters are absolutely essential components to creating a livable community. In communities across the State, the cost of housing continues to rise precipitously, pricing lower income residents further away from cities and jobs. Meanwhile, those who have no shelter have few options to turn to when the need for emergency shelter arises.

AFSCME supports Senate Bill 2, as it will be a helpful tool in facilitating the approval of affordable housing and emergency shelter projects, ensuring that these facilities are available on a more widespread basis. There is no reason that a basic need such as shelter should be denied to the residents of this State. This legislation would help to close the gap between the number of people who are in need of housing assistance and the amount of housing available.

Please join us in supporting Senate Bill 2.

Should you have any questions regarding our position in this matter, you may call me at your earliest convenience. AFSCME also reserves the right to change our position in the event of further amendments.

Sincerely,

Willie L. Pelote, Sr.
Assistant Director of Political Action, International

CC: committee consultant(s)

1127 11 Street • Suite 904 • Sacramento, California 95814-3926 • (916) 441-1570 • (916) 441-3426 FAX

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California Council of Community Mental Health Agencies

Leaders in the partnership that developed and promoted Proposition 63

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Tulare Youth Service Bureau, Inc.
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Liz Seipel
Child and Family Center
Santa Clarita

Miguel Valencia PhD
Gardner Family Care Corporation
San Jose

Richard Van Horn
Mental Health Association of Greater Los Angeles
Los Angeles

EXECUTIVE DIRECTOR
Rusty Selix

MEMORANDUM

DATE: June 29, 2007

TO: The Honorable Lori Saldaña
Chair, Assembly Housing and Community Development Committee

FROM: Rusty Selix, Executive Director

RE: **SB 2 – Notice of Support from the California Council of Community Mental Health Agencies (CCCMHA) – Local Planning**

The California Council of Community Mental Health Agencies (CCCMHA) is a California association of non-profit agencies, which represents mental health providers in a wide variety of California communities—metropolitan, suburban, and rural. CCCMHA continues to work together for success by finding new ways to achieve the level of mental health services needed in California.

We are pleased to support SB 2, which would add emergency shelters and rental multifamily residential development to provisions of the housing element, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

There are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, CCCMHA believes there is a growing need for every city and county to plan for the location of adequate shelters and multifamily residential development to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

For all of these reasons, CCCMHA strongly supports SB 2.

CC: Honorable Members, Assembly Housing and Community Development Committee
Committee Consultant, Assembly Housing and Community Development Committee
The Honorable Gil Cedillo; Senator, District 22
CCCMHA Members

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Saldana
5150

July 5, 2007

The Honorable Lori Saldana
Chair, Assembly Housing and Community Development
California State Capitol, Room 5150
Sacramento, CA 95814

RE: SB 2 (Cedillo) – SUPPORT as amended July 2

Dear Assemblymember Saldana:

The California Mental Health Directors Association (CMHDA) represents the directors of public mental health authorities in counties throughout California, providing mental health services to children, transition-age youth, adults and older adults living with mental illness. We would like to inform you that CMHDA supports SB 2 (Cedillo).

SB 2 would require cities and counties to accommodate the need for emergency shelters on sites where the use is allowed without a conditional use or other discretionary permit, and would require cities and counties to treat transitional and supportive housing projects as a residential use of property

In addition, the bill would require that identified zones include sufficient capacity to reasonably accommodate emergency shelters, including supportive housing and transitional housing.

There are an estimated 360,000 homeless individuals and families in California. Many of these individuals or members of their families have a mental illness and/or substance abuse condition, and would benefit greatly with transitional and supportive housing programs. We have learned that supportive programs that utilize a strengths-based approach are among the most effective methods that help to provide stability to our vulnerable populations.

Providing basic and essential supports such as housing is the crux to building other critical system linkages which help create opportunities for independence. We have found this to be particularly true for mental health clients, as evidenced by successful programs such as AB 2034 (Integrated Services for Homeless Mentally Ill Adults).

For these reasons, we urge your "AYE" vote when this measure is heard in committee. Should you have any questions, please contact me at 916/556-3477 ext. 112.

Sincerely,

Provided by LRI History LLC

Erin Riggs, MSW
Associate Director Legislation & Public Policy

Cc: Senator Gil Cedillo
Honorable Members, Assembly Housing and Community Development Committee
Consultant, Assembly Housing and Community Development Committee

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California
Rural
Legal
Assistance
Foundation

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Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Brian Augusta
Staff Attorney
brian@housingadvocates.org

July 3, 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

Re: Support for SB 2

Dear Senator Cedillo:

On behalf of our low-income clients we are pleased to continue to support SB 2, which would require that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. Doing so will help ensure that each city and county is doing its part to help meet this critical need for its homeless citizens.

Earlier this year, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Brian Augusta
Staff Attorney

cc: Assembly Housing & Community Development Committee

Provided by LRI History LLC

CCA | Central City Association of LOS ANGELES

626 Wilshire Blvd
Suite 200
Los Angeles, CA 90017

telephone 213.624.1213
facsimile 213.624.0858
www.ccala.org

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...n Company

March 2, 2007

The Honorable Gilbert Cedillo
Office of State Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Request Approval of SB 2 – "Fair Share Zoning"

Dear Senator Cedillo,

Central City Association of Los Angeles (CCA) is L.A.'s premier business advocacy association, shaping public policy on a broad range of issues and leading the renaissance in Downtown Los Angeles. Established in 1924, CCA is a membership organization representing more than 450 businesses, trade associations, and non-profit organizations employing more than 300,000 people in Los Angeles County.

On behalf of the 500,000 residents, visitors, business owners, and employees in Downtown Los Angeles, CCA requests your support for Senate Bill 2. Long overdue, this bill will help Los Angeles reach a regional solution to the homelessness crisis, rather than concentrating services in inner cities and poor communities such as Skid Row in Downtown Los Angeles.

SB 2 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such services in the community.

SB 2 simply requires cities and counties to plan for their homeless populations and add emergency shelters, special needs facilities, and transitional housing to the already established requirements of the housing element and planning and zoning law. Under SB 2, cities and counties also have the option of meeting the requirement as a region.

Presently, Downtown Los Angeles has the highest concentration of homeless services in the nation. More than 11,000 homeless persons sleep on the streets each night in Downtown. This is unacceptable. Most of these individuals find themselves in Downtown because their own community does not provide appropriate services.

Your support for SB 2 will go a long way in helping the destitute get help at home and escape the crowded and neglected conditions of Skid Row. SB 2 will also help alleviate Downtown Los Angeles of the burden it has withstood for too long. It's past time to give Skid Row a chance for recovery.

Sincerely,

Carol E. Schatz
President & CEO

Provided by LRI History LLC

OFFICE OF THE MAYOR
ANTONIO R. VILLARAIGOSA

July 2, 2007

The Honorable Lori Saldaña
Chair, Assembly Housing & Community Development Committee
California State Assembly
1020 N Street, Rm 167A
Sacramento, CA 95814

RE: SB 2 (Cedillo): Fair Share Zoning –SUPPORT

Dear Assembly Member Saldaña:

On behalf of the City of Los Angeles, I would like to communicate our support for SB 2, authored by Senator Gil Cedillo, as part of a regional and statewide effort to help tackle the problem of homelessness.

There are an estimated 360,000 homeless individuals in California and the Los Angeles Homeless Services Authority recently conducted a countywide count of the homeless population that showed that Los Angeles has the highest homeless population in the country. Of the over 80,000 homeless individuals in Los Angeles County, approximately 58%-nearly 50,000- of those individuals can be found throughout the City of Los Angeles with the largest concentration in the Skid Row area of downtown Los Angeles.

Homelessness affects people of all races, gender, age and geographic location. In addition to the need for shelter, many of these individuals also have a need for substance abuse and mental health services. In Los Angeles County, for example, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among the chronically homeless.

Unfortunately, the availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the disproportionate concentration of services in inner cities and poor communities such as Skid Row, in downtown Los Angeles.

SB 2 would require local government general plans to provide in their housing elements for emergency shelters and transitional and supportive housing as use by right. SB 2 would allow for easier access to these shelters and support services by these homeless individuals at a regional level.

MAYOR'S OFFICE OF INTERGOVERNMENTAL AFFAIRS
1400 K STREET, ROOM 208 • SACRAMENTO, CALIFORNIA 95814
(916) 321-5500 • (916) 448-7162

JUL 3 2007 11:14 P.01
MAYOR'S OFFICE
Provided by LRI History LLC

In order to ensure access to services for the homeless in every city and county, it is important that local governments plan for these services to address the special needs and services of the homeless population. The City of Los Angeles supports SB 2 as an important component of a regional approach to solving the problem of homelessness and requests your support of this bill when it is heard in the Assembly Committee on Housing and Community Development. If you have any questions about the City's position, please contact me at our Sacramento office of Legislative and Intergovernmental Relations at 916.321.5500.

Sincerely,

Silvia Y. Solis
Legislative Representative

cc: Senator Gil Cedillo
Members, Assembly Housing and Community Development Committee
Consultant, Assembly Housing and Community Development Committee
Republican Consultant, Assembly Housing and Community Development Committee

Provided by LRI History LLC

Office of the Mayor
City & County of San Francisco

Gavin Newsom

May 17, 2007

The Honorable Gil Cedillo
State Senator, 22nd District
California State Senate
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 2 – Planning for homeless housing

Dean Senator Cedillo,

The City and County of San Francisco is pleased to support SB 2, you legislation to help meet the growing need for cities and counties to plan for shelters, transitional housing and special needs facilities.

SB 2 would require cities and counties to designate areas that allow, with conditional use, special needs facilities like clinics for mentally ill patients. It would also require communities to plan for transitional housing for people trying to practice a clean and sober lifestyle. SB 2 would also prohibit cities and counties from blocking planning for shelters and special needs facilities in their communities without a legitimate reason. SB 2 would give cities and counties the option of planning for their homeless population as a region.

Historically, homelessness has been viewed as an urban problem. The reality is that homelessness, mental illness, and substance- abuse affect people of all races, gender, age, and geographic location. Each community has a responsibility to provide services and housing for its homeless residents. Thank you for your leadership on this important issue.

Sincerely,

Gavin Newsom
Mayor

CC: Honorable members of the San Francisco delegation
Lynn Suter

Provided by LRI History LLC

Lynn M. Suter
and Associates
Government Relations

June 7, 2007

Assemblywoman Anna Caballero
California State Assembly
State Capitol, Room 3132
Sacramento, California 95814

Re: SB 2 (Cedillo) Local planning – **SUPPORT**
Assembly Local Government Committee – June 27, 2007

Dear Assemblywoman Caballero:

On behalf of the City and County of San Francisco, I would like to inform you of San Francisco's support for SB 2 (Cedillo). Their support letter is attached. If you have any questions or need additional information, please contact our office at (916) 442-0412.

Sincerely,

Nicole Wordelman

Cc: Members and Consultant to the Assembly Committee on Local Government
Senator Gil Cedillo
San Francisco Legislative Delegation
Amiee Albertson

1127 11th Street, Suite 512 Sacramento, CA 95814 Telephone 916/442-0412 Facsimile 916/

Provided by LRI History LLC

EIMAGO INC

The Center for Human, Economic and Community Development

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already familiar with Eimago, Inc and our work in the field of homeless services and reentry. You may also know that Eimago is a 501(c)(3) public benefit corporation dedicated to serving the homeless and working poor with programs that assist them in becoming productive citizens. Eimago. is a strategic partner with the Union Rescue Mission, building on its over 115 years of service to the homeless men, women, and children in downtown Los Angeles.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. This area has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

You also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the street.s for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are thrilled to see that you have authored this very important bill and are pleased to offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Deepest Gratitude,

Carrie Gatlin

Carrie Gatlin
Vice President

545 S. San Pedro Street
Los Angeles, CA 90013
213.673.4839

Provided by LRI History LLC

GRAY PANTHERS

P.O. Box 19438
Sacramento, CA 95819
916-332-5980
www.gpcal.org

April 6, 2007

The Honorable Gilbert Cedillo
State Capitol
Sacramento, CA 94814
FAX 327-8817

RE: SB 2 – Local Planning

Dear Senator Cedillo:

Gray Panthers California wishes to be listed among supporters of SB 2, your measure which would add emergency shelters and transitional housing into hosing element assessments of housing needs. We strongly support this measure as a piece of the overall planning to provide for adequate housing for this population.

We in Sacramento have lived for years with the problem of lack of services and housing, ghettoizing of homeless persons attempting to transition into the mainstream, and NIMBY problems. These are a few of the reasons we cannot and will not solve the problems of the homeless. Your measure will be a strong step toward requiring city and county to do the right thing.

Sincerely,

Joan B. Lee
Legislative Liaison
Gray Panthers California

Cc CARA

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801 12th Street, Suite 512
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916-447-0503 Phone
916-447-1900 Fax
www.housingca.org

July 3, 2007

The Honorable Lori Saldaña
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0076

Dear Housing and Community Development Committee Chair Saldaña:

Housing California is pleased to support SB 2, which would add emergency shelters, transitional housing, and supportive housing to the types of development that must be accommodated under the housing element and ensure that homeless shelters can be built to meet local needs throughout California.

Shelter and service providers continue to experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. And despite the ambitious efforts of many concerned citizens and organizations, siting of these much needed facilities is only growing more difficult.

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and affordable residential facilities. SB 2 will help to reduce red tape and community struggles to develop and operate the emergency shelters that are integral to many within California communities. Housing California requests your aye vote on SB 2 when it is heard in Assembly Housing and Community Development Committee on July 11, 2007.

Sincerely,

Zack Olmstead
Homeless Policy Advocate

Provided by LRI History LLC

July 10, 2007

The Honorable Lori Saldana
Chair, Assembly Housing and Community Development
State Capitol, Room 5150
Sacramento, California 95814

Re: Support of SB 2 (Cedillo) as amended July 2, 2007

Dear Assemblymember Saldana,

Providing special needs and emergency shelter facilities for an estimated 360,000 homeless Californians is challenging. Equally challenging for those working to provide shelter and services to improve people's situation are the obstacles often in the way of identifying adequate sites for facilities for those who need them.

SB 2 would include specific planning for emergency shelter, transitional housing and special needs facilities in the housing element of a city or county's general plan and allow local governments to identify sites suitable for the development of a zone or zones where emergency shelters under these provisions as a permitted use without a conditional use or other discretionary permit.

SB 2 permits a regional approach to facility siting and helps to promote the development of emergency and supportive housing by removing some of the obstacles that are used to block needed residential programs and services.

Community-based programs have shown through the years that services cost less when they are available at the time they are needed. Support services offered through residential programs enable people to move on with their lives. Let's assist Californians to return to the workforce by providing service in a community-based setting.

JERICHO members urge a "Yes" vote on SB 2.

Sincerely,

Sister Marti McCarthy, SSS
Executive Director

cc: Senator Gil Cedillo
Assemblymember Karen Bass
Assemblymember Gene Mullin
Assemblymember Sandre Swanson
Assemblymember Bonnie Garcia
Assemblymember Loni Hancock
Assemblymember Sharon Runner
Hugh Bower, Chief Consultant

Since 1987 JERICHO has engaged the interfaith community throughout California in shaping state public policy that affects individuals and families living in poverty.

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Voice: (916) 441-0387 • Fax: (916) 441-0388 • www.JerichoCA.org

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An affiliate of the National Mental Health Association, honored as the nation's "most cost-efficient health charity." — Money magazine, December 1994

Mental Health Association in California

1127 – 11th Street, Suite 925, Sacramento, CA 95814
tel: 916-557-1167 • fax: 916-447-2350 • e-mail: *mail@mhac.org* • website: *www.mhac.org*

MEMORANDUM

DATE: June 29, 2007

TO: The Honorable Lori Saldaña
Chair, Assembly Housing and Community Development Committee

FROM: Rusty Selix, Executive Director

RE: MHAC Support of SB 2: Local Planning

The mission of the Mental Health Association in California (MHAC) is to provide advocacy, education, information and other assistance necessary to ensure that all people who require mental health services are able to receive the mental health and other services that they need, and are not denied any other benefits, services, rights, or opportunities based on their need for mental health services.

MHAC is pleased to support SB 2, which would add emergency shelters and rental multifamily residential development to provisions of the housing element, and would add provisions by which a local government may identify sites suitable for the development of emergency shelters under these provisions as a use by right. The bill would also require local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

There are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, MHAC believes there is a growing need for every city and county to plan for the location of adequate shelters and multifamily residential development to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

For all of these reasons, MHAC strongly supports SB 2.

CC: Honorable Members, Assembly Housing and Community Development Committee
Consultant, Assembly Housing and Community Development Committee
The Honorable Gil Cedillo; Senator, District 22
MHAC Members

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Provided by LRI History LLC

MCR Public Affairs & Advocacy

Senator Cedillo
State Capital
Sacramento, CA. 95833

3/5/2007

Re: SB 2 – SUPPORT - suggested amendment(s) – 1/22/07 version

Dear Senator Cedillo;

I am writing today on behalf of Moller International Inc., a California corporation involved in designing, developing, manufacturing and marketing new transportation products, specifically a 4-passenger Vertical Take-off and Landing ("VTOL") aircraft that combines the cruise performance of an airplane with the vertical-flight capabilities of a helicopter. The aircraft is designated the "M400 Skycar®."

The concept of the Skycar is simple: designed as a personal transportation vehicle, this VTOL is practical and affordable, and will replace both the automobile and private or commercial aircraft for trips of 750 miles or less, making it a preferred medium range transportation choice of the future.

With that in mind, we are bringing this product to market in California. As such, we support the concepts and principles embodied in your SB 2. Even so, in an effort to make the bill more effective, we would like to suggest that an element is missing – emergency transportation, especially helipads and vertiports.

As such, we would like to make the following suggestion on how to make your bill more effective:

When discussing "special needs facilities", community plans should be required to include heli-stops for medivac and public safety, especially when planning for community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities and residential care facilities for the elderly are discussed.

In closing, we look forward to working with you as this measure winds its way through the 2007-2008 legislative session.

Sincerely;

Michael Ross, Legislative Advocate for Moller International. Inc.
(916) 923-2215

37 Derow Court, Sacramento, CA. 95833 – 916.923.2215 – ssorleahcim@comcast.net – fax 916.923.2216

Provided by LRI History LLC

NASW. CALIFORNIA CHAPTER ...the power of social work
National Association of Social Workers

July 2, 2007

The Honorable Lori Saldana
Chair, Assembly Housing and Community Development Committee
State Capitol, Room 5150
Sacramento, CA 95814

RE: SB 2 (Cedillo) – Support

Dear Assemblymember Saldana,

The National Association of Social Workers, California Chapter (NASW-CA) supports SB 2 (Cedillo), which calls for an increased availability of homeless shelters and transitional housing across California.

SB 2 would require cities and counties to include emergency shelters, transitional housing, and special needs facilities in the housing portion of their general plans for development. SB 2 would also require local governments to designate zones where special needs emergency shelters and transitional housing facilities are permitted, all of which are necessary for the welfare and safety of California's homeless population. At this time, such services are sparsely available, leaving many homeless without shelter and resources. Such needed resources for the homeless are often unequally distributed and concentrated in inner cities and impoverished communities. SB 2 would provide better opportunities for the homeless population of California by requiring an equal dissemination of homeless services.

The National Association of Social Workers, California Chapter represents over 12,000 professional social workers in California who have degrees from accredited social work programs across the country. NASW-CA advocates, on behalf of our members and their clients, for the implementation and improvement of programs and policies designed to enhance human well-being and help meet the basic needs of all people. SB 2 will help the homeless population of California, by increasing the availability of shelters and related services, many of which are provided by social workers. The National Association of Social Workers urges your support of SB 2.

Should you have any questions regarding our position on SB 2, please feel free to contact me at (916) 442-4565, ext. 12 or whill@naswca.org.

Sincerely,

Wendy Rae Hill, BSW

Wendy Rae Hill, BSW
Director of Government Relations and Political Affairs

cc: Members of the Assembly Housing & Community Development Committee
Senator Cedillo

1016 23rd Street, Sacramento, California 95816
(916) 442-4565 • (800) 538-2565 • FAX (916) 442-2075 • naswca@naswca.org • www.naswca.org

Provided by LRI History LLC

Northeast Democratic Club
940 Elyria Dr.
Los Angeles, CA 90065
March 22, 2007

Sen. Gilbert A. Cedillo
Oviatt Building
617 S. Olive St., Suite 710
Los Angeles, CA 90014

Dear Sen. Cedillo:

At its March monthly meeting last night, the Northeast Democratic Club voted to support three bills which you have written- SB 2 (Fair Share Zoning), SB 119 (Medi-Cal: Drug Treatment for Minors), and SB 275 (Hospital Dumping.)

We are convinced that each bill addresses one aspect of the problem of homelessness in California. In our judgment, if all three are enacted into law, they would greatly assist in alleviating the problem.

Please advise me as to specific actions that club members may take in order to assist passage of the bills.

The Northeast Democrats prize the close working relationship we have with you and your staff and look forward to assisting you in common endeavors in the future.

Sincerely,

Bill Rumble
President
Northeast Democratic Club

pja Progressive Jewish Alliance

February 14, 2007

Senator Gilbert Cedillo
State Capitol
Room 5100
Sacramento, CA 95814

Dear Senator Cedillo,

Progressive Jewish Alliance (PJA) is a nonprofit organization dedicated to Jewish traditions of pursuing peace, promoting equality and diversity, and working for social and economic justice. We are a California-based organization with thousands of members throughout the state.

We are writing to in support of SB 2. Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and transitional housing facilities is an important first step in providing all California inhabitants with the basic human right of safe housing. We applaud the provision to remove NIMBY laws that exclude the building of shelters, transitional housing and special needs facilities in our local communities.

As the Jewish tradition mandates, we are deeply concerned about the welfare of our cities and state and all who reside within them. We therefore support SB 2.

Please do not hesitate to contact me with any questions.

Sincerely,

Catherine Schneider
Assistant Director

S. California
T 323.761.8350
F 323.761.8355
5870 W. Olympic Blvd.
Los Angeles, CA 90036

Bay Area
T 510.527.8640
F 510.527.8680
409 Liberty Street
El Cerrito, CA 94530

www.pjalliance.org

Provided by LRI History LLC

SAN DIEGO HOUSING FEDERATION

110 West C Street, Suite 1013
San Diego, CA 92101-3906
Phone: (619) 239-6693
Fax: (619) 239-5523
info@housingsandiego.org

Promoting Quality Affordable Housing and Community Development Throughout San Diego County

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April 4, 2007

Honorable Gilbert Cedillo
California State Senate
Room 5100
State Capitol
Sacramento, CA 95814

Re: Support for SB 2, Local Planning

Dear Senator Cedillo:

At its meeting March 21, 2007, The San Diego Housing Federation Board of Directors voted unanimously to **support SB 2**, Local Planning. We appreciate your persistence in sponsoring this legislation and look forward to providing any assistance in securing its passage.

The San Diego Housing Federation is a coalition of affordable housing developers, advocates and other organizations who promote the creation of quality affordable housing focused on lower income families and people in need. Our members and others have experienced severe challenges in siting special needs housing. Your bill would ease the way for future affordable housing development.

Thank you for your support of legislation to benefit California's most needy and vulnerable residents.

Respectfully,

Tom Scott

Tom Scott
Executive Director

Shelter Partnership
523 West Sixth Street, Suite 616 ▪ Los Angeles, California 90014 ▪ Fax (213) 689-3188 ▪ (213) 688-2188

March 14, 2007

Honorable Gilbert Cedillo
State Senator
State Capitol, Room 5100
Sacramento, CA 95814

RE: Support of SB 2: Fair Share Zoning

Dear Senator Cedillo:

On behalf of the board and staff of Shelter Partnership, Inc., we are pleased to support your legislation, SB 2. If enacted, this bill would require that local jurisdictions identify in their housing element sites where emergency homeless shelters can locate by right.

As you know, this law is critically needed. In 2005 Shelter Partnership conducted a study in which we reviewed the housing elements of the County of Los Angeles and all 88 cities within the County. Only three jurisdictions, the City and County of Los Angeles and the City of Santa Monica, explicitly allow emergency shelters by right in specific zones, subject to bed limits. *Most disturbing, 61 cities, or more than two-thirds of all jurisdictions in Los Angeles County, made no provision for emergency shelters or transitional housing in their zoning ordinances.* As a result, nearly two-thirds of the short-term housing beds for the homeless are located in the City of Los Angeles.

We will never solve homelessness in our State if all jurisdictions do not do their part in helping to solve this problem. Your legislation will go a long way toward that end.

We thank you for your important leadership on this issue. Please let us know how we can assist you in securing passage of this important measure.

Sincerely,

Ruth Schwartz
Executive Director

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Union Rescue Mission®
the way home

March 08, 2007

The Honorable Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Re: Support for SB 2 – "Local Planning"

Dear Senator Cedillo:

I know you are already quite familiar with the Union Rescue Mission (URM) and our efforts since 1891 to provide a comprehensive array of emergency and long-term services to low-income and chronically homeless people; including food, emergency shelter, clothing, personal hygiene items, medical care, dental services, recovery programs, transitional housing, legal aid, education, counseling, mentoring and job training for men, women, and children.

Our mission is in the Central City area of downtown – an area commonly referred to as "Skid Row". As you know quite well, this 50-square block area is plagued by homelessness, drugs, and disease. Skid Row has the largest concentration of homeless individuals in the nation, many of whom are mentally ill and addicted to drugs and alcohol. This national travesty is producing some of the most horrific conditions any major city in the United States has ever faced.

You also know that currently the range of shelters and supportive services created to help homeless people are disproportionately situated in poor communities like Skid Row. This draws the large number of homeless people, but also unfortunately, a great deal of crime, drug dealing and disease, which all create barriers to people's chances of reintegrating properly. Furthermore despite the high level of poverty in the area, there is a serious lack of extremely low income housing for this population. Currently, when creating plans to provide adequate housing, city and county governments have to set aside units for low income residents, but largely neglect the extremely low income residents as well as a progressive transition of care for those working through underlying issues that have led them to homelessness in the first place.

SB 2 is an excellent opportunity to make real progress towards the goal of ending homelessness as it tackles both of these issues. First, it would require that city government provide adequate provision in their housing plans for emergency shelters, transitional housing and special needs facilities in addition to permanent supportive housing – offering that progression of care. It is therefore critical to have a regional plan that disperses a concentration of services away from areas like Skid Row, which are too overburdened to truly provide the level of comprehensive care necessary to get people off of the street.s for good. Furthermore the bill also requires local governments to provide for a variety of income levels and housing types when implementing zoning, development and management standards, meaning that organizations that build housing for the area's poorest will not be hindered and individuals and families will be able to work towards stability without having to worry about the most basic of needs, housing.

We are thrilled to see that you have authored this very important bill and are pleased to offer our full support for SB 2. It is crucial to our community and an excellent opportunity to truly help people get off of the streets and into housing – and ultimately reintegrate with their communities, eliminating their need for continued government support.

Sincerely,

Andrew J. Bales
President

545 S. San Pedro Street • Los Angeles, CA 90013 USA • 213/347-6300 • www.UnionRescueMission.org

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WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento CA 95814
Telephone: (916) 442-0753
Fax: (916) 442-7966

July 3, 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

Re: Support for SB 2

Dear Senator Cedillo:

On behalf of our low-income clients we are pleased to continue to support SB 2, which would require that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. Doing so will help ensure that each city and county is doing its part to help meet this critical need for its homeless citizens.

Earlier this year, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Assembly Housing & Community Development Committee

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Ayala, Cori

From: Rabbi Kenneth Chasen [kchasen@LeoBaeckTemple.org]
Sent: Monday, April 23, 2007 1:50 PM
To: Ayala, Cori
Subject: For Sen. Cedillo re: SB 2

April 23, 2007

Office of State Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Dear Senator Cedillo,

I am writing in reference to SB 2, the Fair Share Zoning legislation that is currently receiving consideration within the Senate. So many of us in the faith community are deeply grateful to you for demonstrating leadership on this essential issue of human dignity. Given the urgent need of the California citizens who will be served by this bill, I wanted to express my strong support and request that you share my endorsement with the full Senate.

Clearly, you have introduced this legislation to address the tragic lack of permanent supported housing and emergency shelter space in our state. This failure is, as you know, a very direct threat to the economic, environmental and social quality of life in California, where housing prices are higher than in any other state. If we could count upon local government bodies to address this matter within their own communities, SB 2 might not be as desperately needed; but the reality is that our localities are paying scant attention to this crisis, as discrimination against low-income and minority households continues to be widespread and advancing.

SB 2 is the necessary solution to this unacceptably apathetic response to California homelessness. With each city and county bound by law to develop a comprehensive permanent housing plan for their residents, we can at last be assured that our state leaders will not look the other way as so many Californians suffer the indignity of homelessness. Our state is worthy of a far greater humanity, and on behalf of the 700 member families of Leo Baeck Temple, I will be following this promising legislation carefully, with the hope and expectation that you, your colleagues in the Legislature, and the Governor will take action on this critical matter of conscience.

I cannot urge the Legislature more strongly to pass SB 2. I hope you will convey this robust measure of support to Mr. Bill Higgins at the League of Cities, and that you will pass along my deep conviction to Governor Schwarzenegger that this legislation must be signed into law.

With appreciation for your leadership,

Kenneth Chasen

Kenneth Chasen
Senior Rabbi
Leo Baeck Temple

****

Rabbi Kenneth Chasen
Leo Baeck Temple
1300 N. Sepulveda Blvd.
Los Angeles, California 90049
310-476-2861
kchasen@leobaecktemple.org

APPROVED AS TO FORM AND LEGALITY:

DEPUTY CITY ATTORNEY

OFFICE OF THE CITY CLERK

2007 MAY 2 PM 3:26

REVISED

OAKLAND CITY COUNCIL

RESOLUTION NO. 80580 C. M. S.

INTRODUCED BY COUNCILMEMBER BROOKS

RESOLUTION TO OPPOSE SB 2 (CEDILLO), LOCAL PLANNING REQUIREMENTS FOR HOMELESS AND SPECIAL NEEDS HOUSING

WHEREAS, the City of Oakland seeks to encourage the distribution of affordable housing, including housing for homeless families and individuals, equitably among all areas of the City and avoid undue concentrations in any one area; and

WHEREAS, the City of Oakland seeks to mitigate any adverse impacts of such housing on neighborhoods by ensuring that certain management and siting conditions are adhered to; and

WHEREAS, in furtherance of this objective Section 17.102.212 of the City's Zoning Regulations establish certain conditions of approval for residential care, service-enriched permanent housing, transitional housing and emergency shelter residential activities; and

WHEREAS, State Senator Gil Cedillo has introduced SB 2 into the 2007 session of the California Legislature; and

WHEREAS, SB 2 would limit the ability of cities to regulate such facilities and would further require that cities identify sites where such facilities could be developed "by right" without the ability of the jurisdiction to impose conditions of approval; and

WHEREAS, these limitations would impede the City's ability to reasonably regulate the siting and management of such facilities; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby opposes SB 2 (Cedillo); and be it

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FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or her designee, to work actively to seek the defeat of SB2.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 15 2007, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE – 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: LaTonda Simmons

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Manager

September 7, 2007

TO: **Members of the California Legislature**

FROM: **Roxanne Miller, Legislative Representative**
City of San Jose (916) 443-3946

RE: **SB 2 (Cedillo) – Emergency Shelters By-Right - OPPOSE.**
The bill is currently pending on Assembly Floor 3rd Reading – Item #142.

The City of San José writes today to express our opposition to SB 2 (Cedillo), as amended August 31, 2007, which would require local governments to pre-zone sites for emergency shelters and allow them "by-right." While we appreciate the author's intent to address the serious issue of homelessness, we believe that the bill will hinder our City's ability to address homelessness, using a variety of housing options as stated in our adopted 10-Year Strategy to End Chronic Homelessness. We have attempted to work with Senator Cedillo's office on amendments but feel that we may have a philosophical disagreement with the idea that jurisdictions should continue to maintain and warehouse the homeless through shelters, instead of solving the issue through transitional and permanent housing.

First, SB 2 does nothing to ensure that housing for the homeless will get built. The bill requires a jurisdiction to zone an area or areas for emergency shelters without a conditional use permit or other discretionary permits; however, there are several problems with this premise:

- The bill assumes that if a local jurisdiction takes such action, the shelter will be built and available shortly thereafter, which is not the case. The City believes that those local jurisdictions who have existing shelters should not be required to focus their time and efforts to try to pull the financing together to build and operate additional shelters, but instead should be focusing their energy and attention on permanent, supportive housing;

- The bill does nothing to ensure that the long-term needs of the homeless will be addressed;

- The bill ignores the fact that there are few resources to build or operate emergency shelters. Under current State law, 20% of redevelopment housing set-aside funds (which are often the most significant source of funding for housing) can't be used for emergency shelter construction in most jurisdictions; and

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- The by-right provision does not ensure that emergency shelters will be zoned in places that are near services or public transportation, therefore making access to the shelter infeasible. Simply requiring a zone by-right for emergency shelters will not create a successful shelter if other infrastructure and services which are necessary to the homeless population are not also available. The City's proposed amendments would provide for a long-term plan to deal with these other needs, including the development of housing options near services or public transportation.

Secondly, the bill does not acknowledge San José or other jurisdictions that are developing affordable housing and working collaboratively countywide to solve the problem of chronic homelessness. The City of San José has emergency shelters in its jurisdiction, allows emergency shelters with conditional use permits in certain zones, and is committed, through its adoption of a 10-Year Strategy to End Chronic Homelessness, to address our chronic homeless problems; not simply through the development of more emergency shelters but through transitional and permanent, supportive housing and the collaboration of social services.

Currently, the City has 13 shelters with 678 beds and 16 transitional housing developments serving approximately 770 individuals and families. In addition, through the City's 10-Year Strategy, it has already assisted in the creation of approximately 820 units of permanent, supportive housing for extremely-low (or no) income individuals and families. We are committed to this "Housing First" approach. In addition, the City has adopted a policy which requires 30% of our Low- and Moderate-Income Housing Funds (LMIHF) (or 20% Redevelopment Housing Set-Aside) to be used for extremely-low income (ELI) households, which specifically targets our homeless population. The City of San José can and will continue to demonstrate that we are building transitional and permanent housing, but SB 2 would require the City to change its focus and attention from the goals of "Housing First" to the limited scope of creating more shelters, which are not in the best interest of the homeless in our community. Therefore, we believe it is in the interest of each community to address the homeless issue within the parameters of the amendments we had proposed.

We cannot agree that the bill's requirements that additional emergency shelters are the best way to deal with the State's homeless problem. We urge you to vote "No" on SB 2.

cc: Senator Gilbert Cedillo
Myra Turner, Office of the Assembly Speaker Nuñez
William Weber, Assembly Republican Caucus
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Chief Consultant, Assembly Housing & Community Development Committee
Brad Williams, Consultant, Assembly Appropriations Committee
Brian Kelly, Office of the Senate Pro Tem Perata
Greg Maw, Senate Republican Caucus

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Students back homeless legislation

Several classes in the School of Social Work present research to officials.

By: Katie Hill and Amanda Springer

Posted: 4/18/07

Graduate students in the School of Social Work presented research Tuesday in support of state legislation aimed at curbing homelessness to an audience of peers and local officials.

Senate Bill 2, sponsored by State Senator Gil Cedillo, D-Los Angeles, "mandates each county (and) each city to share in the responsibility for providing housing for the homeless," said Graciela Vargas, a graduate student who was one of the presenters. Several classes at USC have been studying homelessness in different districts in California and working to advocate SB2.

There are nearly 90,000 homeless people sleeping on the streets of Los Angeles County on any given night, said Patricia Makonen, a first-year graduate student in the School of Social Work. Of those 90,000, 42 percent are chronically homeless, she said.

Graduate student Kaitlyn Kim demonstrated to the audience how homelessness could strike anyone unexpectedly.

"How far are you from being homeless? One missed paycheck? One natural disaster?" Kim asked.

The groups encouraged the audience to get involved in combating homelessness, citing a growing problem of "NIMBY-ism." NIMBY, an acronym that stands for "not in my backyard," refers to the attitude with which many people regard homelessness, the students said.

"It's up to all of us to do something about (homelessness)," graduate student Joseph R. Herrera said.

Students said by providing government-regulated shelter, SB2 could be a solution that would please

04/18/2007

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both sides.

"This bill allows each city to completely control when and where their housing will go," Vargas said. "Housing for the homeless is not just a homeless right, it's a human right."

The low-income housing services and free shelters will help keep the homeless population safe and reduce government cost, Vargas said.

It costs $30 a day to provide low-income housing to a homeless person as opposed to $64 a day for a jail cell, she added.

Students addressed specific issues in the homeless community including children, veterans and the mentally ill.

According to the students' Powerpoint presentation, one-third of homeless men are veterans.

Graduate student Jennifer Sato said that support for the troops dwindles after their deployment.

"Anyone who has fought for our homeland should never be homeless," Sato said.

Fellow graduate student Laura Rosko said 250,000 veterans are living on the street.

Bill Rosendahl, a member of the Ad Hoc Committee on Homelessness, showed his support during the presentation by signing a petition that, in conjunction with SB2 could further alleviate veteran homelessness, proponents say.

At first, graduate student Carmen McCorvey said she did not see how SB2 fit into her area of study; the foster care system and emancipated youth. But after researching the issues, she said she was surprised at the effect the bill would have on area youth.

McCorvey said that while most 18-year-olds continue to enjoy parental support, foster children are cast into the real world alone. Without the knowledge of available resources, she said, funding goes unused.

"That's an issue we can no longer ignore," she said.

Rabbi Allen Freehling, executive director of the Los Angeles County Commission on Human Relations, said civilian awareness of the issues and available resources is key to combating homelessness.

"Government cannot and will not do it by itself."

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MARY CURRAN-DOWNEY

Escondido can redeem self on shelter

January 7, 2007

It's a rare moment when a government entity can take a public-relations nightmare and turn it around, with positive and financially sound results. The Escondido City Council has that chance.

How often does something like this happen? I'd say never.

You know the issue, unless you've been living under a rock: A council majority refused the Salvation Army's request to open a cold-weather shelter on its property within hours of Christmas Eve, reasoning that the city has done more than enough to help the poor, and that allowing a shelter would draw the down-and-out from other areas.

The shelter does manage to open for about two weeks, through a loophole. Although there's support for the council's decision, the terms "heartless" and, of course, "Scrooge" are tossed around with much frequency. It becomes a battle of slogans, not solutions.

But it doesn't have end like that, because there are ways to begin finding answers. One, proposed by Mayor Lori Holt Pfeiler and others, is to convene a task force of agencies and government entities from throughout the region, not just Escondido. That would be as easy as reviving the old North County Task Force on Homelessness, a group that lasted for about seven years, got the parties talking and helped to create some shelter beds. But, like a lot of things, it needed regional leadership to keep it going.

■■■

Keep in mind that Oceanside's Bread of Life and Vista's Operation HOPE are providing shelter beds, and the Community Resource Center in Encinitas provides motel vouchers, as does San Marcos. Other North County cities have it in their best interest to get involved.

While the situation in Escondido was an emergency, the homeless problem "has been worked on diligently and with great strategy and with some reasonable success," said Suzanne Stewart Pohlman, executive director of Interfaith Community Services.

Interfaith operated a winter shelter in Escondido for two decades, but remodeled the building and changed its mission to more permanent housing.

The Escondido council also could do itself a favor by endorsing the procedures the shelter there would use. They start at 6 a.m., when a decision is made whether the weather warrants opening the shelter that night. There would also be a screening process by Interfaith staffers, sending Oceanside residents back to Bread of Life, Vista families to Operation HOPE and anyone who's drunk to detox, even if it means calling the police.

Another recommendation for the council: Listen to the wisdom of people such as Victor Kops, a clinical

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psychologist who practices in San Diego and Solana Beach. Kops has been involved with the issue for 30 years as a longtime member of the Regional Task Force on the Homeless.

Kops said that in his experience, the idea that homeless people travel many miles to find a city shelter is "an urban myth," while not providing a clean, dry space for them can end up being very expensive.

"It's not even good business practice," he said. "It costs maybe $10 a night to put people in a minimal shelter. If they get sick and we take them to an emergency room, it will cost thousands of dollars. It makes no sense as a society."

■■■

Kops and other task-force members such as former Coronado Mayor Mary Herron are working on a pilot project that should be considered not only in Pacific Beach, where it's getting under way, but also throughout the county.

Here's how the Opening New Doorways Initiative will work: Pacific Beach United Methodist Church will refurbish and then rent out a church-owned house for a maximum of six people at a reasonable rate. People who have been on the street will get the services they need to find their way back from the brink, helped by a faith community that's serious about outreach.

A three-year, $105,000 grant from the California Wellness Foundation, along with support from the Alliance Healthcare Foundation and other local foundations as well as private donations, will pay for the early stages of the program.

"What we hope is we are reaching a tipping point in terms of social consciousness and some innovative things will continue to happen," Herron said about the project.

No one believes this problem will be solved tomorrow, but if it's cold enough, some people will need a place to sleep tomorrow night.

The Escondido City Council can go from Scrooge to Good Samaritan – a fiscally sound, forward-thinking and prudent urban-planning Good Samaritan at that – by helping promote a regional approach to the issue, supporting strict guidelines for all future shelters and studying what's being done elsewhere in the county.

■Mary Curran-Downey can be reached at **mary_currandowney@hotmail.com**

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☐ Check the box to include the list of links referenced in the article.

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Need vs. 'fair share'

Influx of low-income projects in Old Folsom protested

By Walter Yost - Bee Staff Writer
Published 12:00 am PST Tuesday, January 2, 2007

Residents and business owners in Folsom's historic district fear that two proposed low- income projects will change the character of their neighborhood, turning it into a dumping ground for facilities no one else apparently wants.

If the projects go forward, a 19-unit apartment complex for people with mental illnesses and a transitional housing program for up to 20 homeless people will be within five blocks of each other on Bidwell Street.

It would be one of the highest concentrations of such housing in the area outside of downtown and midtown Sacramento.

Residents are asking "Why us?" The answer is rooted in the conflicting goals of peoples' desire to preserve their neighborhood vs. the need for low-income housing and social services throughout the region.

The conflict was no better illustrated than during an emotional meeting in November at the Folsom Community Center.

Architect Craig Stradley was barely two minutes into his talk on the design merits of the proposed psychiatric housing project, when the questions began raining on him.

His audience, anxious historic district residents, didn't care what the project looked like.

They wanted to know who would be living there, what type of supervision would be provided and why another low- income housing project was coming to their neighborhood.

"We're inundated. You're saturating us," one woman said.

After listening to the concerns, staff members with Transitional Living and Community Support Inc., operator of the psychiatric housing, acknowledged they weren't going to win any converts.

"I don't think we're going to convince you," Executive Director Jane Ginsberg said.

While the region's largest, most visible homeless services are in Sacramento, Joan Burke, director of advocacy at Loaves & Fishes, said it's a myth that homelessness is confined to cities.

"Even in affluent suburbs like Folsom, people can have a run of bad luck," Burke said.

Although the region has small-scale, emergency shelter programs like Family Promise in Sacramento County and Gathering Inn in Placer County, a permanent transitional housing program like Folsom's Powerhouse Ministries is rare.

Putting such programs in local communities makes sense to Burke. "If your child or sister was on drugs or needed help, wouldn't you want somebody to help her in your town?" she asked.

But historic district residents like Dean Bullock say they're already doing their part when it comes to low-income housing.

"We expect other parts of the city to do theirs," he said. The historic district, he said, has more than its "fair share" -- including apartment complexes and a trailer park along its border.

Bullock and others fear additional low-income projects will increase crime and decrease property values.

"We don't want to sound like we're being hard-nosed about it," said Karen Wilson, a board member with the Historic Folsom Residents Association. "Our concern is on the concentration of services."

City planners say the proposed uses are consistent with the general plan. Advocates say the residents' fears are unfounded.

"Initially, when people hear about folks with psychiatric diseases, the worst comes to mind. But that's not typically what we see," said Paul Powell, associate director of Transitional Living and Community Support.

Powell said the proposed Bidwell Street project isn't a psychiatric facility -- but rather "decent, safe, affordable housing" for people with major depression, bipolar disorder and schizophrenia.

Nancy Atchley, director of Powerhouse Ministries' homeless shelter in Folsom, said her organization plans to move its transitional housing program for children and adults to a new site on Bidwell Street that is occupied by Crossroads Family Ministries.

Atchley admits that putting two projects on one street "is a lot," but she added, "I think they'll (neighbors) find that their fears are not based on reality. What we're putting in the historic district are families."

Neither project is a done deal.

Atchley said Powerhouse is no longer under contract to purchase the Crossroads Ministries site.

"We're still interested in the property, but they'll be free to sell it to someone else," she said.

The city Planning Commission is scheduled to hold a hearing Jan. 17 on a rezoning of the psychiatric housing site, and the matter will likely go before the City Council in February.

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Time running out for homeless shelter

By CLIFF LARIMER -DN Staff Writer
Red Bluff Daily News

Article Last Updated:03/16/2007 07:52:59 AM PDT

RED BLUFF It looks like it's back to the drawing board for the fourth time for the group seeking to build a homeless shelter in Red Bluff.

With time growing dear for Poor and the Homeless of Tehama County, it may be facing obstacles that could mean it will lose $1 million in grant funds to build the shelter on Montgomery Road and $250,000 to pay most of the operational costs for the first two years.

The problem seems to be location, location, location again, with the clock ticking.

PATH finds itself right in the path of what will one day be the southern connector for the west side with Main Street.

It faces a November deadline for having the shelter in operation or it loses its grant, but it faces having to prepare an environmental impact report, something that can take up to 18 months and perhaps cost money the nonprofit group doesn't have.

And even if that report was completed, it would be no guarantee it would be favorable to PATH.

PATH representatives say the site on Montgomery Road is the best one it could find. City officials and the California Department of Transportation says it's on property that will one day be part of a freeway interchange.

PATH thinks it can do the project, then move in 10 or 12 years if an interchange is built.

That doesn't appear to be acceptable to either the city or to Caltrans.

PATH president Allene Dering told the Daily News that city planning director Scot Timboe and City Manager Martin Nichols are asking for the EIR as part of the use permit application, a process that eats up time PATH does not have.

At a meeting this week with PATH representatives, she said Timboe said they had to have an environmental impact report and "Nichols backed him up."

"They're killing it at staff level," Dering charged.

Nichols said there have been several meetings between city staff and PATH people, including in the latter group former city planning director Chuck Hayden.

The meeting earlier this week, and the others, "had nothing to do with whether the city is for' or against' anything," Nichols said. "It has to do with good planning."

He pointed out that the city has worked with PATH during its earlier, failed attempts to construct a homeless shelter at other sites on Montgomery Road, first in 2003 when the project was approved but then dropped at a location after PATH ran into difficulties in the purchase of the property. Then in 2005 the city worked with the group at its second proposed site which it planned to lease for 21 years. But that property was sold to the Greenville Rancheria and it chose not to honor the lease.

That brought a renewed search for another suitable site, Hayden told the Daily News. He said the one now in contention, at 1870 Montgomery Road, was the only one that was a fit.

Much of the EIR preparation would be done by city staff, because recently the city council agreed to waive fees for some work on the project and provide in-kind services. But some will have to be done by other agencies or consultants and could mean some additional cost to PATH. And an environmental impact report can take up to 18 months to complete, although no one suggested it would take that long.

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"We're at a crucial point right now. If it holds us up (even) five or six weeks, we're dead in the water," Dering said. She said she, Hayden and other members of the PATH board suggested the city could make what amounts to a "negative declaration" that in essence deems the site suitable and could negate the need for a full EIR process.

"It was an inflexible meeting," she said, and that what they were told this week they could have been told three months ago.

"He (Timboe) did a 180-degree turn," she said.

Not so, said Timboe and Nichols. They said when they first met with PATH in mid-December after the group applied for a use permit, it already had the Montgomery Road site in escrow.

Timboe said the group was aware of both city and Caltrans plans for the south interchange, which someday will take Vista Way over the top of Interstate 5 to connect with South Main Street. In fact, the most recent Caltrans plans for the interchange were provided to both the city and PATH in mid-December. It, and the earlier Southside Neighborhood Revitalization and Transportation Study, both show the I-5 ramps at Vista Way going right over or cutting through a portion of the 2-acre PATH site.

"We certainly have been cooperative (with PATH)," Timboe said, to the pointing of waiving more than $13,000 in fees for the project.

"We told them (in December) that we had a problem," he said. "That potentially they were on the right of way of Vista Avenue and a freeway overcrossing. We identified and stated our concerns then."

Nichols said the December meeting was when the city first learned PATH already had the site in escrow.

Nichols said the city has long had plans to eventually extend Vista to Main Street, something that will become more and more necessary as the city expands to the west, as it appears poised to do. He said the city had been acquiring right of way on Vista from Jackson Street east for some time and the road is designated as a connector in the southside transportation study. Timboe said the city now owns a 60-foot right of way nearly to the edge of the PATH. Only a few hundred feet more are needed to connect with Montgomery.

Timboe said proper planning demands the city be concerned about "potential significant impacts" of a project and that in this case they would appear to exist, thus the need for an EIR.

Hayden argues that the impacts are not that great, and that even if an interchange is constructed it will not be for at least a dozen years. Caltrans has another county project, the Southside interchange in Corning that is likely higher priority.

In a March 12 memo to Timboe and Nichols, he asked the city to conduct an initial study, "to be circulated for public review, what we believe are reasonable and realistic mitigation measures leading to a conclusion that a Mitigated Negative Declaration, rather than an EIR, be prepared."

Acknowledging city and Caltrans concerns, Hayden suggested putting a condition on the conditional used permit a limit of 15 years, and that PATH would agree to "sell the site and improvements at fair market value and leave the site at the end of 12 years when necessary to build a freeway interchange."

He did tell the Daily News that Caltrans had not seemed receptive to the idea, but that as far as he knew there were no statutes or regulations precluding such a proposal.

Nichols told the Daily News it was a "reasonable assumption" that an interchange at Vista Way and I-5 is 10 or 15 years away.

"But it could be less," he said, and that might create even more of a conundrum than PATH's current proposal does.

Nichols said the city has to consider the broader picture.

"Our general plan says we need to get over the I-5 barrier to the south," and the Vista Way plan has been in existence for years, he said.

"Staff has told them (PATH) we need to consider the full potential impacts of this," he said.

"The issue here is good planning."

Where does that leave PATH?

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Unless there is some drastic change in position, the homeless shelter is not going to be built at 1870 Montgomery.

"The grant goes away," Hayden said, "Unless we have a shelter up and running Nov. 1."

He said the group could re-apply. But with limited funds PATH would be pressed to find a grant consultant, "who would work basically for free." He said the group would have to have "something pretty firm" in the way of a site to hope to get a grant. And with virtually no money that gets tough.

For now, the group will have to consider withdrawing its use permit application, then decide what to do next.

In the meantime, PATH will likely continue its program of offering overnight shelter and free meals during the winter months, moving its site from church to church.

"That's assuming we have enough volunteers," Hayden said. "People who will prepare meals and bring them to the churches, and people willing to stay overnight."

Staff writer Cliff Larimer can be reached at 527-2151 or llazyl@sbcglobal.net

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2007-2008 COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 2
AUTHOR : Cedillo
TOPIC : Local planning.
TYPE OF BILL :

INACTIVE BILL	NON-URGENCY
NON-APPROPRIATION	MAJORITY VOTE
STATE-MANDATED LOCAL PROGRAM	FISCAL
NON-TAX-LEVY	

BILL HISTORY

2007

Oct. 13 Chaptered by Secretary of State. Chapter 633, Statutes of 2007.
Oct. 13 Approved by Governor.
Sept. 19 Enrolled. To Governor at 11:45 a.m.
Sept. 12 Senate concurs in Assembly amendments. (Ayes 26. Noes 12. Page 2663.) To enrollment.
Sept. 11 In Senate. To unfinished business.
Sept. 10 Read third time. Passed. (Ayes 42. Noes 31. Page 3204.) To Senate.
Sept. 6 Withdrawn from committee. Ordered placed on third reading.
Aug. 31 Read second time. Amended. Re-referred to Com. on RLS.
Aug. 30 From committee: Do pass as amended, but first amend, and re-refer to Com. on RLS. (Ayes 10. Noes 6.)
Aug. 22 Set, first hearing. Referred to APPR. suspense file.
July 11 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 4. Noes 2.) Re-referred to Com. on APPR.
July 2 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on H. & C.D.
June 28 From committee: Do pass, but first be re-referred to Com. on H. & C.D. (Ayes 5. Noes 2.) Re-referred to Com. on H. & C.D.
June 19 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
June 13 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on L. GOV.
May 24 To Coms. on L. GOV. and H. & C.D.
May 17 In Assembly. Read first time. Held at Desk.
May 17 Read third time. Passed. (Ayes 27. Noes 11. Page 987.) To Assembly.
Apr. 24 Read second time. To third reading.
Apr. 23 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.
Apr. 16 Hearing postponed by committee. Set for hearing April 23.
Mar. 29 Set for hearing April 16.
Mar. 28 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 7. Noes 0. Page 414.) Re-referred to Com. on APPR.
Mar. 19 From committee with author's amendments. Read second time.

Amended. Re-referred to Com. on T. & H.

Mar. 8 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.

Mar. 5 Set for hearing March 27.

Jan. 22 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on T. & H.

Jan. 18 To Com. on T. & H.

2006

Dec. 5 From print. May be acted upon on or after January 4.

Dec. 4 Introduced. Read first time. To Com. on RLS. for assignment. To print.

CONFLICT NOTIFICATION

August 21, 2007

S.B. 2

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Assembly Appropriations Committee

appears to be in conflict with

A.B. 382 - Assembly Housing and Community Development Committee
A.B. 1213 - Price
A.B. 1497 - Niello
S.B. 303 - Ducheny

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

We urge you to consult our Corrections Section at Corrections.Section@legislativecounsel.ca.gov or 916-341-8230 at your earliest convenience.

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SB 2 (Cedillo)

- Beefs up Housing Element Law to require locals to actually identify sites and show that local zoning ordn. allows an emergency shelter.

- Allows local to decide for themselves what the need is (how many and what kind of emergency shelters)

- Every city and county must always have at least one site zoned to allow a shelter.

- (anti-NIMBY) Allows proponents of emergency shelter, transitional or supportive housing to sue if a project is denied and otherwise meets minimum zoning ordinance standards.

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UNOFFICIAL BALLOT

Bill: SB 2 2007-2008

Author: Cedillo
Topic: Local planning.

09/12/07 SEN. FLOOR
Unfinished Supp 3 SB2 Cedillo

AYES 26 NOES 12 (PASS)

09/10/07 ASM. FLOOR
SB2 Cedillo Senate Third Reading By LIEBER

AYES 42 NOES 31 (PASS)

08/30/07 ASM. APPR.
Do pass as amended and be re-referred to the Committee on Rules.

AYES 10 NOES 6 (PASS)

07/11/07 ASM. H. & C.D.
Do pass and be re-referred to the Committee on Appropriations.

AYES 4 NOES 2 (PASS)

06/27/07 ASM. L. GOV.
Do pass and be re-referred to the Committee on Housing and Community Development.

AYES 5 NOES 2 (PASS)

05/17/07 SEN. FLOOR
Senate 3rd Reading SB2 Cedillo

AYES 27 NOES 11 (PASS)

03/27/07 SEN. T. & H.
Do pass, but re-refer to the Committee on Appropriations.

AYES 7 NOES 0 (PASS)

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 09/12/07
LOCATION: SEN. FLOOR
MOTION: Unfinished Supp 3 SB2 Cedillo
(AYES 26. NOES 12.) (PASS)

AYES
****

Alquist	Ashburn	Calderon	Cedillo
Corbett	Correa	Ducheny	Florez
Kehoe	Kuehl	Lowenthal	Machado
Margett	Migden	Negrete McLeod	Oropeza
Padilla	Perata	Ridley-Thomas	Romero
Scott	Simitian	Steinberg	Torlakson
Wiggins	Yee		

NOES
****

Aanestad	Ackerman	Cogdill	Cox
Denham	Dutton	Harman	Hollingsworth
Maldonado	McClintock	Runner	Wyland

NO VOTE RECORDED
****

Battin	Vincent

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 09/10/07
LOCATION: ASM. FLOOR
MOTION: SB2 Cedillo Senate Third Reading By LIEBER
(AYES 42. NOES 31.) (PASS)

AYES
****

Arambula	Bass	Beall	Berg
Caballero	Charles Calderon	Carter	Coto
Davis	De La Torre	De Leon	DeSaulnier
Dymally	Eng	Evans	Feuer
Fuentes	Galgiani	Hayashi	Hernandez
Huffman	Jones	Karnette	Krekorian
Laird	Leno	Levine	Lieber
Ma	Mendoza	Parra	Portantino
Price	Ruskin	Salas	Saldana
Solorio	Soto	Swanson	Torrico
Wolk	Nunez		

NOES
****

Adams	Aghazarian	Anderson	Benoit
Berryhill	Blakeslee	Cook	DeVore
Duvall	Emmerson	Fuller	Gaines
Garcia	Garrick	Horton	Houston
Huff	Jeffries	Keene	La Malfa
Maze	Nakanishi	Niello	Plescia
Sharon Runner	Silva	Smyth	Spitzer
Tran	Villines	Walters	

ABSENT, ABSTAINING, OR NOT VOTING
****

Brownley	Hancock	Lieu	Mullin
Nava	Strickland	Vacancy	

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 08/30/07
LOCATION: ASM. APPR.
MOTION: Do pass as amended and be re-referred to the Committee on Rules. (AYES 10. NOES 6.) (PASS)

AYES
****

Leno	Caballero	Davis	DeSaulnier
Huffman	Karnette	Krekorian	Ma
Solorio	De Leon		

NOES
****

Walters	Emmerson	La Malfa	Lieu
Nakanishi	Sharon Runner		

ABSENT, ABSTAINING, OR NOT VOTING
****

Nava

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 07/11/07
LOCATION: ASM. H. & C.D.
MOTION: Do pass and be re-referred to the Committee on Appropriations.
(AYES 4. NOES 2.) (PASS)

AYES
****

Saldana	Bass	Mullin	Swanson

NOES
****

Garcia	Sharon Runner

ABSENT, ABSTAINING, OR NOT VOTING
****

Hancock

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 06/27/07
LOCATION: ASM. L. GOV.
MOTION: Do pass and be re-referred to the Committee on Housing and Community Development.
(AYES 5. NOES 2.) (PASS)

AYES
****

Caballero	De La Torre	Lieber	Saldana
Soto			

NOES
****

Houston	Smyth

ABSENT, ABSTAINING, OR NOT VOTING
****

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 05/17/07
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB2 Cedillo
(AYES 27. NOES 11.) (PASS)

AYES
****

Alquist	Ashburn	Calderon	Cedillo
Corbett	Correa	Ducheny	Florez
Kehoe	Kuehl	Lowenthal	Machado
Maldonado	Margett	Migden	Negrete McLeod
Padilla	Perata	Ridley-Thomas	Romero
Scott	Simitian	Steinberg	Torlakson
Vincent	Wiggins	Yee	

NOES
****

Aanestad	Ackerman	Battin	Cogdill
Cox	Denham	Dutton	Harman
McClintock	Runner	Wyland	

NO VOTE RECORDED
****

Hollingsworth	Oropeza

UNOFFICIAL BALLOT

2007-2008 Votes - ROLL CALL

MEASURE: SB 2
TOPIC: Local planning.
DATE: 03/27/07
LOCATION: SEN. T. & H.
MOTION: Do pass, but re-refer to the Committee on Appropriations.
(AYES 7. NOES 0.) (PASS)

AYES
****

Lowenthal	Cedillo	Corbett	Kehoe
Oropeza	Simitian	Torlakson	

NOES
****

NO VOTE RECORDED
****

McClintock	Ashburn	Dutton	Harman

LRI History LLC

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Assembly Republican Caucus Materials

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Manager

September 7, 2007

TO: **Members of the California Legislature**

FROM: **Roxanne Miller, Legislative Representative**
City of San Jose (916) 443-3946

RE: **SB 2 (Cedillo) – Emergency Shelters By-Right - OPPOSE.**
The bill is currently pending on Assembly Floor 3rd Reading – Item #142.

The City of San José writes today to express our opposition to SB 2 (Cedillo), as amended August 31, 2007, which would require local governments to pre-zone sites for emergency shelters and allow them "by-right." While we appreciate the author's intent to address the serious issue of homelessness, we believe that the bill will hinder our City's ability to address homelessness, using a variety of housing options as stated in our adopted 10-Year Strategy to End Chronic Homelessness. We have attempted to work with Senator Cedillo's office on amendments but feel that we may have a philosophical disagreement with the idea that jurisdictions should continue to maintain and warehouse the homeless through shelters, instead of solving the issue through transitional and permanent housing.

First, SB 2 does nothing to ensure that housing for the homeless will get built. The bill requires a jurisdiction to zone an area or areas for emergency shelters without a conditional use permit or other discretionary permits; however, there are several problems with this premise:

- The bill assumes that if a local jurisdiction takes such action, the shelter will be built and available shortly thereafter, which is not the case. The City believes that those local jurisdictions who have existing shelters should not be required to focus their time and efforts to try to pull the financing together to build and operate additional shelters, but instead should be focusing their energy and attention on permanent, supportive housing;

- The bill does nothing to ensure that the long-term needs of the homeless will be addressed;

- The bill ignores the fact that there are few resources to build or operate emergency shelters. Under current State law, 20% of redevelopment housing set-aside funds (which are often the most significant source of funding for housing) can't be used for emergency shelter construction in most jurisdictions; and

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- The by-right provision does not ensure that emergency shelters will be zoned in places that are near services or public transportation, therefore making access to the shelter infeasible. Simply requiring a zone by-right for emergency shelters will not create a successful shelter if other infrastructure and services which are necessary to the homeless population are not also available. The City's proposed amendments would provide for a long-term plan to deal with these other needs, including the development of housing options near services or public transportation.

Secondly, the bill does not acknowledge San José or other jurisdictions that are developing affordable housing and working collaboratively countywide to solve the problem of chronic homelessness. The City of San José has emergency shelters in its jurisdiction, allows emergency shelters with conditional use permits in certain zones, and is committed, through its adoption of a 10-Year Strategy to End Chronic Homelessness, to address our chronic homeless problems; not simply through the development of more emergency shelters but through transitional and permanent, supportive housing and the collaboration of social services.

Currently, the City has 13 shelters with 678 beds and 16 transitional housing developments serving approximately 770 individuals and families. In addition, through the City's 10-Year Strategy, it has already assisted in the creation of approximately 820 units of permanent, supportive housing for extremely-low (or no) income individuals and families. We are committed to this "Housing First" approach. In addition, the City has adopted a policy which requires 30% of our Low- and Moderate-Income Housing Funds (LMIHF) (or 20% Redevelopment Housing Set-Aside) to be used for extremely-low income (ELI) households, which specifically targets our homeless population. The City of San José can and will continue to demonstrate that we are building transitional and permanent housing, but SB 2 would require the City to change its focus and attention from the goals of "Housing First" to the limited scope of creating more shelters, which are not in the best interest of the homeless in our community. Therefore, we believe it is in the interest of each community to address the homeless issue within the parameters of the amendments we had proposed.

We cannot agree that the bill's requirements that additional emergency shelters are the best way to deal with the State's homeless problem. We urge you to vote "No" on SB 2.

cc: Senator Gilbert Cedillo
Myra Turner, Office of the Assembly Speaker Nuñez
William Weber, Assembly Republican Caucus
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Chief Consultant, Assembly Housing & Community Development Committee
Brad Williams, Consultant, Assembly Appropriations Committee
Brian Kelly, Office of the Senate Pro Tem Perata
Greg Maw, Senate Republican Caucus

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California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Brian Augusta
Staff Attorney
brian@housingadvocates.org

July 3, 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

Re: Support for SB 2

Dear Senator Cedillo:

On behalf of our low-income clients we are pleased to continue to support SB 2, which would require that localities identify zoning categories in which emergency shelters can be developed without a conditional use permit. Doing so will help ensure that each city and county is doing its part to help meet this critical need for its homeless citizens.

Earlier this year, the U.S. Department of Housing and Urban Development released a study which again confirmed what many who serve the homeless already know: There are more people in need of shelter than there are beds available each night. In California, this problem is exacerbated by localities that refuse to plan for shelters and transitional housing and instead shift the responsibility to neighboring cities. SB 2 will help address this inequity and encourage sound planning for shelters and transitional housing.

Under SB 2, localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the local public hearings on which zones will permit homeless shelters, the public will be able to raise all of their concerns and demand responses from local officials. SB 2 simply provides that once those sites have been designated, a shelter provider can acquire the land, and develop it without having to obtain a discretionary use permit, provided it is consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to address the needs of their homeless residents, and are disadvantaged by neighbors who resist the responsibility. SB 2 will relieve these communities by requiring that their non-responsive neighbors do their part. Homelessness is a statewide problem, and every locality must plan to shelter their fair share.

Thank you for your determined leadership on this important measure.

Sincerely,

Brian Augusta
Staff Attorney

cc: Assembly Housing & Community Development Committee

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WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento CA 95814
Telephone: (916) 442-0753
Fax: (916) 442-7966

July 3, 2007

The Honorable Gil Cedillo
California State Senate
State Capitol
Sacramento, California

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Thank you for your determined leadership on this important measure.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Assembly Housing & Community Development Committee

Provided by LRI History LLC

OFFICE OF THE MAYOR
ANTONIO R. VILLARAIGOSA

July 2, 2007

The Honorable Lori Saldaña
Chair, Assembly Housing & Community Development Committee
California State Assembly
1020 N Street, Rm 167A
Sacramento, CA 95814

RE: SB 2 (Cedillo): Fair Share Zoning –SUPPORT

Dear Assembly Member Saldaña:

On behalf of the City of Los Angeles, I would like to communicate our support for SB 2, authored by Senator Gil Cedillo, as part of a regional and statewide effort to help tackle the problem of homelessness.

There are an estimated 360,000 homeless individuals in California and the Los Angeles Homeless Services Authority recently conducted a countywide count of the homeless population that showed that Los Angeles has the highest homeless population in the country. Of the over 80,000 homeless individuals in Los Angeles County, approximately 58%-nearly 50,000- of those individuals can be found throughout the City of Los Angeles with the largest concentration in the Skid Row area of downtown Los Angeles.

Homelessness affects people of all races, gender, age and geographic location. In addition to the need for shelter, many of these individuals also have a need for substance abuse and mental health services. In Los Angeles County, for example, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among the chronically homeless.

Unfortunately, the availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the disproportionate concentration of services in inner cities and poor communities such as Skid Row, in downtown Los Angeles.

SB 2 would require local government general plans to provide in their housing elements for emergency shelters and transitional and supportive housing as use by right. SB 2 would allow for easier access to these shelters and support services by these homeless individuals at a regional level.

MAYOR'S OFFICE OF INTERGOVERNMENTAL AFFAIRS
1400 K STREET, ROOM 208 • SACRAMENTO, CALIFORNIA 95814
(916) 321-5500 • (916) 448-7162

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In order to ensure access to services for the homeless in every city and county, it is important that local governments plan for these services to address the special needs and services of the homeless population. The City of Los Angeles supports SB 2 as an important component of a regional approach to solving the problem of homelessness and requests your support of this bill when it is heard in the Assembly Committee on Housing and Community Development. If you have any questions about the City's position, please contact me at our Sacramento office of Legislative and Intergovernmental Relations at 916.321.5500.

Sincerely,

Silvia Y. Solis
Legislative Representative

cc: Senator Gil Cedillo
Members, Assembly Housing and Community Development Committee
Consultant, Assembly Housing and Community Development Committee
Republican Consultant, Assembly Housing and Community Development Committee

Provided by LRL History LLC

Tuesday, September 11, 2007

Governor Arnold Schwarzenegger
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 2 (CEDILLO)

Dear Governor Schwarzenegger:

This letter serves to memorialize a veto request for Senate Bill 2, which passed the Assembly on September 10, 2007, by a vote of 42 to 31, with 31 members of the Assembly Republican Caucus voting 'No'.

Senate Bill 2 requires cities and counties to accommodate their need for homeless shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

Last year, you vetoed a substantially similar bill, SB 1322 (Cedillo). In your message you stated, in part:

> *"Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities."*

We completely agree.

For the reasons stated above, I respectfully request that you veto Senate Bill 2.

Sincerely,

Michael N. Villines
Assembly Republican Leader

MV: ww

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(916) 442.7660

Department of Finance Materials

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 19, 2007 **BILL NUMBER:** SB 2
POSITION: Oppose **AUTHOR:** G. Cedillo

BILL SUMMARY: Local Planning: Development By Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends an oppose position for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal (0740) K. Amann	Date	Program Budget Manager Mark Hill	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved_____ Position Disapproved

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for emergency shelters and special needs facilities to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right." A special needs facility is defined to include any of the following if licensed and serving seven or more people: community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Related Bills:

SB 1322 (Cedillo) from last year was essentially identical to this bill. The veto message indicated that the bill would deny impacted groups from having imput on proposed developments and would lead to an increase in litigation brought against cities and counties that would deplete local government resources, rather than helping improve the availability of special needs housing.

Chapter 891, Statutes of 2006 requires local governments to analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites when developing the local housing element.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

	SO	(Fiscal Impact by Fiscal Year)							
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Code
2240/HCD	SO	No	C	$0	C	$73	C	$145	0001

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Failed Legislation

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AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo

February 16, 2006

An act to amend Sections ~~65583 and 65583.2~~ *65582, 65583, 65583.2, and 65589.5* of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. ~~Housing: use by right.~~ *Housing.*

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter, *transitional housing,* and residential service ~~providers~~ *facilities* to these provisions, as specified*, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions*. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would also delete obsolete provisions relating to assisted housing developments.

(2) *The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker*

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housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

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~~(c) Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate of substance abuse and mental illness is at 16 percent among homeless individuals.~~

~~(d)~~

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like Skid Row area in downtown Los Angeles.

~~(e)~~

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

~~(f)~~

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

~~(g)~~

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article *the following definitions apply*:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

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permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of ~~the owner-occupied, farmworker housing, emergency shelter, residential service provider, or rental multifamily residential use~~ *the use for an emergency shelter, a residential service facility, or an owner-occupied or rental multifamily residential development* may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing *and emergency shelters* is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local

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governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects *and emergency shelters*, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible *emergency shelters and* housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove *an emergency shelter or* a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section

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65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. *In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.* Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project *or emergency shelter* as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households *or rendering the development of the emergency shelter financially infeasible*. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income

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households *or rendering the development of the emergency shelter financially infeasible*.

(4) The development project *or emergency shelter* is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project *or emergency shelter* is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. *This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.*

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does

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identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project *or emergency shelter* to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

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(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

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(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified

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written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development *or emergency shelter* may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing *or emergency shelter* for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project *or emergency shelter*. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development *or emergency shelter*, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development *or emergency shelter* in violation of this section and

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(2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

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~~SEC. 4.~~

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter, transitional housing, and residential service facilities to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would *provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after*

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January 1, 2007, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency

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shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Residential service facility" includes all of the following that serve seven or more persons:

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for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

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(d) A local agency shall not disapprove an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a

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"specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing

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element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

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(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the

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Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be

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developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order

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to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and,

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notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter, transitional housing, and residential service facilities to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

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The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after ~~January 1, 2007~~ *the effective date of this bill or when revision is otherwise required, whichever comes first*, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

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(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

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the use for an emergency shelter, a residential service facility, or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing

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developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or

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an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the

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development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for

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lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing

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development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue

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an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of

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Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)
(Coauthor: Assembly Member Lieber)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, *and to add Section 65852.12 to,* the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency ~~shelter,~~ *shelters and* transitional housing~~, and residential service facilities~~ to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of

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emergency shelters ~~and residential service facilities~~ under these provisions. *The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.* By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters *and special needs facilities* to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. *The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes.* By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article the following definitions apply:

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permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter~~, a residential service facility,~~ or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost

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of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove ~~an emergency shelter or~~ a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter,* or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter* unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section

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65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, *special needs facility,* or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income

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households or rendering the development of the *special needs facility or* emergency shelter financially infeasible.

(4) The development project, *special needs facility,* or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, *special needs facility,* or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be

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on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project, *special needs facility,* or emergency shelter to comply with objective, quantifiable, written development *and management* standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development *and management* standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

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(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

~~(4)~~

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(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(5)~~

(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

~~(6)~~

(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

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(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency

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shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days

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as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

~~SEC. 6.~~

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

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AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)
(Coauthor: Assembly Member Lieber)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the

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requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

~~(3) 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 these statutory provisions.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

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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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and ~~residential service providers~~ *special needs facilities*. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency ~~shelter and residential service providers~~ *shelters and special needs facilities* for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify ~~sites~~ *areas* to locate ~~residential service providers~~ *special needs facilities*. Cities and counties should include this as part of their planning process and locate these ~~services~~ *facilities* where most appropriate in their community. The state should not dictate

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where these residential ~~service providers~~ *special needs facilities* should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income

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would constitute a "project" for purposes of Division 13 (commencing with Section ~~21100~~ *21000*) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section ~~21100~~ *21000*) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

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(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section

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65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the *special needs facility or* emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as

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suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the *housing* development project, special

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needs facility, or emergency shelter to comply with objective, quantifiable, written development ~~and management~~ standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. *A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards.* However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by ~~the development project~~ *housing development project, special needs facility, or emergency shelter*. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to ~~the development project~~ *housing development project, special needs facility, or emergency shelter*.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B)

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100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

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(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified

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written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, *special needs facility,* or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of ~~housing or emergency shelter~~ *a special needs facility, emergency shelter, or housing* for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, *special needs facility,* or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, *special needs facility,* or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

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(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, *special needs facility,* or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the

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expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

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

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AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)
(Coauthor: Assembly Member Lieber)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

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This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) This bill would incorporate additional changes in Section 65583 of the Government Code, proposed by AB 2634, to become operative only if AB 2634 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

The bill would also incorporate additional changes in Section 65589.5 of the Government Code, proposed by AB 2511, to become operative only if AB 211 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

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(4) 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community.

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The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income

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the use for an emergency shelter or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing

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developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development

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pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction

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has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public

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Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by housing development project, special needs facility, or emergency shelter. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

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(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area

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meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a

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"specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility, or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed

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approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's

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points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 5.5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing *and emergency shelters* is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects *and emergency shelters*, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible *emergency shelters* housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore,

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in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter,* or condition approval~~, including through the use of design review standards,~~ in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, *a special needs facility, or an emergency shelter, including through the use of design review standards,* unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. *In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.*Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, *special needs facility, or emergency shelter* as proposed would have a specific, adverse

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impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households *or rendering the development of the special needs facility or emergency shelter financially infeasible*. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households *or rendering the development of the special needs facility or emergency shelter financially infeasible*.

(4) The development project, *special needs facility, or emergency shelter* is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, *special needs facility, or emergency shelter* is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. *This paragraph cannot be*

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utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed~~, in accordance with Section 65583.2,~~ to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) ~~Nothing in this~~ *This* section ~~shall be construed to~~ *does not* relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~Neither shall anything in this~~ *This* section ~~be construed to~~ *does not* relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~Nothing in this~~ *This* section ~~shall be construed to~~ *does not* prohibit a local agency from requiring the *housing* development project*, special needs facility, or emergency shelter* to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need

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pursuant to Section 65584. *A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards.* However, the development *and management* standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the *housing* development project, *special needs facility, or emergency shelter*. ~~Nothing in this~~ *This* section ~~shall be construed to~~ *does not* prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the *housing* development project, *special needs facility, or emergency shelter*.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly

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housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

~~(4)~~

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

~~(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.~~

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

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(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or

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the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, *special needs facility, or emergency shelter* may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of ~~housing~~ *a special needs facility, emergency shelter, or housing* for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, *special needs facility or emergency shelter*. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, *special needs facility, or emergency shelter,* except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, *special needs facility, or emergency shelter* in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this

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section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

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65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

SEC. 7. (a)Section 3.5 of this bill incorporates amendments to Section 65583 of the Government Code proposed by both this bill and AB 2634. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 65583 of the Government Code, and (3) this bill is enacted after AB 2634, in which case Section 3 of this bill shall not become operative.

(b) Section 5.5 of this bill incorporates amendments to Section 65589.5 of the Government Code proposed by both this bill and AB 2511. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 65589.5 of the Government Code, and (3) this bill is enacted after AB 2511, in which case Section 5 of this bill shall not become operative.

~~SEC. 7.~~

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Senate Bill No. 1322

Passed the Senate August 31, 2006

_____

Secretary of the Senate

Passed the Assembly August 31, 2006

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2006, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes

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written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) This bill would incorporate additional changes in Section 65583 of the Government Code, proposed by AB 2634, to become operative only if AB 2634 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

The bill would also incorporate additional changes in Section 65589.5 of the Government Code, proposed by AB 2511, to become operative only if AB 211 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

(4) 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of

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the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and special needs facilities. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters and special needs facilities for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas to locate special needs facilities. Cities and counties should include this as part of their planning process and locate these facilities where most appropriate in their community. The state should not dictate where these residential special needs facilities should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

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implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the

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state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it

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is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the

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jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by housing development project, special needs facility, or emergency shelter. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for

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lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

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(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or

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the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility, or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this

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section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 5.5. Section 65589.5 of the Government Code is amended to read:

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65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a

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special needs facility, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety

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standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to

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provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) This section does not relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). This section does not relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) This section does not prohibit a local agency from requiring the housing development project, special needs facility, or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards. However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the housing development project, special needs facility, or emergency shelter. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide

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necessary public services and facilities to the housing development project, special needs facility, or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

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(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent

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with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, special needs facility, or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of a special needs facility, emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, special needs facility or emergency shelter. The court shall retain jurisdiction to ensure

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that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, special needs facility, or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, special needs facility, or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

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preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

SEC. 7. (a) Section 3.5 of this bill incorporates amendments to Section 65583 of the Government Code proposed by both this bill and AB 2634. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 65583 of the Government Code, and (3) this bill is enacted after AB 2634, in which case Section 3 of this bill shall not become operative.

(b) Section 5.5 of this bill incorporates amendments to Section 65589.5 of the Government Code proposed by both this bill and AB 2511. It shall only become operative if (1) both bills are

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enacted and become effective on or before January 1, 2007, (2) each bill amends Section 65589.5 of the Government Code, and (3) this bill is enacted after AB 2511, in which case Section 5 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Approved _____, 2006

_____

Governor

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COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1322
AUTHOR : Cedillo
TOPIC : Housing.

TYPE OF BILL :
Inactive
Non-Urgency
Non-Appropriations
2/3 Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2006
Nov. 30 Died on file.
Oct. 4 In Senate. To unfinished business. (Veto)
Sept. 30 Vetoed by Governor.
Sept. 13 Enrolled. To Governor at 4 p.m.
Aug. 31 Senate concurs in Assembly amendments. (Ayes 24. Noes 14. Page 5592.) To enrollment.
Aug. 31 In Senate. To unfinished business.
Aug. 31 Read third time. Passed. (Ayes 41. Noes 34. Page 7567.) To Senate.
Aug. 30 Reconsideration granted.
Aug. 28 Read third time. Refused passage. (Ayes 32. Noes 38. Page 7165.) Motion to reconsider on next legislative day made by Assembly Member Lieber.
Aug. 24 Read third time. Amended. To third reading.
Aug. 22 Read second time. To third reading.
Aug. 21 Read second time. Amended. To second reading.
Aug. 17 From committee: Do pass as amended. (Ayes 13. Noes 5.)
Aug. 7 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 5. Noes 2.) Read second time. Amended. Re-referred to Com. on APPR.
June 28 From committee: Do pass, but first be re-referred to Com. on L. GOV. (Ayes 5. Noes 2.) Re-referred to Com. on L. GOV.
June 19 Re-referred to Coms. on H. & C.D. and L. GOV.
June 15 From committee with author's amendments. Read second time. Amended. Re-referred to committee.
June 15 To Coms. on L. GOV. and H. & C.D.
May 31 In Assembly. Read first time. Held at Desk.
May 30 Read third time. Passed. (Ayes 25. Noes 11. Page 4142.) To Assembly.
May 26 From committee: Do pass as amended. (Ayes 9. Noes 4. Page 4044.) Read second time. Amended. To third reading.
May 22 Set for hearing May 25.
Apr. 24 Placed on APPR. suspense file.
Apr. 12 Set for hearing April 24.
Mar. 28 Read second time. Amended. Re-referred to Com. on APPR.
Mar. 27 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 9. Noes 1. Page 3314.)
Mar. 6 Set for hearing March 21.
Feb. 22 To Com. on T. & H.
Feb. 17 From print. May be acted upon on or after March 19.
Feb. 16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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SENATE TRANSPORTATION & HOUSING COMMITTEE BILL NO: SB 1322
SENATOR ALAN LOWENTHAL, CHAIRMAN AUTHOR: cedillo

VERSION: To be amended
Analysis by: Mark Stivers FISCAL: Yes

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such

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housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for

emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified

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in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

Apply the law to emergency shelters.

Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill . According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping . Recent press accounts in

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the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability . To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches . The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities. Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of

homelessness.

5. Technical amendments . The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

(d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

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(f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing or an emergency shelter?"

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

1322 (Cedillo)

Hearing Date: 4/24/06 Amended: 3/28/06
Consultant: Mark McKenzie Policy Vote: T&H (9-1)

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually			GF
	-----see staff comments-----			

STAFF COMMENTS: This bill meets the criteria for referral to the Suspense File.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

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Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would

likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this

bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

1322 (Cedillo)

Hearing Date: 5/25/06 Amended: 3/28/06
Consultant: Mark McKenzie Policy Vote: T&H (9-1)

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually			GF
	-----see staff comments-----			

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

Require local governments, in their analysis of special

housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average

annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

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SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 1322

THIRD READING

Bill No: SB 1322
Author: Cedillo (D)
Amended: 5/26/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SUBJECT : Emergency shelters and transitional housing to serve the homeless

SOURCE : Author

DIGEST : This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the communitys need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected

CONTINUED

housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate

sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

1. Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

2. Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3. To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4. Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing element.

5. Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

6. Define transitional housing as housing with supportive

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services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

7. Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

1. Apply the law to emergency shelters.

2. Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Related Legislation

SB 1800 (Ducheny), requires local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber), requires communities to analyze the need for extremely low-income housing in their housing element.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09

Fund	
Reimbursable mandate unknown, likely over $200 annually	GF

SUPPORT : (Verified 5/25/06)

California Rural Legal Assistance Foundation
Western Center on Law and Poverty

ARGUMENTS IN SUPPORT : According the author's office,

there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 5/26/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Gene Mullin, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE : 25-11

SUBJECT : Housing: emergency shelters

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for residential service facilities and emergency shelters and also to identify specific sites with by-right zoning to accommodate such facilities. Specifically, this bill :

1)Requires local governments to include in their housing element an analysis of the need for residential service facilities and emergency shelters.

2)Requires the inventory of sites (a requirement of the housing element) to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3)Requires local governments to identify and rezone sufficient sites to accommodate the need, if the inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4)Allows local governments to comply with the requirements of the bill during the next regular update cycle of their housing element.

5)Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is consistent with the existing law definition in the Health and Safety Code.

6)Defines residential service facility as a residential facility that provides social rehabilitation services, regular

individualized case management services, and independent living skills development.

7)Amends the anti-NIMBY law to:

a) Apply the law to emergency shelters.

b) Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW

1)States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving the state housing goal and adequately plan and take steps to meet those goals (Government Code Section 65581).

2)Requires the planning agency of each city and county to adopt a general plan "to guide the future growth of a community" containing various elements including a housing element (Government Code Sections 65300 and 65302).

3)Requires the housing element of a city or county to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, analyze opportunities for energy efficiency, and establish community goals related to housing for all income levels (Government Code Section 65583).

4)Each community's identification of adequate sites must satisfy the housing allocation targets set by the Council of Government (COG) [Government Code Section 65584].

5)Requires, prior to each Housing Element revision, that each COG, in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where COGs do not exist, HCD shall determine the local share of the region's housing need

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(Government Code Section 65584).

6)Requires the following income categories (and their definitions) to be provided for under Housing Element Law:

a) Very low income (50% or lower of area median income);
b) Lower income (80% or lower of area median income);
c) Moderate income (between 80% and 120% of area median income); and

d)Above moderate income (exceeding 120% area median income).

(Government Code Section 65584)

7)Prohibits a local agency from disapproving specified affordable housing projects or conditioning its approval of a project in a manner that would render the affordable housing aspect infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason. Permissible reasons include a specific, adverse impact on public health or safety where there is no satisfactory mitigation method, a need to comply with a specific state or federal law, or a project's inconsistency with a zoning ordinance or general plan. Known as anti-NIMBY law (Not In My Back Yard) [Government Code Section 65589.5].

8)Requires cities and counties to allow the development of second housing units in single-family and multifamily residential zones (Government Code Section 65852.2).

FISCAL EFFECT : Unknown.

COMMENTS :

Background

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must

adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

Rezoned sites must allow for the development of housing as a

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"use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1)The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

2)The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

3)The denial is required to comply with state or federal law;

4)The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

5)The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Arguments in Support

According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate

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shelters and transitional housing to accommodate its respective need.

Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

Arguments in Opposition

Opponents argue that SB 1322 would change the housing element law in at least three critical ways. First, SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would apply to nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities (including registered sex offenders). These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an eight bed facility.

Second, this bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the

agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop a land inventory at the outset where all residential care facilities, emergency shelters, and other similar housing be approved "by-right."

Third, SB 1322 does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of

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homeless and other transitional needs, others number are more difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or sex offender parolees that will relocate to the community? There is no source for this information. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

Opponents assert that SB 1322 introduces too vague a standard upon which to judge a general plan document. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code Section 50105(b) clarifies that the term very low income includes extremely low income households.) This is why opponents have worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

Staff Comments

The Committee may wish to consider whether there is any practical way to determine the size of the population and therefore the actual need of those to be served by residential service facilities as provided under SB 1322. It would seem that the homeless are a population that can be reasonably calculated for which emergency shelters may be planned for under the housing element process. However, the committee may wish to consider whether there is any way to calculate the number of heroin addicts in a community and estimate what that figure will be during the next housing element planning cycle (projected growth of that population over 10 years). So too for abused women with children, or emancipated foster youth, or mentally ill. The committee may wish to consider whether amending the

housing element law is a the appropriate tool to estimate the need for residential service facilities.

Suggested Amendments

Staff suggests retaining the portion of the bill that adds "emergency shelters" to the housing element planning process but deleting references to "residential service facilities" including the requirement that such facilities be zoned as a use by right. Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

Staff further recommends amending planning and zoning law to include a provision, similar to existing law requirements for second units, a provision that will require every city and

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county to designate areas that allow with conditional use if necessary "residential service facilities".

Staff also suggests adding "residential service facilities" to provisions of Government Code Section 65589.5, anti-NIMBY law.

Double referred : The Assembly Committee on Rules referred SB 1332 to Housing and Community Development and Local Government Committee. If SB 1332 passes this committee, the bill must be referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION :

Support

California Rural Legal Assistance Foundation (as introduced)
Central City Association of Los Angeles (as introduced)
City of Santa Monica (as amended March 28, 2006, with requested amendment)
Housing California
JERICHO (as amended March 28, 2006)
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc. (as amended March 28, 2006)
San Diego Housing Federation (as amended March 28, 2006)
Shelter Partnership, Inc., Los Angeles (as amended March 28, 2006)
The Midnight Mission, Los Angeles (as introduced)
Union Rescue Mission, Los Angeles (as introduced)
Western Center on Law & Poverty

Opposition

American Planning Association, California Chapter (as introduced, unless amended)
City of Roseville
City of Torrance (as amended March 28, 2006)
League of California Cities

Analysis Prepared by : Hubert Bower / H. & C.D. / (916) 319-2085

Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Simon Salinas, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE : 25-11

SUBJECT : Housing.

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and residential service facilities and also to accommodate the need for such facilities on sites that are zoned to allow their use by right. Specifically, this bill :

1)Adds emergency shelters and residential service facilities to the list of types of housing for which a local government must identify adequate sites in its housing element.

2)Adds residential service facilities to the list of types of housing that must be included in the housing element's analysis of special housing needs.

3)Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities and requires these sites to be zoned to permit shelters or residential service facilities as a use by right.

4)Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters and residential service facilities as a use by right.

5)Allows a local government to satisfy the requirement to identify sites for emergency shelters and residential service facilities through a multijurisdictional agreement with adjacent communities.

6)Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing

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element.

7)Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

8)Defines residential service facility as any of the following, consistent with existing law definitions in the Health and Safety Code, that serve seven or more persons: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

9)Amends the anti-NIMBY law to:

a) Apply the law to emergency shelters; and

b) Prohibit a community from using the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW :

1)States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2)Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3)Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4)Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

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5)Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6)Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7)Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and

   d) Above moderate-income (exceeding 120% area median income).

8)Prohibits, under the so-called "Anti-NIMBY Law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9)Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Senate Committee on Appropriations, SB 1322 would likely result in a general fund cost of over $200,000 annually due to the reimbursable state mandate for cities and counties to include additional information in their housing elements.

COMMENTS :

1)Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and

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ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

2) Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

3) Current law, commonly referred to as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

   a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

   b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

   c) The denial is required to comply with state or federal law;

   d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

   e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units,"

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it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

4) According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles. SB 1322 seeks to require every city and county to identify sufficient sites where emergency shelters and residential service facilities can locate by right to address each community's own need.

5) Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 1322 seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

6) The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such

facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

7) Opponents argue that SB 1322 sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. SB 1322 creates a different process for emergency shelters and residential

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service facilities by taking away a community's initial opportunity to develop a workable plan for accommodating these uses and instead requires that the local agencies develop a land inventory at the outset where emergency shelters and residential service facilities are allowed by right. In other words, communities must be able to accommodate 100% of their need for such facilities on sites that are zoned by right.

8)Under current law, residential service facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, small residential service facilities are a by-right use in residential zones in most communities. SB 1322 would dramatically expand by-right zoning for such facilities by requiring by-right zoning for facilities of any size. A 100-bed facility would have to be treated the same as a 4-bed facility.

9)The category of "residential service facilities" as defined in SB 1322 is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that

serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

10)The housing element process already requires cities and counties to address the need for emergency shelters in their

analysis of special needs housing. As such, cities and counties should already have some idea of how to count their homeless population. The need for residential service facilities, however, is a new addition, and it is unclear how a local agency would determine its fair share of such facilities. As has already been noted, the term "residential service facilities" is defined broadly and such facilities serve a variety of populations. How would a city or county calculate with any accuracy the number of drug addicts that may enter a rehabilitation program during the 10-year planning period, or the number of mentally ill persons who may need treatment, or the number of persons in need of a variety of other residential services? Basing a portion of a local agency's housing element on numbers that are so difficult to estimate would make the element particularly vulnerable to litigation. Indeed, existing law allows a judge to stop all

development within a community if a single element of the general plan is out of compliance with the law.

11)PROPOSED AMENDMENTS :

a) Delete the addition of residential service facilities to the housing element process, including the requirement that such facilities be zoned as a use by right;

b) Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

c) Add a new provision to the Planning and Zoning Law that would require every city and county to identify zones that allow, with conditional use if necessary, residential service facilities; and

d) Add residential service facilities to provisions of Government Code Section 65589.5, the anti-NIMBY law.

12)This bill has been double-referred to the Committees on Local Government and Housing and Community Development.

REGISTERED SUPPORT / OPPOSITION :

Support

CA Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Santa Monica
Housing CA
JERICHO
Midnight Mission, Los Angeles
National Association of Social Workers, CA Chapter
Protection and Advocacy, Inc.

San Diego Housing Federation
Shelter Partnership, Inc., Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law & Poverty

Opposition

American Planning Association, CA Chapter (unless amended)
CA State Association of Counties (unless amended)
Cities of Roseville and Torrance
League of CA Cities

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

Date of Hearing: August 16, 2006

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Judy Chu, Chair

SB 1322 (Cedillo) - As Amended: August 7, 2006

Policy Committee: Housing Vote: 5-2
Local Government 5-2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY

This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and to accommodate the need for such facilities on sites zoned to allow this use by right. Specifically, this bill:

1) Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned, with appropriate development and management standards, to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Amends the anti-NIMBY law-which prohibits a local governments from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason-to apply to emergency shelters and "special needs facilities, " as defined.

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5)Requires local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and prohibits adoption of any ordinance prohibiting such facilities.

FISCAL EFFECT

Cities and counties will incur the following non-reimbursable cost to comply with the bill's requirements:

1)For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years about be about $500,000

2)Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS

1)Purpose . According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

2)Background . The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing,

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including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

3)Opposition . The League of California Cities' concerns include the new, mandated activities required in the bill, which the League believes will be very costly. According the League, "This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If the plan fails to meet the need, the agency must then approve housing "by-right" at present densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by right".

Analysis Prepared by : Chuck Nicol / APPR. / (916) 319-2081

SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 21, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT	5-2	HOUSING	5-2
Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

APPROPRIATIONS	13-5		
Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. Specifically, this bill :

1)Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2)Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3)Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4)Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5)Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6)Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.
7)Requires the analysis of special housing needs within the housing element to address transitional housing.

8)Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9)Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10) Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11)Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter

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care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW :

1)States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2)Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3)Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4)Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5)Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6)Requires each housing element's identification of adequate

sites to satisfy the community's share of the regional housing need.

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7)Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and,

   d) Above moderate-income (exceeding 120% area median income).

8)Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9)Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1)For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2)Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS : Current housing element law requires each city and

county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must

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adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1)The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2)The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3)The denial is required to comply with state or federal law.

4)The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities, or

5)The jurisdiction has identified sufficient and adequate sites to accommodate its share

of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters and special needs facilities do not contain housing "units," they are not considered housing development projects and are therefore not currently protected by the anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because

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homelessness affects all races, genders, and ages, and all geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. According to the author, this bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

This bill adds protections in law for emergency shelters, transitional housing, and special needs facilities in three ways. First, it would require every city and county to zone by right enough sites for emergency shelters to accommodate the community's need as identified in the housing element. Second, it would require every city and county to zone for special needs facilities and transitional housing and would prohibit local agencies from banning these types of uses. Third, it would apply the anti-NIMBY law to emergency shelters and special needs facilities to protect these types of projects from being unreasonably denied or conditioned in a manner that renders them infeasible to develop.

Under current law, special needs facilities that serve six or

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fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

The category of "special needs facilities" as defined in this bill is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that
serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

Opponents argue that this bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for

emergency shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0016486

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SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 24, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT 5-2

Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

HOUSING 5-2

APPROPRIATIONS 13-5

Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. Specifically, this bill :

1)Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2)Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3)Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4)Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5)Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6)Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7)Requires the analysis of special housing needs within the housing element to address transitional housing.

8)Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9)Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10) Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11)Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for

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the elderly.

12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13) Includes double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law; and should this bill and AB 2511 (Jones), pending in the Senate, both become law.

EXISTING LAW :

1)States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2)Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3)Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4)Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5)Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's

housing need.

6)Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing

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need.

7)Requires the housing element to provide for the following income categories:

a) Very low-income (50% or lower of area median income);

b) Lower-income (80% or lower of area median income);

c) Moderate-income (between 80% and 120% of area median income); and,

d) Above moderate-income (exceeding 120% area median income).

8)Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9)Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1)For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2)Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing

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to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

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According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because

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homelessness affects all races, genders, and ages, and all geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

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The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

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Under current law, special needs facilities that serve six or fewer persons must be treated the same as other residential uses

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in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

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serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

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opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0017068

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SENATE RULES COMMITTEE	SB 1322
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR : 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR : Not available

SUBJECT : Emergency shelters and transitional housing to serve the homeless

CONTINUED

SOURCE : Author

DIGEST : This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where

such housing is permitted, but does not require that

specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit

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emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility,

transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

   A. Apply the law to emergency shelters and special needs facilities.

   B. Prohibit a community from using the "not-needed"

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defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13.Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1.For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2.Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT : (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California

JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION : (Verified 8/28/06)

City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego

League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT : According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 8/30/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR : 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR : 41-34, 8/31/06 - See last page for vote

SUBJECT : Emergency shelters and transitional housing to serve the homeless

CONTINUED

SOURCE : Author

DIGEST : This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

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2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

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1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

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emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social

rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

    A. Apply the law to emergency shelters and special needs facilities.

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B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT : (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica

Housing California
JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION : (Verified 8/28/06)

City of Elk Grove
City of Roseville
City of Torrance
City of Vista

Provided by LRI History LLC

County of San Diego
League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT : According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

ASSEMBLY FLOOR :
AYES: Arambula, Baca, Bass, Berg, Bermudez, Calderon, Canciamilla, Chan, Chavez, Cohn, Coto, De La Torre,

Dymally, Frommer, Goldberg, Hancock, Jerome Horton, Jones, Karnette, Klehs, Koretz, Laird, Leno, Levine, Lieber, Liu, Matthews, Montanez, Mullin, Negrete McLeod, Oropeza, Parra, Ridley-Thomas, Ruskin, Saldana, Salinas, Torrico, Umberg, Vargas, Yee, Nunez
NOES: Aghazarian, Benoit, Blakeslee, Bogh, Cogdill, Daucher, DeVore, Emmerson, Evans, Garcia, Haynes, Shirley Horton, Houston, Huff, Keene, La Malfa, La Suer, Leslie, Lieu, Maze, McCarthy, Mountjoy, Nakanishi, Niello, Plescia, Richman, Sharon Runner, Spitzer, Strickland, Tran, Villines, Walters, Wolk, Wyland
NO VOTE RECORDED: Chu, Nation, Nava, Pavley, Vacancy

JJA:do 9/5/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

BILL NUMBER: SB 1322
VETOED DATE: 09/30/2006

To the Members of the California State Senate:

I am returning Senate Bill 1322 without my signature.

This bill would require local governments to include in their housing plans an analysis of the need for emergency shelters and special needs facilities. Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

For these reasons I am returning this bill without my signature. However, I am signing AB 2634, which achieves similar results relative to the inclusion of emergency shelters in housing plans but without placing onerous burdens on local governments.

Sincerely,

Arnold Schwarzenegger

LRI History LLC

intent@lrihistory.com
www.lrihistory.com
(916) 442.7660

Governor's Veto File Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916)
327-4478

SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR : 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR : Not available

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SUBJECT : Emergency shelters and transitional housing to serve the homeless

CONTINUED

SOURCE : Author

DIGEST : This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local

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government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where

such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

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Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

Provided by LRI History LLC

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility,

transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

A. Apply the law to emergency shelters and special needs facilities.

B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber),

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and AB 2511 (Jones).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes
Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT: (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California

JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 8/28/06)

Provided by LRI History LLC 2007-633 Page 752 of 1377

City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego
League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 8/30/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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Senate Supplemental #8

File Item # 225
SB 1322 (Cedillo)
Oppose

Senate Floor: 25-11 (5/30/06)
(AYE: Ashburn; NO: All other Republicans; except, ABS: Battin, McClintock)
Assembly Floor: Vote Not Available (8/31/06)
(NO: All Republicans)
Vote requirement: 21
Version Date: 8/24/06

Quick Summary

Assembly amendments add special needs housing, as defined, to the bill and requires that these facilities get the same treatment as the transitional facilities envisioned when the bill passed the Senate floor. Assembly amendments also add language to avoid chaptering problems with AB 2511 and AB 2634.

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Fiscal Effect

MINOR TO SIGNIFICANT COSTS.
State. Minor support costs, likely less than $150,000, within the Department of Housing and Community Development for workload associated with site review of additional facilities included in local government's housing element plan.

Local. Potentially significant costs, likely less than $500,000 for local governments to modify their housing element plans to include additional emergency shelter, transitional housing, and residential service facilities within their housing element plans.

Fiscal Consultant: Chantele Denny

Analysis

Arguments in Support:
According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads

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to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments in Opposition:
Arguing in opposition to the bill, the California Chapter of the American Planning Association identifies several areas of concern. (1) How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services? (2) Are these facilities allowed to have unlimited numbers of residents above six? 16? 40? (3) How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing small group home facilities by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

Other Issues
Homelessness in the Press
Recent press accounts have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines.

Local Control
Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. Another element of local housing planning that is often overlooked is the use of impact fees by local communities to generate revenues on the backs of homeowners to pay for a host of services often completely unrelated to the development of housing.

There is a great deal of regulation imposed by the states on local government, much of it is appropriate and adhered to, some inappropriate and ignored. At

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some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, is this the appropriate method for meeting the needs of the homeless across the entire state?

Digest

Requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Amends housing element law to require local governments to analyze the need for transitional housing transitional housing, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions to serve the homeless and the need for residential facilities that provide rehabilitation services.

Requires local governments to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Requires local governments that have an inadequate supply of emergency shelters and residential service facilities to accommodate the need identified by their analysis to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Amends the anti-NIMBY law-which prohibits a local governments from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason-to apply to emergency shelters and "special needs facilities, " as defined.

Requires local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to

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conditional use permit, and prohibits adoption of any ordinance prohibiting such facilities.

Requires that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards.

Provides that a local agency may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards

Further requires that any housing element adopted or amended after 1/1/07 incorporate all the changes required by this act.

Incorporates additional changes proposed by AB 2634 that would become operative only if AB 2634 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

Also incorporate additional changes proposed by AB 2511, to become operative only if AB 2511 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

Background

Housing Element Law

Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right

If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an

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identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law

California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project: (1) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact; (2) the denial is required to comply with state or federal law; (3) the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or (4) the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Support & Opposition Received

Support: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

Opposition: League of Cities
California Chapter of the American Planning Association

Senate Republican Office of Policy / *Edward Morley*

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GOVERNOR ARNOLD SCHWARZENEGGER

SEP 30 2006

To the Members of the California State Senate:

I am returning Senate Bill 1322 without my signature.

This bill would require local governments to include in their housing plans an analysis of the need for emergency shelters and special needs facilities. Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or "by right," zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion and denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

For these reasons I am returning this bill without my signature. However, I am signing AB 2634, which achieves similar results relative to the inclusion of emergency shelters in housing plans but without placing onerous burdens on local governments.

Sincerely,

Arnold Schwarzenegger

STATE CAPITOL • SACRAMENTO, CALIFORNIA 95814 • (916) 445-2841

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September 27, 2006

Honorable Arnold Schwarzenegger
Governor of California
Sacramento, CA 95814

REPORT ON ENROLLED BILL

S.B. 1322

CEDILLO. HOUSING.

SUMMARY:[1]

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the

[1] This is a corrected digest of the bill. The changes in the digest appearing on the printed bill as adopted are indicated in strikeout and italics.

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duties of local public officials, the bill would create a state-mandated local program.

The bill would provide th.. its changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and *an amendment that alters the required content of a housing element applies to a housing element or housing element amendment the draft of which is submitted to the department, as specified, or when the city, county, or city and county fails to submit the first draft before a specified date.* The bill would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low-, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) This bill would incorporate additional changes in Section 65583 of the Government Code, proposed by Assembly Bill No. 2634, to become operative only if A.B. 2634 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last. The bill would also

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incorporate additional changes in Section 65589.5 of the Government Code, proposed by A.B. 2511, to become operative only if A.B. 2511 and this bill are both chaptered and become effective on o efore January 1, 2007, and this bill is chaptered last.

(4) 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.

FORM: Approved.

CONSTITUTIONALITY: Approved.

TITLE: Approved.

CONFLICTS: (1) This bill, and Senate Bill No. 286 and Assembly Bill No. 2634, which are also before the Governor, would amend Section 65583 of the Government Code.

This bill and A.B. 2634 each contain provisions that purport to make all of the changes in Section 65583 proposed by both of those bills if both bills are chaptered (Secs. 3.5 and 7, this bill; Secs. 1.5 and 2, A.B. 2634). However, these provisions in each bill omit certain of the changes to that section proposed by A.B. 2634.

S.B. 286 does not contain provisions that would make, or purport to make, all of the changes in the section proposed by this bill or A.B. 2634 if S.B. 286 and either this bill or A.B. 2634, or all three bills, are chaptered. S.B. 286 contains a provision that prevents the changes it proposes from becoming operative if either A.B. 2634 or this bill and S.B. 286 are enacted and S.B. 286 is enacted after either of those bills (Sec. 23, S.B. 286).

S.B. 286 would amend Section 65583 to delete obsolete provisions and make certain technical changes.

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A.B. 2634 would not make the technical changes to Section 65583 proposed by S.B. 286, but would delete the same obsolete provisions as S.B. 286. In addition, A.B. 2634 would amend Section 65583 to require the analysis of population and employment trends, and the quantification of a locality's existing and projected housing needs, for all income levels that a housing element is required to contain, to also include extremely low income households.

This bill would not make the technical changes to Section 65583 proposed by S.B. 286, but would delete the same obsolete provisions. In addition, this bill would amend Section 65583 to require (1) a housing element to identify adequate sites for emergency shelters, (2) the analysis of special housing needs contained in a housing element to include the needs for transitional housing, and (3) the housing element to contain an inventory of sites suitable for the development of emergency shelters that are zoned to permit that development as a use by right.

Thus, if both this bill and A.B. 2634 are chaptered, the changes in Section 65583 proposed by each of those bills, subject to certain exceptions, will be given effect without regard to the order of chaptering (Sec. 9605, Gov. C.). In this connection, because certain changes in Section 65583 that are proposed in A.B. 2634 are not contained in the provisions of these bills that purport to make all of the changes to that section proposed by each bill, these changes would, therefore, not take effect if both of these bills are chaptered.

If either this bill or A.B. 2634, or both, and S.B. 286 are chaptered, and S.B. 286 is chaptered last, the technical changes in Section 65583 of the Government Code proposed by S.B. 286 will not be given effect. If neither this bill nor A.B. 2634 is chaptered, but S.B. 286 is chaptered, all of the changes in Section 65583 proposed by S.B. 286 will be given effect.

(2) This bill and Senate Bill No. 286, which is also before the Governor, would both amend Section 65583.2 of the Government Code.

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This bill would make various changes in the section, including all of the changes proposed by S.B. 286, whether or not this bill is chaptered. S.B. 286 would not make any of the changes in that section proposed by this bill, other than a technical change.

This bill would amend the section to expand the definition of the phrase "use by right" to include use for an emergency shelter, and to make technical changes that include the technical change proposed by S.B. 286.

S.B. 286 would amend Section 65583.2 to make a technical change. S.B. 286 also contains a provision that prevents the changes it proposes from becoming operative if this bill and S.B. 286 are enacted and if S.B. 286 is enacted after this bill (Sec. 24, S.B. 286).

Thus, if this bill and S.B. 286 are chaptered, the changes in Section 65583.2 of the Government Code proposed by both bills will be given effect, regardless of which bill is chaptered last (Sec. 9605, Gov. C.). However, if only S.B. 286 is chaptered, only the changes in Section 65583.2 proposed by that bill will be given effect.

(3) This bill and Assembly Bill No. 2511, which is also before the Governor, would both amend Section 65589.5 of the Government Code.

This bill contains provisions that make all of the changes in Section 65589.5 proposed by both bills if both bills are chaptered, except for one change that names the section as the Housing Accountability Act (Secs. 5.5 and 7, this bill). A.B. 2511 contains provisions that make all of the changes in Section 65589.5 proposed by both bills if both bills are chaptered (Secs. 5.5 and 10, A.B. 2511).

Thus, if both bills are chaptered and A.B. 2511 is chaptered last, the changes in Section 65589.5 of the Government Code proposed by each bill will be given effect. However, if both bills are chaptered and this bill is chaptered last, all of the changes proposed by A.B. 2511 in that section will be given

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effect except for the provision that names the code section (Sec. 9605, Gov. C.).

Diane F. Boyer-Vine
Legislative Counsel

By Mariana Marín
Mariana Marín
Deputy Legislative Counsel

MAM:gms

Two copies to:

Honorable Gilbert Cedillo,
Honorable Dave Jones,
Honorable Sally J. Lieber, and
Honorable Alan S. Lowenthal,
pursuant to Joint Rule 34.

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ENROLLED BILL MEMORANDUM TO GOVERNOR

BILL: SB 1322 AUTHOR: Cedillo DATE: 9/13/06 DUE: 9/30/06

SENATE: 25-11 ASSEMBLY: 41-34 CONCURRENCE: 24-14

PRESENTED BY: Michael Prosio RECOMMEND: Sign ☐ Veto ☐

SUMMARY

This bill requires a local government to include in its housing element an analysis of the need for emergency shelters and special needs facilities, to identify specific sites with by right zoning to accommodate such facilities, and amends the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

SPONSOR: Author

SUPPORT: Department of Alcohol and Drug Programs
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
City of Santa Monica
Gray Panthers
Housing California
National Association of Social Workers, California Chapter
Non Profit Housing Association of Northern California
Progressive Jewish Alliance
Protection and Advocacy, Inc.
Sacramento Area Emergency Housing
Sacramento Housing Alliance
Santa Clarita Community Development Corp.
Skid Row Housing Trust
Venice Community Housing Corporation
Western Center on Law and Poverty
Yolo Wayfarer Center

OPPOSITION: Business, Transportation and Housing Agency
Department of Housing and Community Development (HCD)
California Health and Human Services Agency (defer to HCD)
Governor's Office of Planning and Research
Department of Finance
Assembly Republican Caucus

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Senate Republican Caucus
League of California Cities
County of San Diego
11 Letters from California Cities

FISCAL IMPACT
By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to HCD of $145,000.

ARGUMENTS IN SUPPORT
This bill appropriately aims to increase the awareness of the needs of, and certainty in addressing, the housing and service-related needs of homeless populations within California communities. Additionally, this bill addresses the continuing problem in California that many local zoning and regulatory processes act as a barrier to the development of housing and emergency shelters.

ARGUMENTS IN OPPOSITION
The proposed "use by right" requirements are not likely to be workable. Siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. It is therefore unlikely that "by right use" would be implemented in practice for such uses. Additionally, requiring a local agency to designate zones where special needs facilities are a permitted use, given the inability to determine such need accurately, is overly prescriptive and creates confusion. Despite such difficulty, this bill does not specify how local agencies will know what their fair share numbers are for special needs facilities. Finally, this bill contains drafting errors in the double joining language with AB 2634 and AB 2511 by referencing sections that have been deleted from AB 2634 and not referencing some changes made in AB 2511.

BACKGROUND INFORMATION
Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development. Housing element law also requires

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communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project: (1) the project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact; (2) the denial is required to comply with state or federal law; (3) the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or (4) the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Prepared by: Scott Datcher

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Business, Transportation and Housing Agency

ENROLLED BILL REPORT

CONFIDENTIAL-Government Code §6254(l)		
Department/Board: Housing and Community Development	**Author:** Cedillo (D-Los Angeles)	**Bill Number/Version Date:** SB 1322/August 24, 2006
Sponsor: Cedillo ☐ Admin Sponsored Proposal No.	**Related Bill(s)** AB 2511, AB 2634	**Chaptering Order (if known)** ☐ Attachment
Subject: Housing		

SUMMARY

This bill would require a local government to include in its housing element an analysis of the need for emergency shelters and special needs facilities to identify specific sites with by right zoning to accommodate such facilities, and would amend the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

PURPOSE OF THE BILL

According to the author, there exists a disproportionate availability of shelters and service providers in the State, which has lead to the concentration of homeless populations in inner cities and poor communities. Providers of emergency shelters and special care facilities contend that they encounter resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of these types of facilities. These service providers say they have come across communities with no zoning that allow these uses, even with a conditional use permit.

This bill addresses these issues by requiring each locality to make sites available for sufficient emergency shelters and special needs facilities to address its own needs and by amending the Anti-NIMBY statutes to apply to special needs facilities.

Departments That May Be Affected				
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment	☒ State Mandate ☐ Legislative Report	☐ Urgency Clause

Dept/Board Position	Agency Secretary Position
☐ Sign ☒ Veto ☐ Defer to:	☒ Sign ☒ Veto ☐ Defer to:
Director/Chair [signature] Date 9/8/06	Agency Secretary [signature] Date 9-12-06

RECOMMENDATION AND SUPPORTING ARGUMENTS: VETO

The Department of Housing and Community Development (Department) recommends the Governor VETO this bill.

The housing element already requires an analysis of needs for transitional housing, including housing developments with on-site services or access to community services for residents. Therefore, there is no need to add emergency shelters to this section of law.

This bill would also expand the scope of the "by right" requirement to emergency shelters and special needs facilities. There are many variables in siting of emergency shelters. Use of by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. Generally, emergency shelters do not meet these standardized conditions.

In addition, this bill does not indicate how local agencies will know what their fair share numbers are for emergency shelters and special needs facilities.

ANALYSIS

Existing law:

- Defines "residential care facility" as including any family home, group care facility, or similar facility determined by the Director of the Department of Social Services that provides 24-hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. These facilities include transitional shelter care facilities, transitional housing placement facilities, residential facilities, adult day care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities.

- Prohibits local governments from requiring a conditional use permit, zoning variance, or other zoning clearance of a residential care facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone (use by right).

- Requires each local government to adopt a long-term general plan. Each general plan must include seven internally consistent elements: land use, circulation, housing, conservation, open space, noise, and safety.

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Housing Element

- Requires local governments to update their housing element every five years.
- Requires a housing element to 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.
- Requires a housing element to identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and to make adequate provision for the existing and projected needs of all economic segments of the community.
- Requires a housing element to contain an assessment of housing needs and an inventory of resources and analysis of constraints which must include all of the following:
  - An analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels, including the locality's share of the regional housing need.
  - An analysis and documentation of household characteristics.
  - An inventory of land suitable for residential development.
  - An analysis of potential and actual govemment constraints upon the maintenance, improvement or development of housing for all income levels. This analysis shall also demonstrate local efforts to remove governmental constraints.
  - An analysis of potential and actual non-governmental constraints on the maintenance, improvement or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
  - An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of household, and families and persons in need of emergency shelter.
  - An analysis of opportunities for energy conservation with respect to residential development.
  - An analysis of existing assisted housing developments that are eligible to change from low income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

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- Requires the housing element to contain a program that sets forth a five-year schedule of actions the local government is undertaking or plans to undertake to:
  - Make sites available during the planning period of the general plan with appropriate zoning and development standards to accommodate the jurisdiction's regional housing needs assessment (RHNA) for each income level. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.
  - Assist in the development of low and moderate income housing.
  - Remove or mitigate government constraints.
  - Conserve and improve existing affordable housing.
  - Promote equal housing opportunity.
  - Preserve units at risk of conversion from low income use.
- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for groups of all income levels, to identify sites that can be developed for housing within the planning period.
- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for farmworker housing, to provide for sufficient sites to meet the need with zoning that permits use by right.
- Defines "use by right" to mean that a local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by right zoning, projects that meet the jurisdiction's zoning and development standards are approved ministerially at the staff level.
- Establishes the Legislature's findings and declarations as follows:
  - The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.
  - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

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- Declares that it is the policy of the State that a local government not reject or make infeasible housing developments that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

Anti-NIMBY Law

- Prohibits, pursuant to what is commonly referred to as the Anti-NIMBY law, a jurisdiction from disapproving a housing development project, including farmworker housing, for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development of affordable housing, unless it makes written findings as to one of the following:
  - The local government has adopted a housing element in substantial compliance with the law and has met its share of the regional housing need for the income category proposed by the project.
  - The housing project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households.
  - The denial is required to comply with State or federal law and there is no feasible method to comply without rendering the housing development unaffordable to low and moderate income households.
  - The housing project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.
  - The housing project is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households in the jurisdiction's housing element.
- Provides that nothing in the Anti-NIMBY law prohibits a locality from requiring the development project to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.
- Provides that the project applicant or any person who would be eligible to apply for residency in the housing development may bring an action to enforce the Anti-NIMBY law.
- Requires a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low, or moderate income households, without making sufficient findings, to

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issue an order compelling compliance within 60 days, including an order that the locality take action on the development project.

- Requires a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development.

- Authorizes a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the housing development and failed to carry out the court's order within 60 days.

Federal Law

- Federal law requires local governments within a county to develop a Continuum of Care Plan. The U.S. Department of Housing and Urban Development (HUD) defines the Continuum of Care Plan as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

- HUD identifies the fundamental components of a comprehensive Continuum of Care system to be:

  - Outreach, intake, and assessment to identify an individual's or family's service and housing needs and link them to appropriate housing and/or service resources.

  - Emergency shelter and safe, decent alternatives to the streets.

  - Transitional housing with supportive services to help people develop the skills necessary for permanent housing.

  - Permanent housing and permanent supportive housing.

- Federal law also requires larger cities and counties ("entitlement jurisdictions") that receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used, including addressing needs for emergency shelters and transitional housing.

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This bill would:

- Establish the Legislature's findings and declarations as follows:
  - Homelessness is a statewide problem, affecting an estimated 360,000 individuals and families throughout California. In Los Angeles County, an estimated 254,000 people experience homelessness over the course of each year.
  - Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.
  - Because homelessness affects people of all races, gender, age, and geographic location, there is a growing need for every local government to plan for the location of emergency shelters and special needs facilities. Many homeless individuals, primarily youth and single individuals, need both shelter and residential substance abuse and mental health services.
  - The lack or shortage of emergency shelters and special needs facilities for homeless populations statewide leads to the concentration of services in inner cities and poor communities, like the Skid Row area in downtown Los Angeles.
  - In order to ensure access to services in every city and county for homeless individuals and families, it is important for localities to plan for these services.
  - Local governments should plan and identify areas to locate special needs facilities as part of their planning process and locate these facilities where most appropriate in their community. The State should not dictate where these special needs facilities should be located.
  - It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

Housing Element

- Incorporate existing statutory definitions of emergency shelter and transitional housing into housing element law.
- Expand requirements of a housing element to include identification of adequate sites for emergency shelters.
- Require a housing element's analysis of special housing needs to include persons in need of transitional housing.
- Require a housing element's inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters. Such sites must be zoned to permit shelters as a use by right.

- Require the sites to be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

- Require the program, where the inventory of sites does not identify adequate sites to accommodate the need for emergency shelters, to identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet this need, with zoning that permits use by right. The sites must also be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

- Allow a local government to satisfy the requirements to identify sites suitable for the development of emergency shelters and to include a program to identify sufficient sites for these facilities by adopting a multi-jurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sites suitable to meet the collective needs of the participating communities.

- Delete obsolete provisions of housing element law regarding the analysis and incorporation of assisted housing developments in jurisdictions' housing elements by 1992.

- Clarify that the requirements of this bill become effective and would apply to any housing element submitted at least 90 days from the effective date of this bill or for jurisdictions that failed to submit their housing elements or updates prior to the statutorily required deadline.

- Add emergency shelters and special needs facilities to the existing definition of "use by right."

- Add to the Legislature's established findings and declarations:

  - The lack of emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

  - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of emergency shelters.

- Declare that it is the policy of the State that a local government not reject or make infeasible emergency shelters that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

- Contain double-jointing language to AB 2634 (Lieber) which adds the category of extremely low income households to housing element law.

Anti-NIMBY Law

- Extend the Anti-NIMBY statute protections to include emergency shelters and special needs facilities.
- Clarify that nothing in the Anti-NIMBY law prohibits a locality from requiring the emergency shelter and special needs facility to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.
- Clarify that the project applicant or any person who would be eligible to apply for residency in the emergency shelter or special needs facility may bring an action to enforce the Anti-NIMBY law.
- Extend to emergency shelters or special needs facilities the request that a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of such facilities without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the emergency shelter.
- Extend to emergency shelter or special needs facility the provision which requires a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the facility.
- Extend to emergency shelters or special needs facilities the provision which authorizes a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the emergency shelter or special needs facility and failed to carry out the court's order within 60 days.
- Define "special needs facility" as a facility licensed and serving seven or more persons including (1) community care facilities, (2) residential facilities, (3) social rehabilitation facilities", (4) community treatment facilities, (5) transitional shelter care facilities, (6) residential care facilities, (7) transitional housing placement facilities (8) residential care facility for the elderly, as these facilities are defined in existing law.
- Require a local agency to designate a zone where special needs facilities are a permitted use, either by right or subject to a conditional use permit.
- Prohibit a local agency from enacting or enforcing any ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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- Contain chaptering out language to AB 2511 (Jones) for changes to the Anti-NIMBY statutes.

Comments:

Development of affordable housing, including housing for homeless or special needs populations, is subject to many constraints, including local resistance during the local permitting process. Consequently, there is far too little development approved which meets the needs of special populations, including the homeless. Permit applications that are required by statute to be "use(s) by right" must be processed ministerially, and thus avoid what are often highly discretionary processes and conditions that can render such development infeasible, both financially and politically. In practice, however, it is difficult to implement such processing, and ministerial processing of housing or shelters for homeless populations is not, generally, currently practiced by local governments.

This bill would also expand the scope of the "by right" requirement to emergency shelters and special needs facilities. It is unlikely, however, that this provision would be workable because of the terminology problems surrounding emergency shelters and the fact that use by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. The siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. As it is, use by right is not readily available in most communities even for more standard housing development applications. It is, therefore, unlikely that by right use would be implemented in practice for these uses. It would be more appropriate and meaningful to require local governments to remove constraints to development.

The use by right provision is not appropriate to apply to emergency shelters or special needs facilities without a clear determination of such need. It would necessitate a "bright line" basis for determination of the adequacy of services to an identified homeless population. Estimates of the number of people who are homeless vary due in part to methodological variables such as differing definitions of homelessness and count time frames, as well as the difficulty of locating homeless individuals. This bill also does not clarify how local agencies will know what their fair share numbers are for emergency shelters or special needs facilities.

Furthermore, there is no definitive basis for quantifying the need for services relative to an identified homeless population – such assessments would be highly subjective. Estimates of the population within a community that is in need of services are generally not available for most communities at a precise level. Issues regarding the availability and provision of community services are most appropriately addressed in Continuum of Care and Consolidated Plans, which are required by federal law for all large jurisdictions where these needs are the most significant.

This bill includes double-jointing language to AB 2634 and AB 2511, which is objectionable to the Department. The Department is recommending a veto of SB 1322.

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and therefore we have not recommended a chaptering order for AB 2634 and AB 2511. However, upon reviewing the chaptering language in both AB 2634 and SB 1322 the language seems to indicate that whatever the chaptering order, the provision of this bill would rule over any changes in AB 2634. The Department prefers the solution in AB 2634 because the Department believes that this is attainable by local governments whereas the provisions of this bill may be unworkable.

The Department would note that there appears to be drafting errors in SB 1322 regarding the double-joining language. Specifically, this bill does not include all the changes made in AB 2634 and AB 2511.

LEGISLATIVE HISTORY

AB 2511 (Jones, 2006) would make several changes to land use law relating to housing including updating discrimination definitions, renaming Anti-NIMBY law, altering density provisions, and providing for enforcement measures if local governments do not turn in the annual report to the Department. Pending on the Governor's desk.

AB 2634 (Lieber, 2006) would require local governments, in the housing elements of their general plans, to undertake additional analysis and identify actions to address the housing needs of extremely low income households and encourage the development of supportive housing. Pending on the Governor's desk.

SB 257 (Chesbro, 2006) would provide specific statutory authority for the California Housing Finance Agency (CalHFA) to use funds to fund affordable housing including transitional housing for the mentally ill, residential housing, multifamily rental housing, and housing for other special needs populations. In addition, this bill would make changes to the compensation of the employees at CalHFA. Pending on the Governor's desk.

SB 1800 (Ducheny, 2006) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by right development opportunities. This bill died.

AB 1233 (Jones, Ch. 614, 2005) required a locality that failed in the prior housing element planning period to identify or make available adequate sites to accommodate its portion of the regional housing need, to zone or rezone adequate sites to make up for the unaccommodated portion of the regional housing needs assessment.

AB 2348 (Mullin, Ch. 724, 2004) made several revisions to the housing element law with respect to "by right" development and the requirement that localities identify adequate sites for housing construction.

SB 520 (Chesbro, Ch. 671, 2001) required a jurisdiction to include in its housing element an analysis of constraints on the development, maintenance, and improvement of housing for persons with disabilities.

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PROGRAM BACKGROUND

The Governor's Homeless Initiative

The Governor's Homeless Initiative, a joint project of the Department, the California Housing Finance Agency (CalHFA), and the Department of Mental Health (DMH), using Proposition 46 housing funds and Proposition 63 mental health care funds, assists with the development of permanent supportive housing for persons with severe mental illness who are chronically homeless. These are the types of housing developments that housing elements should demonstrate can be accommodated.

Housing Element Law

The Department is authorized by statute to review the housing element of the general plan for every city and county in California. Local governments must submit their housing elements to the Department for review and comment in order to determine whether the element complies with State law. Housing elements must contain specified items, including plans for meeting the RHNA determined by the Department, in conjunction with regional governments.

Cities and counties must revise their housing elements every five years, following a staggered schedule established in statute. Housing elements must identify and analyze existing and projected housing needs and state the jurisdiction's quantified housing planning goals. Specifically, this analysis must include, among other distinct items:

- An inventory of resources and constraints relevant to meeting housing need.
- Plans for meeting the jurisdiction's allocation of housing for the four income levels established by the RHNA process.
- An inventory of land suitable for residential development.
- An analysis of special housing needs identified by the jurisdiction, including the needs of the elderly, the disabled, large families, farmworkers, female-headed households, and the homeless.

OTHER STATES' INFORMATION

This bill involves issues that are unique to California law.

FISCAL IMPACT

Due to the increased workload associated with reviewing the housing elements with the new requirements, the Department would need one additional PY at the cost of $145,000.

ECONOMIC IMPACT

None.

LEGAL IMPACT

None.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: California Rural Legal Assistance Foundation; City of Santa Monica; Housing California; JERICHO; Midnight Mission, Los Angeles; National Association of Social Workers, California Chapter; Protection and Advocacy, Inc.; San Diego Housing Federation; Shelter Partnership, Inc., Los Angeles; Union Rescue Mission, Los Angeles; Western Center on Law and Poverty.

Opposition: League of California Cities; Cities of Elk Grove, Roseville, Torrance, Vista; American Planning Association, California Chapter; County of San Diego; Town of Apple Valley.

ARGUMENTS

Pro:

- This bill appropriately aims to increase the awareness of the needs of, and certainty in addressing, the housing and service-related needs of homeless populations within California communities.

- The bill would address the continuing problem in California that many local zoning and regulatory processes act as a barrier to the development of housing and emergency shelters.

Con:

- The proposed "use by right" requirements are not likely to be workable: Siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. It is therefore unlikely that "by right use" would be implemented in practice for such uses.

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- Requiring a local agency to designate zones where special needs facilities are a permitted use, either "by right" or subject to a conditional use permit, given the inability to determine such need accurately, would be overly prescriptive and create confusion.

- This bill does not specify how local agencies will know what their fair share numbers are for special needs facilities.

- This bill contains drafting errors in the double joining language with AB 2634 and AB 2511 by referencing sections that have since been deleted from AB 2634 and not referencing some changes made in AB 2511.

VOTES

The Republican "no" votes were cast because this bill would reduce local control over land use decisions and place a burden on local governments for siting facilities that is unworkable.

Assembly Floor			Concurrent	Senate Floor			Concurrent
DATE	AYE	NO		DATE	AYE	NO	August 31, 2006
August 31, 2006	41	34		May 30, 2006	25	11	Passed 24/14

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DEPARTMENT OF HOUSING AND COMMU: ITY DEVELOPMENT

SB 1322

SUGGESTED VETO MESSAGE

Senate Members, I am returning SB 1322 without my signature.

This bill would require local governments to include in their housing element an analysis of the need for emergency shelters and special needs facilities to identify specific sites with by-right zoning to accommodate these facilities. In addition, SB 1322 amends the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

Every community has a responsibility to ensure that individuals in need of special services and those who are homeless have decent, safe, and affordable housing. However, this bill would place a requirement on local governments that is unworkable. Siting emergency shelters and special needs facilities "by right" is not appropriate without a clear determination of such need.

I believe that AB 2634 (Lieber) is a better solution for providing safe and affordable housing for those populations who are the most in need.

Sincerely,

Arnold Schwarzenegger
Governor

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

ENROLLED BILL REPORT

CONFIDENTIAL-Government Code §6254(l)		
Department/Board: Department of Alcohol and Drug Programs	**Author:** Cedillo	**Bill Number:** SB 1322
Sponsor: Author ☐ Admin Sponsored Proposal No.	**Related Bill(s)**	**Chaptering Order (if known)** AB 2511, AB 2634, then SB 1322 ☐ Attachment
Subject: Emergency Shelters and Transitional Housing		

SUMMARY

Current statute requires local housing elements to include an analysis of the need for emergency shelters and transitional housing and to identify areas where these facilities could be located. This bill would mandate that if that analysis identified an unmet need for emergency shelters, a program to identify sites for emergency shelters would be required. This bill would also require that the permitting of proposals for emergency shelters, transitional housing or special needs facilities would either be by right or local jurisdictions would, only in limited cases, be able to prescribe conditions for such a development proposal. Through double joining with AB 2634 and AB 2511, local jurisdictions would be required to calculate the number of extremely low-income households for whom adequate sites would need to be identified as part of the regional housing needs process.

PURPOSE OF THE BILL

The purpose of this bill is to reduce local land use discretion in decisions that limit the development of emergency shelters, transitional housing, and special needs facilities.

Departments That May Be Affected				
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment	☐ State Mandate	☐ Urgency Clause

Dept/Board Position	Agency Secretary Position
☒ Sign	☐ Sign
☐ Veto	☐ Veto
☐ Defer to:	☑ Defer to: HCD
Director /Chair Date: 9/05/06	Agency Secretary Date: 9/12/06

Provided by LRI History LLC

RECOMMENDATION AND SUPPORTING ARGUMENTS:

SIGN: SB 1322 makes no reference to the Department of Alcohol and Drug Programs (ADP), and would have no direct impact upon ADP. However, many receiving substance abuse treatment services through ADP funding are homeless. This bill could facilitate efforts to develop facilities and services for substance abuse clients.

ANALYSIS

The skid row area of Los Angeles contains the largest homeless population in the western United States. These residents, many with substance abuse and/or mental health disorders, have access nearby to homeless shelters, and substance abuse and mental health facilities on skid row. While there is a concentration of services for the homeless on skid row, the demand for services far outstrips their availability. SB 1322 would amend housing element law to facilitate the development of emergency shelters, transitional housing, and special needs facilities in other areas of Los Angeles and California. This will reduce the concentration of homeless facilities and services in the skid row area of Los Angeles. Reducing the concentration of homeless facilities and services on skid row could facilitate the economic revitalization of this area of Los Angeles.

Supporters of this bill include homeless providers, housing advocates, public interest legal firms and one city with a homeless population disproportionately large compared to its population. Supporters believe passage of SB 1322 will reduce barriers to the siteing of homeless shelters, transitional housing, and special needs facilities in jurisdictions where there the demand for these facilities exceeds the supply. Opponents of SB 1322 include the League of California Cities, which historically opposes any infringement upon local land use controls and a small number of fast growing suburban localities that could be required to approve proposals if this bill becomes law.

Housing is a significant issue for many substance abusers in California, particularly those with co-occurring substance abuse and mental health disorders. The high cost of housing, low rates of new housing construction and restrictions by many housing programs mandating sobriety in tenants have created a housing crisis for many substance abusers throughout California; especially in higher-cost coastal areas such as Los Angeles.

An examination of client admission data from the California Alcohol and Drug Data System (CADDS) for three recent State Fiscal Years (FY) indicates many clients receiving substance abuse treatment funded through ADP are homeless at admission:

FY 2001-02		FY 2002-03		FY 2003-04	
Not homeless	72.5%	Not homeless	73.0%	Not homeless	74.6%
Homeless	17.7%	Homeless	17.9%	Homeless	17.7%
No Response	9.8%	No Response	9.1%	No Response	7.6%

Reflecting the importance of housing and the difficulty in securing shelter, California requires every city, county, and city and county to adopt a housing element and submit it for state review and comment. Each jurisdiction must include an analysis of local housing needs, resources, and constraints and detailed programs to address identified needs and constraints. Each jurisdiction must identify sufficient sites to accommodate the jurisdiction's portion of the regional housing need for very low-, low-, moderate-, and above moderate-income households. The regional housing needs process assigns each council of government a portion of the state's projected household growth, by income level. Each council of government assigns jurisdictions within its geographic area a regional housing need they must plan to accommodate over a five-year planning period.

This bill would define a special needs facility as including any of the following, if the facility is licensed and serves seven or more persons: community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as defined in other existing statutes.

Emergency shelters means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less.[1] Transitional housing is housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons.[2] Supportive services accommodate a range of client needs, including mental health, substance abuse management and recovery, community living and employment.[3]

The housing element is focused on conserving, improving and providing needed housing in California. SB 1322 would revise the housing element to:

- Require the inventory of sites available for residential development during the planning period include sites that could be developed as emergency shelters. Inventoried sites must have adequate infrastructure (typically water, sewer, streets, storm drains, etc.) and appropriate zoning to permit these facilities. If this inventory is insufficient to accommodate the local need for emergency shelters, the jurisdiction must initiate a program to designate areas with appropriate development standards and available infrastructure to accommodate the need for these facilities where these facilities could be developed.

- Require any unmet need for emergency shelters be zoned to permit emergency shelters, transitional housing and special needs facilities by right and could not deny proposals for such facilities, except under very limited circumstances. Use by right would not allow the local government to require a conditional use permit (necessitating a public hearing), or any other discretionary review or permit. Language in Section 7 of SB 1322 states that these use by right provisions (contained in both Section 5 and 5.5 of SB 1322) will only take effect if both SB 1322

[1] Health and Safety Code Section 50801
[2] Health and Safety Code Section 50801
[3] Mental Health Services Act Housing Toolkit, Corporation for Supportive Housing, November 2005 pg. 6.

and AB 2511 are signed into law and AB 2511 is signed first. However, while not identical, because Section 5 and Section 5.5 are virtually the same and both contain use by right provisions, it appears this requirement would become law regardless of which bill is signed first.

- Permit local governments to meet the requirement to identify adequate sites for emergency shelters by entering into multijurisdictional agreements with other localities to provide sufficient sites.

Through double-joining with AB 2634, this bill would require that jurisdictions quantify the existing and projected housing needs of extremely low income households (up to 30 percent of the county area median income). This change would also require jurisdictions to identify adequate sites to accommodate the projected need for extremely low income households during the five-year planning period. This provision would only take effect if SB 1322 and AB 2634 are signed and AB 2634 is signed first.

LEGISLATIVE HISTORY

SB 1800 (Ducheny), 2005-2006 Session, would require local governments to adopt, a Housing Opportunity Plan that includes a 10-year supply of land for housing and use by right development opportunities. This bill died.

AB 2511 (Jones), 2005-2006 Session, would extend existing anti-discrimination provisions by prohibiting a local government agency from discriminating in its planning and zoning activities against those of very low income. This bill was enrolled and contains provisions joining it to SB 1322.

AB 2968 (Leno), 2005-2006 Session, would require (1) the Department of Health Services to provide additional benefits to eligible Medi-Cal beneficiaries, and (2) require that the benefits include reimbursement for health-related and psycho-social services at community-based housing sites, and access to certain community-living support services. Eligibility would be limited to: Medi-Cal eligible residents of San Francisco who would otherwise be homeless, living in shelters, or institutionalized, and who meet at least one other criteria. This bill was enrolled.

AB 1475 (Steinberg) Chapter 578, Statutes of 2003, required the Department of Housing and Community Development to give priority in housing bond funds to projects with supportive services to low income adults with disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions.

AB 2348 (Mullin) Chapter 724, Statutes of 2004, (1) strengthened the definition of "use by right" applicable to multi-family development on sites identified in the housing element, (2) repealed the ability of localities to reject a project on the grounds that the project would cause an over concentration of lower-income households, and (3) stated that no finding based on inconsistency with planning or zoning requirements can be used to reject a project on a site identified for affordable lower-income housing development in the housing element.

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PROGRAM BACKGROUND

ADP is the Single State Agency designated to receive and distribute federal funds for alcohol and other drug (AOD) prevention and treatment services. ADP has licensed 854 residential treatment facilities and certified 963 non-residential treatment programs. Currently over 100,000 clients are being served daily in California's publicly funded treatment programs.

OTHER STATES' INFORMATION

Kentucky: Implemented legislation in 2004 (HB 376) barring discharge to an emergency shelter or into homelessness from foster care, mental health hospitals and correctional facilities. Public systems are required to provide discharge planning supports that include housing placement and links to other resources to achieve re-entry into the community. Legislation requires an individualized, comprehensive discharge plan be coordinated with services and respond to educational, employment, health care, and other needs in addition to housing.

New York: New York City's approach to homelessness redirects resources towards preventing people from becoming homeless by providing legal services, job training, and advocacy for those at risk of being evicted. Services are focused on improved interagency cooperation among hospitals, mental health facilities and prisons to assist those leaving institutions. A rental assistance program for financial support and 12,000 supportive housing units have been developed for the mentally ill and/or substance abusing homeless.

Washington, District of Columbia: Washington has utilized federal funding to establish a continuum of care that included new housing opportunities and related services and its shelter-based system has been transformed to an integrated continuum of care and the number of people living on the streets has been significantly reduced.

FISCAL IMPACT

- Unquantifiable potential costs to ADP to license alcohol and other drug (AOD) treatment facilities that may be facilitated by SB 1322. If the homeless are disbursed to outlying areas and facilities on skid row close, the total impact may be negligible.

- Language in SB 1322 indicates no reimbursement is required because a local jurisdiction or school district has the authority to levy service charges, fees, or assessments to pay for the costs of this statute. However, local housing element preparation costs are reimbursable through the Commission on State Mandates, and it is unclear how proposed developments could be required to pay for general plan revisions not associated or triggered by a development proposal.

ECONOMIC IMPACT

This bill could facilitate the development of new emergency shelters, transitional housing and special needs facilities in jurisdictions now lacking these facilities.

LEGAL IMPACT

Could facilitate additional litigation over local implementation of State Housing Element Law. Both private developer inspired and public service legal service firms have frequently brought suit over local housing element content and implementation.

APPOINTMENTS

No appointments are necessary per this bill.

SUPPORT/OPPOSITION

Support:
California Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Santa Monica
Housing CA
JERICHO
Midnight Mission, Los Angeles
National Association of Social Workers, CA Chapter
Progressive Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc., Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law and Poverty

Opposition:
Cities of Elk Grove, Roseville, San Diego, Torrance and Vista
Town of Apple Valley
League of California Cities.

ARGUMENTS

Pro:

- Could facilitate enhanced services to many AOD clients.
- Could facilitate the development of additional homeless shelters, transitional housing, and special needs facilities in additional jurisdictions with those needing these facilities and services.
- Could reduce the over-concentration of homeless facilities and services in skid row Los Angeles and other urban jurisdictions and the economic revitalization of these areas.

Con:

- May facilitate the development of stand-alone emergency shelters or special needs facilities in smaller communities, which may lack adjacent services needed by clients.

VOTES

Senate Floor: 25 Ayes, 11 Noes
Assembly Floor: 46 Ayes, 32 Noes
Senate Concurrence: 24 Ayes, 14 Noes

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VETO MESSAGE

To the Members of the California Senate:

I am returning SB 1322 without my signature.

I am very eager to address the needs of the homeless and to improve conditions for residents and businesses in areas with a disproportionate share of persons who are homeless or have special needs. Local governments will have to participate in the solutions to these problems. However, I am reluctant to impose greater restrictions on the exercise of local control over land use, outside of the context of a more comprehensive approach to helping our most desperate neighbors.

For these reasons, I am unable to sign SB 1322.

Sincerely,

Arnold Schwarzenegger
GOVERNOR

ENROLLED BILL REPORT

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

CONFIDENTIAL-GOVERNMENT CODE §6254(L)		
OFFICE: OFFICE OF PLANNING AND RESEARCH - LEGISLATIVE UNIT	**AUTHOR:** CEDILLO	**BILL NUMBER/VERSION DATE:** SB 1322 AUGUST 24, 2006
SPONSOR: ☐ ADMIN SPONSORED PROPOSAL NO.	**RELATED BILL(S)** AB 2511 AB 2634	**CHAPTERING ORDER (IF KNOWN)** 1) SB 1322 2) AB 2511 ☐ ATTACHMENT
SUBJECT: HOUSING		

SUMMARY

This bill would require a local government to include in its housing element an analysis of the need for emergency shelters and special needs facilities, to identify specific sites with by right zoning to accommodate such facilities, and would amend the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

PURPOSE OF THE BILL

The author is the sponsor of this bill.

According to the author, homelessness is a problem that affects all races, genders, age, and geographic areas of the state. As a result, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need; the high incidence of mental illness and substance abuse among homeless individuals makes it necessary to ensure the adequate provision of residential facilities that serve these populations. Adding to the problem, providers of emergency shelters and special care facilities contend that they encounter resistance at the local level when attempting to build these types of facilities.

Accordingly, the author has introduced SB 1322 in order to address these issues by requiring cities and counties to make sites available for sufficient emergency shelters and special needs facilities.

DEPARTMENTS THAT MAY BE AFFECTED

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

☐ NEW / INCREASED FEE ☐ GOVERNOR'S APPOINTMENT ☐ LEGISLATIVE APPOINTMENT ☐ STATE MANDATE ☐ URGENCY CLAUSE

POSITION
☐ SIGN
☒ VETO
☐ DEFER TO:

DEPUTY DIRECTOR	DATE	DIRECTOR	DATE
Dwight J. Jones	9-8-06	[signature]	09-11-06

This measure would also amend existing Anti-NIMBY statutes to apply to special needs facilities. In doing so, the author contends that this bill could provide protection to groups in need of assistance from, what the author contends are, the discriminatory practices of some cities and counties.

RECOMMENDATIC.. AND SUPPORTING ARGUMENTS
The Office of Planning and Research recommends that the Governc **VETO** SB 1322.

This bill would require a local government to include in its housing element an analysis of the need for emergency shelters and special needs facilities, to identify specific sites with by right zoning to accommodate such facilities, and would amend the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

While well intended, SB 1322 contains numerous problems. First, its implementation of "by right" zoning to include emergency shelters and special needs facilities is flawed, as it would result in a burdensome allocation process and inaccurate housing needs estimates. Further, by right zoning is unsuitable for emergency shelters and special needs facilities, as such facilities raise issues that are too varied to be addressed in the standard zoning process. This bill would additionally limit local government discretion on "special needs facilities," and encourage litigation against local governments in the land use planning process. Finally, this bill contains unnecessary and redundant requirements to identify adequate sites to be zoned by right, as well as substantial drafting errors that would likely result in chaptering issues.

ANALYSIS
Housing Element
Under existing law, each local government is required to adopt a long-term general plan. Each general plan must include seven internally consistent elements: land use, circulation, housing, conservation, open space, noise, and safety. Existing law requires local governments to update their housing element every five years, and requires the housing element to consist of an identification and analysis of existing and projected housing needs, a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Further, existing law requires a housing element to identify adequate sites for housing (including rental housing, factory-built housing, and mobile homes), and to plan adequately for the existing and projected needs of all economic segments of the community.

Existing law requires a housing element to contain an assessment of housing needs and an inventory of resources and analysis of constraints, which must include:

1) an analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels, including the locality's share of the regional housing need;
2) an analysis and documentation of household characteristics;
3) an inventory of land suitable for residential development;
4) an analysis of potential and actual government constraints upon the maintenance, improvement, or development of housing for all income levels. This analysis shall also demonstrate local efforts to remove governmental constraints;
5) an analysis of potential and actual non-governmental constraints on the maintenance, improvement or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction;

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6) an analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter;
7) an analysis of opportunities for energy conservation with respect to residential development; and,
8) an analysis of existing assisted housing developments that are eligible to change from low income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

Existing law requires the housing element to contain a "program" that sets forth a five-year schedule of actions the local government is undertaking or plans to undertake in order to: 1) make sites available during the planning period of the general plan with appropriate zoning and development standards to accommodate the jurisdiction's regional housing needs assessment (RHNA) for each income level (sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing); 2) assist in the development of low and moderate income housing; 3) remove or mitigate government constraints; 4) conserve and improve existing affordable housing; 5) promote equal housing opportunity; and 5) preserve units at risk of conversion from low income use.

Where a housing element's inventory of sites does not identify adequate sites, existing law requires the program to: 1) accommodate the need for groups of all income levels; 2) identify sites that can be developed for housing within the planning period; 3) accommodate the need for farmworker housing; and 4) provide for sufficient sites to meet the need with zoning that permits use *by right*.

Existing law defines "residential care facility" as any family home, group care facility, or similar facility determined by the Director of the Department of Social Services that provides 24-hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. These facilities include transitional shelter care facilities, transitional housing placement facilities, residential facilities, adult day-care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities.

Existing law prohibits local governments from requiring a conditional use permit, zoning variance, or other zoning clearance on a residential care facility that serves six or fewer where such a requirement would not apply to a family dwelling of the same type in the same zone (use by right).

Existing law defines "use by right" to mean that a local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by right zoning, projects that meet the jurisdiction's zoning and development standards are approved ministerially at the staff level.

Senate Bill 1322 would incorporate existing statutory definitions of emergency shelter and transitional housing into housing element law. This bill would expand the requirements of a housing element to include identification of adequate sites for emergency shelters, and would require a housing element's analysis of special housing needs to include persons in need of transitional housing. This bill would require a housing element's inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters. Such

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sites would be required to be zoned to permit shelters as a use by right, with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters. This bill would require the program, where the inventory of sites does not identify adequate sites to accommodate the need for emergency shelters, to identify actions that will be taken to make available adequate shelter sites that can be developed within the planning period and with zoning that permits use by right. These sites would also be required to be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

This bill would allow a local government to satisfy the requirements of identifying sites suitable for the development of emergency shelters, and to include a program to identify sufficient sites for these facilities, through the adoption of a multi-jurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sites suitable to meet the collective needs of the participating communities. Further this bill would delete obsolete provisions of housing element law regarding the analysis and incorporation of assisted housing developments in jurisdictions' housing elements by 1992.

This bill would clarify that the requirements of this bill would become effective and apply to any housing element submitted at least 90 days from the effective date of this bill, or for jurisdictions that failed to submit their housing elements or updates prior to the statutorily required deadline. Finally, this bill would also add emergency shelters and special needs facilities to the existing definition of "use by right."

Findings and Declarations

With regard to housing element law, existing law establishes the following legislative findings and declarations: 1) the lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California; 2) many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects; and 3) it is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

This bill would add the following to the Legislature's established findings and declarations: 1) the lack of emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California; 2) many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of emergency shelters; and 3) it is the policy of the state that a local government not reject or make infeasible emergency shelters that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

Anti-NIMBY Law

Commonly referred to as the Anti-NIMBY law, existing law prohibits a jurisdiction from disapproving a housing development project, including farmworker housing, for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development of affordable housing, unless it makes written findings as to one of the following:

1) the local government has adopted a housing element in substantial compliance with the law and has met its share of the regional housing need for the income category proposed by the project;

2) the housing project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households;
3) the denial is required to comply with state or federal law and there is no feasible method to comply without rendering the housing development unaffordable to low and moderate income households;
4) the housing project is located on agricultural or resource preservation land that does not have adequate water or waste-water facilities; and
5) the housing project is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households in the jurisdiction's housing element.

Existing law specifies that nothing in the Anti-NIMBY law prohibits a locality from requiring the development project to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need. Additionally, existing law provides that the project applicant or any person who would be eligible to apply for residency in the housing development may bring an action to enforce the Anti-NIMBY law.

Existing law requires a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low, or moderate income households, without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the development project. Further, existing law requires a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development. Finally, existing law authorizes a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the housing development and failed to carry out the court's order within 60 days.

This bill would extend the Anti-NIMBY statute protections to include emergency shelters and special needs facilities. This bill would clarify that: 1) nothing in the Anti-NIMBY law prohibits a locality from requiring the emergency shelter and special needs facility to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need; and 2) that the project applicant or any person who would be eligible to apply for residency in the emergency shelter or special needs facilities may bring an action to enforce the Anti-NIMBY law.

This bill would authorize emergency shelters or special needs facilities to request that a court—if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of such facilities without making sufficient findings—issue an order compelling compliance within 60 days, including an order that the locality take action on the emergency shelter. In addition, this bill would authorize a court to retain jurisdiction to ensure that its order is carried out, and to award reasonable attorney's fees and litigation costs to the plaintiff or petitioner. Finally this bill would authorize a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the emergency shelter or special needs facility and failed to carry out the court's order within 60 days.

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This bill would define "special needs facility" as a facility licensed and serving seven or more persons to include: 1) a community care facility; 2) residential facility; 3) social rehabilitation facility; 4) community treatment facility; 5) transitional shelter care facility; 6) a residential care facility; and 7) a residential care facility for the elderly as these facilities are defined in existing law.

This bill would require a local agency to designate a zone where special needs facilities are a permitted use, either by right or subject to a conditional use permit. This bill would prohibit a local agency from enacting or enforcing any ordinance, regulation or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

Federal Law

Federal law requires local governments within a county to develop a Continuum of Care Plan. The U.S. Department of Housing and Urban Development (HUD) defines the Continuum of Care Plan as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

HUD identifies the fundamental components of a comprehensive Continuum of Care system to be: 1) outreach, intake, and assessment to identify an individual's or family's service and housing needs and link them to appropriate housing and/or service resource; 2) emergency shelter and safe, decent alternatives to the streets; 3) transitional housing with supportive services to help people develop the skills necessary for permanent housing; and 4) permanent housing and permanent supportive housing.

Federal law also requires larger cities and counties ("entitlement jurisdictions") that receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used, including addressing needs for emergency shelters and transitional housing.

LEGISLATIVE HISTORY

Related Legislation

In 2001, SB 520 (Chesbro, Chapter 671) required a jurisdiction to include in its housing element an analysis of constraints on the development, maintenance and improvement of housing for persons with disabilities.

In 2004, AB 2348 (Mullin, Chapter 724) made several revisions to the housing element law with respect to "by right" development and the requirement that localities identify adequate sites for housing construction.

In 2005, AB 1233 (Jones, Chapter 614) required a locality that failed in the prior housing element planning period to identify or make available adequate sites to accommodate its portion of the regional housing need, to zone or rezone adequate sites to make up for the unaccommodated portion of the regional housing needs assessment.

In 2006, SB 1800 (Ducheny) would have required local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by right development opportunities. This bill failed to get out of the Senate Committee on Housing and Transportation.

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Pending Legislation
Senate Bill 257 (Chesbro) would provide specific statutory authority for the California Housing Finance Agency (CalHFA) to use funds to fund affordable housing including transitional housing for the mentally ill, residential housing, multifamily rental housing and housing for other special needs populations. In addition, this bill would make changes to the compensation of the employees at CalHFA. Senate Bill 257 is presently enrolled to the Governor.

Assembly Bill 2511 (Jones) would make several changes to land use law relating to housing including updating discrimination definitions, renaming the Anti-NIMBY law, altering density provisions, and providing for enforcement measures if a local government fails to turn in its annual report to the Department of Housing and Community Development (HCD). Assembly Bill 2511 is presently enrolled to the Governor.

Assembly Bill 2634 (Lieber) would require local governments, in the housing elements of their general plans, to undertake additional analysis and identify actions to address the housing needs of extremely low income households and encourage the development of supportive housing. Assembly Bill 2634 is presently enrolled to the Governor.

Similar to these previous measures, this bill would encourage the development of emergency shelters and special needs facilities by requiring a local government to analyze the need for these facilities, to identify specific sites with by right zoning to accommodate such facilities, and to amend the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

Chaptering Issue
This bill and AB 2634 (Lieber) would both amend Section 65583 of the Government Code. Both measures contain chaptering language that attempt to account for the others amendments to this section. However, language that was originally drafted for, but subsequently stricken from, AB 2634 has been inadvertently included in the section of this bill that would account for AB 2634 amendments. Further, AB 2634's own chaptering language does not account for its stricken language in Section 1 of that bill. This language was intentionally stricken from AB 2634 by the author, and per suggestion by HCD. As a result, if the Governor chooses to sign both bills, the order of the signing will be insignificant as the chaptering language of both measures do not account for AB 2634's amendments to Section 1 of that measure. Both authors are aware of the chaptering problem.

In addition, this bill and AB 2511 both amend Section 65589.5 of the Government Code. Both measures contain chaptering language to account for the other's amendments to this section with one exception: SB 1322's chaptering language failed to account for an amendment made by AB 2511, which would add a subsection (o) to this section. Should the Governor choose to sign both measures into law, he should sign AB 2511 second, in order to ensure that all amendments from both measures are accounted for.

DISCUSSION
Housing Element and "By Right" Zoning
By requiring that local agencies revise their general plans to designate areas where emergency shelters must be approved, and must be able to accommodate 100% of their need for shelters on sites that are zoned by right, SB 1322 would create a burdensome process for emergency shelter allocations. Requiring a local agency to designate zones where emergency shelters and special needs facilities are a permitted use (either "by right" or subject to a conditional use permit), would be burdensome, overly prescriptive, and confusing. Specifically, this bill fails to account for the

existing inability of local agencies to accurately calculate a fair share number for emergency shelters or special needs facilities. The major problem with determining local needs for shelters is that estimates of the number of people who are homeless vary, due in part to methodological variables such as differing definitions of homelessness and time frames for data computation, as well as the difficulty of locating homeless individuals for counting purposes. Such a mandate would result in inaccurate zoning and allocations for a population constantly in flux, and implementation issues at the local agency level.

Further, the housing element already requires an analysis of needs for transitional housing, including housing developments with on-site services and access to community services for special needs residents. Therefore, there is no need to add emergency shelters and special needs facilities to this section of law.

By right zoning is also only feasible where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category (e.g. density calculations). The siting of emergency shelters and special needs facilities generally invokes issues too varied and site-specific for use of such standardized conditions (e.g. public-safety and health issues). Moreover, use by right is not readily available in most communities even for more standard housing development applications. It is, therefore, unlikely that by right use would be feasible in practice for this even more complex use. Finally, issues regarding the availability and provision of community services are most appropriately addressed in Continuum of Care and Consolidated Plans, which are required by federal law for all large jurisdictions where these needs are the most significant. In fact, this bill would place a redundant requirement on such jurisdictions to account for their homeless populations.

Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons

Senate Bill 1322 would limit local discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in Anti-NIMBY law. This limitation would apply without regard to size. Thus, this measure would require a facility serving 150 people to be granted the same deference as a facility serving 8 persons. As a result, smaller local governments could be further burdened by being required to allow projects that are grossly oversized and inappropriate, compared to the needs of the region. Further, such a heavy-handed, one-size-fits-all state policy would impede the ability of all local governments to determine whether a project is appropriate for their community and also to factor in any community concerns.

Increased Scope of Attorney's Fees Awards

Senate Bill 1322 would allow a facility applicant, *or any person who would be eligible to apply for residency in the emergency shelter or special needs facilities*, to bring an action to enforce the Anti-NIMBY law, and would authorize the court to award reasonable attorney's fees. While in theory such a provision is harmlessly intended to increase citizen oversight over local communities, these attorney's fees provisions have historically been abused by trial lawyers that often facilitate claims and receive fees for "professional plaintiffs" whose eligibility to bring a claim exists solely because of the "possible," not actual, damages that could have been incurred. Similar to ADA "shakedown" suits, these attorney's fees provisions often result in large and unnecessary litigation expenses for local governments with little improvement to the alleged defect in policy or planning decisions. As a result, this provision could unnecessarily encourage frivolous litigation in the land use planning process.

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Redundancy in the Housing Element

Under existing housing element law, local planning agencies are granted the initial opportunity to plan for their share of any housing type. If their plan fails to meet the need, the agency must then approve housing "by right" at preset densities. This bill would require local jurisdictions to designate where emergency shelters must be approved "by right" at the outset. However, in this bill's amendment to Section 65583(c)(1)(C) of the Government Code, the bill would redundantly require those agencies that have not identified adequate sites by right in Section 65583(a)(7) again to identify adequate sites to be zoned by right. The effect of this language would be to require zoning by right, with the penalty of requiring zoning by right. While well intended, SB 1322 appears to be inaccurately drafted; and the intentions may be better realized by revisiting the issue in the next legislative session.

Unfunded State Mandates

Senate Bill 1322 would utilize a funding mechanism that would allow the state to avoid reimbursing local agencies for this measure's state-mandated zoning requirements. This fee mechanism, once largely supported by local government planners, was approved by the Legislature in 2002 as a part of AB 2936 (Aroner, Chapter 963). Prior to the passage of Aroner, local governments were forced to absorb the costs necessary to prepare and revise their general plans. However, under Aroner, local agencies have been authorized to pass on these costs through fees to local project applicants.

Unfortunately, Aroner has been largely abused by this Legislature, which has utilized its provisions as a blank check for the passage of its local agency land use planning mandates. The equivalent of a legislative Trojan horse, this Legislature has introduced dozens of bills with Aroner as the specified funding mechanism for local agencies to recoup their costs. This bill is no exception.

Senate Bill 1322 would require cities and counties to designate areas where special needs facilities and emergency shelters must be approved by right. A typical process for designating areas by right involves identifying sites or zones, developing a set of management conditions, consulting with police officers and other public-safety personnel, undergoing a CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city or county attorney. Such a process is costly and can exceed well over $10,000 per designation for each city and county.

Unfortunately, if this bill were to take effect, local agencies would be prohibited under the anti-NIMBY law from imposing conditions, *including fees*, which would make a project infeasible. Such a prohibition makes it difficult, if not impossible for a local government to recapture all, and in some cases most, costs from an emergency shelter or special needs facilities applicant. As a result, local governments would be required to pass on these planning and zoning costs to developers and other project applicants. However, with the increasing amount of mandates that the Legislature has annually placed on local government zoning and General Plan requirements, at some point it becomes impossible for local governments to recoup all these costs. Further, the constant imposition of these new mandates forces many local governments simply to absorb some of the costs themselves, as imposing sufficient fees to cover their actual costs would result in a loss of development to the community.

OTHER STATES' INFORMATION

No information has been obtained. However, this bill involves issues that are unique to California law.

Provided by LRI History LLC

FISCAL IMPACT
No appropriation is provided. This bill would create a state-mandated local program by requiring that local agencies revise their general plans to designate areas where emergency shelters must be approved by right. However, no reimbursement would be required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because local agencies have the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

According to HCD, due to the increased workload associated with reviewing the housing elements with the new requirements in this bill, that department would need an additional staff person at the cost of $145,000.

ECONOMIC IMPACT
This bill would not appear to adversely impact the state's economic or business climate.

LEGAL IMPACT
This bill would not appear to result in any increased liability for the state or conflict with any state or federal laws.

APPOINTMENTS
This bill would not impact a governor's appointment authority or make any appointments.

SUPPORT/OPPOSITION

Support: California Rural Legal Assistance Foundation; City of Santa Monica; Housing California; JERICHO; Midnight Mission, Los Angeles; National Association of Social Workers, California Chapter; Protection and Advocacy, Inc.; San Diego Housing Federation; Shelter Partnership, Inc., Los Angeles; Union Rescue Mission, Los Angeles; Western Center on Law and Poverty.

Opposition: League of California Cities; Cities of Elk Grove, Roseville, Torrance; Vista, American Planning Association, CA Chapter; County of San Diego, Town of Apple Valley.

ARGUMENTS

Pro: This bill could increase the availability of emergency shelters and special needs facilities within local jurisdictions.

Con: The proposed "use by right" requirements are burdensome, unnecessary, and likely unworkable. This bill would also create an unfunded mandate, and would likely lead to increased and unnecessary litigation against local governements.

VOTES:

Senate – May 30, 2006
Ayes – 25
Noes – 11

Assembly – August 24, 2006
Ayes – 44
Noes – 31

Concurrence – August 31, 2006
Ayes – 24
Noes – 14

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*Members of the Legislature voting against this measure were largely Republicans taking issue with this measure's reduction of local control over land use decisions and the burden it would place on local governments for siting emergency and special needs facilities.

LEGISLATIVE STAFF CONTACT

	Office
Sean Walsh, Director	(916) 445-0115
Sue Blake, Legislative Director	(916) 445-4831
Brent J. Jamison, Deputy Legislative Director	(916) 445-4831
James Bourbeau, Legislative Analyst	(916) 324-1398

To the members of the California State Senate:

I am returning Senate Bill 1322 without my signature.

While the author's intentions to increase the availability of emergency housing and special needs facilities are laudable, this bill would place an overly burdensome mandate on cities and counties through its "by right" zoning requirements. Specifically, this measure would preclude a local government from considering the needs and concerns of its community by limiting its authority to condition or deny special needs facilities projects as would otherwise be allowed by law. Such mandated, or "by right," zoning greatly usurps local government discretion and inaccurately presumes that all California city and counties have a need for these facilities. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities. Finally, this measure's implementation of by right zoning requirements would result in a redundant site identification process that is unnecessary.

For these reasons I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

Provided by LRI History LLC

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: August 24, 2006
RECOMMENDATION: Veto

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

ASSEMBLY: 41/34
SENATE: 24/14

BILL SUMMARY Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends this bill be vetoed for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers	9/8/06	Mark Hill for	9/8/06
Department Director	Date		
John Glavinich	9/8/06		

ENROLLED BILL REPORT — Form DF-43 (Rev 03/95 Pink)

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ANALYSIS

A. Programmatic analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

This bill is double-joined with AB 2634 (Lieber) and AB 2511 (Jones). AB 2634 would add to housing element law a requirement that local governments must analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites. Finance has an approved oppose position on the May 2, 2006 version of the bill. AB 2511 (Jones) makes various

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changes to housing laws. Finance has an approved neutral position on the June 26, 2006 version of the bill. Both bills are to enrollment.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SUGGESTED VETO MESSAGE

SB 1322

(as amended August 24, 2006)

I am returning Senate Bill No. 1322 without my signature. This bill would require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population and authorize development "by right" if the local government fails to identify sufficient sites.

While the intent to hold all local communities accountable for their share of the homeless population is laudable, accurately counting the homeless and other special needs populations is difficult. Additionally, if the requirement for local governments to provide sites for shelters is based on counts of where homeless persons are currently found, this would permanently burden those cities that attract a larger share of homeless persons because they are providing services, and would immunize those cities that limit their homeless populations because they provide no services. Additionally, this bill would increase state costs because increasing the scope of the housing element would require the state to reimburse those costs.

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California State Senate

SENATOR
GILBERT CEDILLO
TWENTY-SECOND SENATE DISTRICT

September 5, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
Sate Capitol, First Floor
Sacramento, CA 95814

Dear Governor Schwarzenegger,

I respectfully request that you sign SB 1322 into law. SB 1322 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters within the planning period and sufficient to shelter the families and persons in need of such service in the community.

In addition, the bill requires cities and counties to designate areas that allow with conditional use if necessary special needs facilities and transitional housing. SB 1322 also amends the anti-NIMBY law to include emergency shelters, transitional housing, and special needs facilities. Cities would need to comply with this requirement at their next regular update cycle and have the option of meeting this requirement as a region.

The intention of SB 1322 is to require cities and counties that lack adequate shelter and services for their homeless to plan for this population as a region or individually which is often met with community opposition. SB 1322 simply asks that cities and counties identify sites for emergency shelters in their housing element and designate areas for special needs facilities in their planning and zoning law. Under SB 1322, local governments decide where these shelters and facilities will locate and the number of facilities they need to plan for. With the current homeless counts available for individual cities and counties, local governments have an opportunity to plan for their homeless population and decide where this type of shelter will be available in their community or region.

SB 1322 is consistent with the state's 10-Year Action Plan to End Chronic Homelessness meant to provide a proactive approach to defining the needs of this vulnerable population. Homelessness is a statewide problem that affects many cities and counties. In California, there are an estimated 360,000 homeless individuals and families. For this reason, it is important for cities and counties plan to shelter this population that primarily consists of youth, women and children, and single individuals.

Also, by including special needs facilities in SB 1322 this legislation seeks to ensure that cities and counties designate areas for these facilities with proper management standards to provide homeless people with special needs shelter that includes supportive services. This provision is again consistent with the state's goal of creating 10,000 additional units of supportive housing.

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In the event that you are inclined to sign this bill, I would like to take the moment to highlight chaptering conflicts this bill has with two other bills. AB 2634 (Lieber) and AB 2511 (Jones) are two bills that amend the same sections of the Government Code that SB 1322 changes. Unfortunately, due to last minute amendments to AB 2634 and an oversight by Legislative Counsel to include chaptering language to SB 1322 to reflect the changes in AB 2511, I would respectfully request that you sign SB 1322 first if you are inclined to do so. By signing SB 1322 first, chaptering out problems would be avoided given that the chaptering amendments in SB 1322 do not reflect the last minute changes to AB 2634 and do not include changes to section 65589.5 of the Government Code made by AB 2511. Although the chaptering language in all three bills does not affect SB 1322, out of respect and consideration to my colleagues who authored these two housing bills I am making this request. For this reason, SB 1322 would need to be signed first, followed by AB 2511, and then by AB 2634 as it has been suggested by Legislative Counsel. Assembly Member Lieber and Jones are aware of the situation and have agreed to this in order to avoid chaptering out problems.

Again, I ask for your signature on SB 1322 that seeks to address the State's homeless crisis. Thank you for taking this important matter into consideration. If you have any questions, please feel free to contact me at 916-651-4022.

Sincerely,

Gilbert Cedillo
State Senator, 22nd District

cc: Michael Prosio, Office of the Governor, Legislative Unit

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V

SONOMA COUNTY TASK FORCE FOR THE HOMELESS
Safe, Secure and Affordable Housing for All

September 20, 2006

The Honorable Arnold Schwartzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Attention: Mike Prosio, Legislative Deputy

Dear Governor Schwarzenegger:

The Task Force for the Homeless respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities in Sonoma County:

- 2,232 people were found to be homeless in our 2005 Homeless Count.
- 454 of those were children, homeless through none of their fault.
- only 54% of those homeless people could be sheltered, given the shelters and transitional housing available.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views in consideration.

Sincerely,

Gale Brownell
Advocacy Chair

The Task Force is a coalition of public and private service providers, community organizations, businesses and individuals working to end homelessness in Sonoma County.

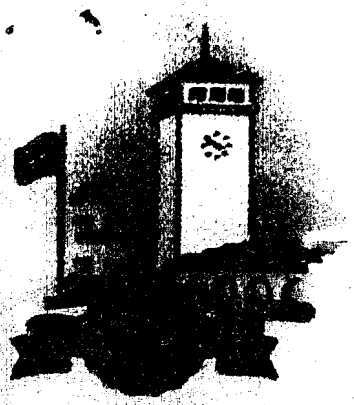
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City of
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September 27, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing: Request for VETO

Dear Governor Schwarzenegger:

The City of Huntington Park respectfully requests that you veto SB 1322 (Cedillo).

This legislation creates a new state mandate because it requires local agencies to revise their general plans to designate areas where emergency shelters must be approved by right. The total cost to local agencies statewide will exceed millions of dollars. A typical process for designating areas by right involves identifying sites or zones, developing a set of a set of management conditions, consulting with public safety personnel, undergoing CEQA review, coordinating efforts with county officials, drafting a zoning ordinance and review by the city attorney. A conservative cost estimate for the City of Huntington Park is $10,000.

SB 1322 also unnecessarily limits the discretion of cities to deal with large group home type facilities serving seven or more people and emergency and transitional shelters in the following ways:

- Limits Local Discretion for Social Rehabilitation and Community Care Facilities or "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons.

- Encourages Litigation by Increasing Scope of Attorney Fee Awards by extending the attorney fee provisions of Section 65589.5 to allow awards to anyone who could occupy a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing

facility. This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- Changed Process, Redundancies in the Housing Element for Emergency Shelters. SB 1322 takes away a community's initial opportunity to develop a workable plan for their share of the regional housing need. If the plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. However, this legislation amends Section 65583 (a) (7) to require at the outset that local agencies designate where emergency shelters must be approved "by-right". Then the amendments redundantly requires those agencies that have not identified adequate sites by-right in 65583(a) (7) to again identify adequate sites to be zoned by-right.

SB 1322 is not the best means to address the needs of very-low and extremely-low income households, including emergency shelters and transitional housing. This should instead be addressed in the planning process. Therefore, the City of Huntington Park respectfully requests that you veto SB 1322 (Cedillo).

Sincerely,

Juan R. Noguez, Mayor
City of Huntington Park

cc: League of California Cities
Huntington Park City Council
Gregory D. Kordsmer, City Manager

[illegible]

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V

CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6711 • FAX (562) 570-6583

GERALD R. MI
CITY MANAGER

September 26, 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: Opposition to SB 1322 (Cedillo): Housing

Dear Governor Schwarzenegger:

On behalf of the City of Long Beach, I am writing to indicate our opposition to SB 1322 (Cedillo), which would significantly limit local "control or authority" on "special needs facilities" serving seven or more people. Special needs facilities are defined in SB 1322 as a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

Based on current law, the City of Long Beach has the authority to condition or deny a special needs facility project for facilities that serve seven or more people. Earlier this year, the Long Beach City Council expressed concern that the City currently does not have any authority over the placement of special needs facilities that house people six and under, as some of these smaller facilities have become problematic in recent years. SB 1322 goes completely in the opposite direction and would remove local authority for all special needs facilities, whether they serve seven, 10, 100 or 200 people.

It is essential that local governments maintain the ability to make smart land use decisions that serve the needs of the entire community. There is no doubt that there is a need for special need facilities in Long Beach; however, the current authority vested in City Councils is a critical tool to help negotiate solutions between residents, businesses, and the operators of these facilities and must be maintained.

The authors intent behind the bill to ensure communities have access to these services is noble, but Long Beach does not believe depriving local governments of long-standing land use authority is an appropriate solution.

It is for this reason that we request a veto on SB 1322. Thank you for your understanding and consideration.

Sincerely,

GERALD R. MILLER
CITY MANAGER

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EBALDC

[redacted]

Vetz

September 20, 2006

Board of Directors
[redacted]

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

[redacted] your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay - while prices rise - just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

- continued -

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At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views in consideration.

Sincerely,

Lynette JungLee
Executive Director

cc: Senator Gil Cedillo
Sean Walsh, Chair, Interagency Council on Chronic Homelessness
Lynn Jacobs, Director, Department of Housing and Community Development
Terri Parker, Executive Director, California Housing Finance Agency

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CALIFORNIA
HOUSING
PARTNERSHIP
CORPORATION

September 22, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Attention: Mike Prosio, Legislative Deputy

Dear Governor Schwarzenegger:

The California Housing Partnership Corporation (CHPC) respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are considered under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part in considering a full range of housing options for all income levels represented in their populations.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

CHPC is a private nonprofit organization created in 1988 by the Legislature and the Governor to provide leadership on housing resource and policy issues and to assist nonprofit and local government housing agencies to create and preserve housing affordable to lower income households. Thank you for considering our views.

Sincerely,

Matt Schwartz
Executive Director

MAIN OFFICE
369 Pine Street
Suite 300
San Francisco, CA 94104
Ph: (415) 433-6804
Fax: (415) 433-6895

SAN DIEGO
PO Box 319
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800 South Figueroa Street
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PO Box 8132
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INLAND EMPIRE
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Ph: (951) 506-3377
Fax: (951) 506-3997

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California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Marc Brown
Staff Attorney
mbrown@housingadvocates.org

September 5, 2006

Honorable Arnold Schwarzenegger
Attn: Richard Costigan, Legislative Secretary
State Capitol
Sacramento, CA 95814

Re: SB 1322 (Cedillo) (REQUEST FOR SIGNATURE)

Dear Governor Schwarzenegger:

On behalf of our clients, the CRLA Foundation urges your signature of the above referenced measure.

Because of the widening gap between incomes and housing costs, many Californians are forced to pay 50%, 60%, 70% or more of their income for housing, leaving little money for food, medicine and other necessities. According to the State Department of Housing and Community Development, as many as 360,000 Californians have found it impossible to find any place that they can afford to live and are homeless. Single mothers with children are at especially high risk of homelessness.

SB 1322 (Cedillo) is an important measure to address the State's homelessness crisis. It does two major things. The bill adds a provision to housing element law requiring that localities identify sites for emergency shelters which are by-right, which means that no public hearing or discretionary permit is required. SB 1322 also adds emergency shelters to state Anti-Nimby law, thereby limiting the reasons that a locality can use to turn down a proposed shelter.

Contrary to what the opposition alleges, SB 1322 does not create an unfunded mandate. Localities have blanket authority under existing law to charge a fee to cover their planning costs. SB 1322 does not expand the scope of attorney fee awards in Anti-Nimby law, it merely adds shelters to that law in order to protect shelters from unreasonable community opposition. Finally, SB 1322 does not limit the authority of localities to zone for shelters. Localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met.

The State of California has an interest in and a moral responsibility to lower restrictive barriers to construction of emergency shelters for the homeless. Localities often cave into to neighborhood opposition and find clever ways to prevent new shelters. Stronger carrots and sticks are needed to create an incentive so that exclusionary communities will allow construction of their fair share of shelters for the homeless.

We urge your signature of this important measure.

Sincerely,

Marc Brown
Staff Attorney

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City of
Santa Monica

Mayor Robert T. Holbrook
Mayor Pro Tempore Bobby Shriver

Councilmembers

Richard Bloom
Ken Genser
Herb Katz
Kevin McKeown
Pam O'Connor

September 7, 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing – URGE SIGNATURE

Dear Governor Schwarzenegger,

On behalf of the City of Santa Monica I urge you to **SIGN SB 1322**, regarding fair share housing and services for homeless persons.

This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and to accommodate the need for such facilities on sites zoned to allow this use by right.

Fair share laws like this one attempt to provide fair distribution of the burdens and benefits that serve a regional need or alleviate a regional problem. Land use patterns and zoning policies typically are the purview only of local government and a hallmark of local control.

The City believes that equitable distribution of the care and housing for homeless people is a worthy goal to pursue and necessary so that all communities in a region participate in the solution to end homelessness.

The City of Santa Monica again urges you to **SIGN SB 1322 (Cedillo)**. Thank you for your consideration of our position.

Sincerely,

Robert Holbrook
Mayor

cc: The Honorable Gil Cedillo
Joshua Shaw, Legislative Advocate, Shaw/Yoder, Inc.

1685 Main Street • PO Box 2200 • Santa Monica • Ca 90407-2200
tel: 310 458-8201 • fax: 310 458-1621 • e-mail: council@smgov.net

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P.O. Box 19538
Sacramento, CA 95819
916.332.5080
www.graypanthersacramento.org

September 8, 2006

Honorable Arnold Schwarzenegger
State Capitol
Sacramento, CA 95814

RE: Sign SB 1322

Dear Governor Schwarzenegger,

Gray Panthers California strongly urges you to place your signature on SB 1322 (Cedillo). Our organization is dedicated to housing for all persons, including those who are homeless or have various specific needs that make them unable to provide for themselves at any given time. In a state so prosperous as our own, we cannot let anyone be left behind.

Homelessness is a grave issue in the state of California, as you know it is in Sacramento. Requiring cities and counties to identify sites for homeless shelters and designate zones for transitional housing and special needs facilities is an important first step in providing all California residents with safe housing. In order to ensure access to shelters and services in every community for homeless individuals and families, it is necessary for cities and counties to plan for these services to address the special needs and circumstances of this threatened population.

SB 1322 does not limit the authority of local governments to zone for shelters. Local governments would retain the authority to decide where shelters should be located, how large they should be and dictate the type of management requirements that must be met.

Working with major coalitions of housing advocates, Gray Panthers strongly support SB 1322 this important measure to address the State's homeless crisis and, again, urge your signature on it.

Sincerely,

Joan B. Lee
Legislative Liaison
Gray Panthers California

READY FOR ACTION TO TAKE ON THE FUTURE

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HOUSING California

AN END TO HOMELESSNESS. AFFORDABLE HOUSING FOR ALL.

The statewide coalition of nonprofit housing developers, homeless services organizations and other housing advocates.

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Southern California Association of Non-Profit Housing

801 12th Street, Suite 512
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916-447-0503 Phone
916-447-1900 Fax
www.housingca.org

September 6, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

Housing California respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay - while prices rise - just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

- continued -

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Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views in consideration.

Sincerely,

Julie M. Snyder
Legislative Advocate

cc: Senator Gil Cedillo
Sean Walsh, Chair, Interagency Council on Chronic Homelessness
Lynn Jacobs, Director, Department of Housing and Community Development
Terri Parker, Executive Director, California Housing Finance Agency

Provided by LRI History LLC

NASW CALIFORNIA CHAPTER ... the power of social work
National Association of Social Workers

September 7, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo) – Support

Dear Governor Schwarzenegger,

The National Association of Social Workers, California Chapter (NASW-CA) supports SB 1322, which calls for an increased availability of homeless shelters and transitional housing across the state of California.

The bill would require cities and counties to include emergency shelters, transitional housing, and special needs facilities in the housing of their general plans for development. SB 1322 would also require local governments to designate zones where special needs emergency shelters and transitional housing are permitted, all of which are necessary for the welfare and safety of California's homeless population.

At this time, such services are sparsely available, leaving many homeless without shelter and resources. Such needed resources for the homeless are often unequally distributed and concentrated in inner cities and impoverished communities. SB 1322 would provide for the homeless population of California through a more equal dissemination of homeless services.

The National Association of Social Workers, California Chapter represents over 12,000 professional social workers who have degrees from accredited social work programs across the country. NASW-CA advocates, on behalf of our members and their clients, for the implementation and improvement of programs and policies designed to enhance human well-being and help meet the basic needs of all people. SB 1322 will help the homeless population of California, by increasing the availability of shelters and related services. The National Association of Social Workers stands in support of SB 1322.

Should you have any questions regarding our position on SB 1322, please feel free to contact me at (916) 442-4565, ext. 12 or whill@naswca.org.

Sincerely,

Wendy Rae Hill, BSW

Wendy Rae Hill, BSW
Director of Government Relations and Political Affairs

Cc: Senator Cedillo, Room 5100

1016 23rd Street, Sacramento, California 95816
(916) 442-4565 • (800) 538-2565 • FAX (916) 442-2075

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HEFFERNAN INSURANCE BROKERS

A Member of the Heffernan Group

September 20, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

As an associate member of the Non Profit Housing Association of Northern California, I respectfully request your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay - while prices rise - just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

- continued -

1350 Carlback Ave. • Suite 200 • P.O. Box 5608 • Walnut Creek, CA 94596 • Phone 925.934.8500 • Fax 925.934.8278 • www.heffgroup.com
License #0564949

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Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking these views into consideration.

Sincerely,

Dan Mahoney
Assistant vice-president
Heffernan Insurance Brokers

cc: Senator Gil Cedillo
Sean Walsh, Chair, Interagency Council on Chronic Homelessness
Lynn Jacobs, Director, Department of Housing and Community Development
Terri Parker, Executive Director, California Housing Finance Agency

Provided by LRI History LLC

pja Progressive Jewish Alliance

September 14, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger,

Progressive Jewish Alliance (PJA) is a nonprofit organization dedicated to Jewish traditions of pursuing peace, promoting equality and diversity, and working for social and economic justice. We are a California-based organization with thousands of members throughout the state.

We are writing to in support of SB 1322. Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and transitional housing facilities is an important first step in providing all California inhabitants with the basic human right of safe housing. We applaud the provision to remove NIMBY laws that exclude the building of shelters, transition housing and special needs facilities in our local communities.

As the Jewish tradition mandates, we are deeply concerned about the welfare of our cities and all who reside within them. We therefore support SB 1322.

Sincerely,

Joan Patsy Ostroy
President

Daniel Sokatch
Executive Director

S. California
T 323.761.8350
F 323.761.8355
5870 W. Olympic Blvd.
Los Angeles, CA 90036

Bay Area
T 510.527.8640
F 510.527.8680
409 Liberty Street
El Cerrito, CA 94530

www.pjalliance.org

Provided by LRI History LLC

Protection & Advocacy, Inc.

LEGISLATION & PUBLIC INFORMATION UNIT
1029 J Street, Suite 150, Sacramento CA 95814
Telephone: (916) 497-0331 Fax: (916) 497-0813
www.pai-ca.org

September 8, 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 1322 (Cedillo) – REQUEST FOR SIGNATURE

Dear Governor Schwarzenegger:

Protection and Advocacy, Inc. (PAI), a non-profit advocacy agency mandated to advance the human and legal rights of persons who have disabilities, supports SB 1322 (Cedillo).

SB 1322 includes language to have the provision of emergency shelters and special needs facilities to be added to the five-year schedule of actions to implement the housing element and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and special needs facilities under these provisions. Specifically, SB 1322 would add emergency shelters to the list of projects that the local agency may not disapprove and would revise the conditions upon which a conditional use restriction for an emergency shelter is based.

Many people with disabilities reside in all kinds of special needs facilities, such as group homes, in the community. However, there is a shortage of such facilities and because of shortages many individuals end up in larger institutional settings due to the lack of available community placements. SB 1322 would increase the number of special needs facilities and, potentially make it easier for them to open.

Studies indicate that many people who are homeless are people with disabilities. Most homeless people rely on emergency shelters to have a place to sleep and get out of the cold. This bill would make it easier for emergency shelters to open by prohibiting the ability of a local agency to disapprove them, thereby promoting integration and prohibiting discrimination. Individuals with disabilities have an inherent, constitutional right to live in the community, in the least restrictive environment. We commend legislative efforts to advance these rights. For the

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foregoing reasons, PAI supports this bill.

Sincerely,

Evelyn M. Abouhassan

Evelyn Abouhassan
Legislative Advocate

CC: Michael Prosio, Deputy Legislative Secretary, Office of Governor Schwarzenegger

Provided by LRI History LLC

Sacramento Area Emergency Housing Center

September 8, 2006

Governor Arnold Schwarzenegger
State Capitol
Sacramento, CA 95814

RE: Please sign SB 1322

Dear Governor Schwarzenegger,

On behalf of Sacramento Area Emergency Housing (SAEHC) we urge your signature of SB 1322 (Cedillo). Our organization is dedicated to assisting families with children and single women towards self-reliance. SAEHC has been in Sacramento for over 30 years providing services to the homeless.

Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and designate zones for transitional housing and special needs facilities is an important first step in providing all California residents with safe housing. In order to ensure access to shelters and services in every community for homeless individuals and families, it is necessary for cities and counties to plan for these services to address the special needs and circumstances of this threatened population.

SB 1322 does not limit the authority of local governments to zone for shelters. Local governments would retain the authority to decide where shelters should be located, how large they should be and dictate the type of management requirements that must be met.

For the above reasons and more, Sacramento Area Emergency Housing Center strongly supports SB 1322 which is an important measure to address the State's homeless crisis.

We urge your signature on this important measure.

Sincerely,

Bonnie K. Hyer
Executive Director

saehc 2988 35th Street Sacramento, CA 95817 P 916.454.2120 F 916.454.2102

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SACRAMENTO HOUSING ALLIANCE

September 8, 2006

Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: Please sign SB 1322

Dear Governor Schwarzenegger,

On behalf of the Sacramento Housing Alliance we urge your signature of SB 1322 (Cedillo). Our organization is dedicated to promoting affordable housing and enhanced opportunities for lower income residents and people who experience homelessness. Our members work directly with homeless people in the Sacramento region. This bill will increase options for adequate service and upward opportunity.

Homelessness is a grave issue in the state of California. Requiring cities and counties to identify sites for homeless shelters and designate zones for transitional housing and special needs facilities is an important first step in providing all California residents with safe housing. In order to ensure access to shelters and services in every community for homeless individuals and families, it is necessary for cities and counties to plan for these services to address the special needs and circumstances of this threatened population.

SB 1322 does not limit the authority of local governments to zone for shelters. Local governments would retain the authority to decide where shelters should be located, how large they should be and dictate the type of management requirements that must be met.

For the above reasons and more, the Sacramento Housing Alliance strongly supports SB 1322 which is an important measure to address the State's homeless crisis.

We urge your signature on this important measure.

Sincerely,

Ethan J. Evans
Executive Director
1122 17th Street, Suite B • Sacramento, California 95814 • (916) 442-1198 Office • (916) 442-2851 Fax
E-mail: ethan@sachousingalliance.org • www.sachousingalliance.org

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SCCDC

"Making Santa Clarita Better... One Life at a Time"

SANTA CLARITA COMMUNITY DEVELOPMENT CORPORATION

A California Non-Profit Public Benefit Corporation
(I.R.C. §501(c)(3)) • Tax Identification No. 95-4587823

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Stephen C. Schmidt

September 11, 2006

Honorable Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

RE: Support for SB 1322 (Cedillo)

Dear Governor Schwarzenegger:

On behalf of the Santa Clarita Community Development Corp. (SCCDC), I am writing to urge you to sign into law Senator Gilbert Cedillo's SB 1322. Since 1995, The SCCDC has been assisting local governments and community and faith-based organizations in the development of housing and resources for the homeless throughout The Santa Clarita Valley.

Enactment of this legislation will require cities and counties to be accountable for planning for the housing needs of all segments of their population, including homeless persons. This will not only assist the individuals and families who are homeless by offering them services in their communities of origin, but will also benefit those cities that are currently overburdened by providing more than their fair share of shelters and other special needs facilities.

Currently, two-thirds of the 89 jurisdictions in Los Angeles County make no provision for emergency shelters or transitional housing in their zoning ordinances, effectively ignoring the needs of the homeless in their communities. Consequently, those localities that do provide shelters, including the Cities of Los Angeles, Glendale, Long Beach, Pasadena, and Santa Monica, are doing more than their fair share in housing homeless persons.

By signing this bill into law, you will be playing a key role in assuring that homeless individuals and families receive emergency housing assistance in their communities of origin where they can best be assisted in getting back on their feet.

Thank you very much for your consideration.

Sincerely,

Tim Davis
President

24901 ORCHARD VILLAGE ROAD • SANTA CLARITA, CALIFORNIA 91355
TELEPHONE 661-259-1298 • FACSIMILE 661-297-8394
[illegible] SANTACLARITAQUEST.COM

Provided by LRI History LLC

telephone : 213 683 0522 fax : 213 683 0781
1317 East Seventh Street Los Angeles CA 90021

skid row housing trust

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ARCO (retired)

Michael Alvidrez
Executive Director

September 11, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

Skid Row Housing Trust respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay – while prices rise – just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

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At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views into consideration.

Sincerely,

Michael Alvidrez
Executive Director

cc: Senator Gil Cedillo
Sean Walsh, Chair, Interagency Council on Chronic Homelessness
Lynn Jacobs, Director, Department of Housing and Community Development
Terri Parker, Executive Director, California Housing Finance Agency

Provided by LRI History LLC

Venice Community Housing Corporation
720 Rose Avenue, Venice, California 90291-2710
Tel: (310) 399-4100 Fax: (310) 399-1130
Web: www.VCHCorp.org

September 11, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The Venice Community Housing Corporation (VCHC) respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element.

VCHC is a Venice based nonprofit housing and community development organization. It was started in 1988 in response to a developing housing crisis - a burgeoning homeless population in Venice and escalating rents and property values that were forcing low income renters out of our community.

Over the years we have purchased 8 buildings and constructed 3 apartment buildings and a transitional housing facility for homeless women and their children. VCHC now has a total of 161 units in Venice and Mar Vista. Every one of our units is occupied by a low income individual or family. About a third of our units are occupied by formerly homeless people, many with severe mental disabilities.

VCHC has also been an active supporter of community and tenant efforts to preserve existing affordable housing in our community by strengthening existing rent stabilization laws, preventing the prepayment of mortgages of federally assisted housing and demanding replacement of affordable housing demolished to be replaced by new development.

Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

- continued -

Provided by LRI History LLC

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay - while prices rise - just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views in consideration.

Sincerely,

Steve Clare
Executive Director

WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento, California 95814
916.442.0753 (voice) • 916.442.7966 (facsimile)
www.wclp.org

8 September 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, California 95814

Re: Request for Signature on SB 1322

Dear Governor Schwarzenegger:

On behalf of our low-income California clients, the Western Center on Law and Poverty urges you to sign SB 1322 (Cedillo) which would establish standards for "by-right" zoning and siting of homeless shelters.

Media reports in the past year have highlighted the problem of several jurisdictions "dumping" homeless persons in neighboring cities. Of course, this solves nothing but merely shifts the problem. Other cities have refused to allow shelters.

SB 1322 is an important step in addressing the state's homelessness crisis. It does two major things. The bill adds a provision to housing element law, requiring that localities identify sites for emergency shelters which are developable "by-right".

SB 1322 does not limit the authority of localities to zone for shelters. Localities would retain the authority to decide where shelters should be located, how large they should be and what management requirements must be met. During the hearings on which parcels will be zoned for the purpose of homeless shelters, the public will be able to raise all of their concerns and demand responses from the local officials. However, after those sites have been designated, a shelter provider can acquire the land, and develop it "by right", consistent with the requirements that the local government has already adopted.

Many cities are already taking steps to deal with their homelessness citizens, and are disadvantaged by neighbors who resist the responsibility. SB 1322 will relieve these communities by requiring that their non-responsive neighbors do their part. The basic premise of the bill is that homelessness exists throughout the state, and that every city must plan to shelter their fair share.

We respectfully request your signature on SB 1322.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Michael Prosio

Provided by LRI History LLC

Yolo Wayfarer Center Christian Mission

Mailing Address
PO BOX 1248
Woodland, CA 95776
www.ywcmission.org

Main Mission
Emergency Services
Temporary Shelter
Daily Meals
[illegible] Fourth Street
Woodland, CA 95776
[illegible]-661-1218 Phone
[illegible]-661-2494 Fax
[illegible]@ywcmission.org

Esther's House
Residential Treatment
Transitional Living
[illegible] Fourth Street
Woodland, CA 95776
[illegible]-662-2699 Phone
[illegible]-662-6918 fax
[illegible]@ywcmission.org

Family Transitional
Transitional Housing
[illegible]-406-0844 Phone
[illegible]-406-1026
[illegible]@ywcmission.org

September 13, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

Yolo Wayfarer Center respectfully requests your signature on SB 1322 (Cedillo), which would add emergency shelters to the types of homes that are accommodated under the housing element. Just as your Initiative to End Chronic Homelessness is examining the role of the state in preventing and ending homelessness, SB 1322 focuses on ensuring local governments do their part.

SB 1322 is one of only a few bills you have the opportunity to sign that will address these sobering realities:

- More than 360,000 men, women and children are homeless every night in California.
- Last year, 5,100 children and adults were turned away from domestic violence shelters due to lack of space.
- In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters.
- Emergency shelter providers experience years of delay - while prices rise - just to secure a site on which to build a shelter. Many communities have NO sites zoned for shelters.

Ending homelessness depends on all communities meeting their residents' needs for affordable shelter. SB 1322 helps accomplish this by making building sites available, reducing red tape, and ensuring every community "takes care of its own."

At the same time, SB 1322 is responsive to the needs of other members of the community by allowing local governments to impose appropriate development and management standards on shelters. It is a reasonable, balanced approach to a problem that has been largely ignored in most localities.

Thank you for taking our views in consideration.

Sincerely,

Leona Jull

Leona Jull, Executive Director

To feed, clothe and shelter those in need and share the love of Jesus Christ in words and in action.

Provided by LRI History LLC

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0075
(916) 319-2075
FAX (916) 319-2175

E-MAIL
assemblymember.plescia@assembly.ca.gov

Assembly
California Legislature

DISTRICT OFFICE
9909 MIRA MESA BLVD., SUITE 130
SAN DIEGO, CA 92131
(858) 689-6290
FAX (858) 689-6230

WEBSITE
http://www.assembly.ca.gov/plescia

GEORGE A. PLESCIA
ASSEMBLY REPUBLICAN LEADER
SEVENTY-FIFTH DISTRICT

Monday, September 11, 2006

Governor Arnold Schwarzenegger
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 1322 (CEDILLO)

Dear Governor Schwarzenegger:

This letter serves to memorialize a veto request for Senate Bill 1322, which passed the Assembly on August 31, 2006, by a vote of 41 to 34, with 31 members of the Assembly Republican Caucus voting 'No'.

Senate Bill 1322 requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. It also extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility.

First, cities and counties will be unable to determine the need on which to base the zoning for facilities serving the homeless. This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies have an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Second, residential neighborhoods will be unable to absorb the impacts of such large facilities. SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size; indeed, a 150 bed facility must be treated the same as an 8 bed facility.

Third, this bill extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or

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community care facility. This will ultimately increase project costs and delay developments that result from an increase in frivolous and marginal litigation by various entities.

Fourth, there are potentially significant costs of $500,000 for local governments, to modify their housing element plans to include additional homeless shelters and transitional housing.

Finally, his bill creates an unfunded mandate. The cost of SB 1322 would exceed $10,000 per agency—and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. However, local agencies cannot be really expected to recapture their costs on the applications of homeless shelters and special needs facilities. The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

For the reasons stated above, I respectfully request that you veto Senate Bill 1322.

Sincerely,

George Plescia
Assembly Republican Leader

Provided by LRI History LLC

CALIFORNIA
Senate Republican Caucus

POLICY AND FISCAL OFFICE
DICK ACKERMAN, SENATE REPUBLICAN LEADER

SENATORS:
CHARLES S. POOCHIGIAN
ASST. REPUBLICAN LEADER
GEORGE RUNNER
CAUCUS CHAIR
DENNIS HOLLINGSWORTH
REPUBLICAN WHIP

SAM AANESTAD
ROY ASHBURN
JIM BATTIN
DAVE COX
JEFF DENHAM
ROBERT DUTTON
TOM HARMAN
ABEL MALDONADO
BOB MARGETT
TOM McCLINTOCK
BILL MORROW

September 11, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

RE: Recommended Veto of SB 1322 (Cedillo)

Dear Governor Schwarzenegger:

I write to respectfully request your veto of Senate Bill 1322 (Cedillo), which requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and makes it significantly more difficult for a city or county to disapproving these facilities.

The current law allowing small group home facilities by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. However, allowing group homes with unlimited numbers of residents in residential neighborhoods would impose substantial impacts on the residents of homes near those facilities.

This is a local control issue, in which the state is imposing transitional housing on local residents. Although these facilities are important, their value must be weighed against the interests of each community as a whole.

For these reasons, I respectfully request your veto.

Sincerely,

DICK ACKERMAN
Senate Republican Leader

1020 N STREET, SUITE 234, SACRAMENTO, CA 95814 TEL (916) 651-1501 FAX (916) 445-3126

Provided by LRI History LLC

1400 K Street
Sacramento, CA 95814
ph: (916) 658-8200
fx: (916) 658-8240

LEAGUE OF CALIFORNIA CITIES

www.cacities.org

September 5, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento CA 95814

RE: SB 1322 (Cedillo); Housing: Request for VETO

Dear Governor Schwarzenegger:

The League of California Cities and respectfully requests that you veto SB 1322 (Cedillo). Put simply, this is a well-intentioned bill that is so fraught with drafting and implementation problems that it creates more problems than it purports to fix.

Creates an Unfunded Mandate

SB 1322 creates a new state mandate because it requires local agencies to revise their general plans to designate areas where emergency shelters must be approved by-right. The total cost to local agencies statewide will exceed millions of dollars. A typical process for designating areas by-right involves identifying sites or zones, development a set of management conditions, consulting with police officers and other public safety personnel, undergoing CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city attorney. A conservative cost estimate is $10,000 per agency. But it's likely to be much higher, particularly in larger cities.

The author attempts an end-run around this issue by stating that local agencies may impose a fee to recapture their costs. *But who are local agencies suppose to impose the fee upon?* Presumably it's the shelter or community care facility. Yet such operations operate on a thin margin (indeed, cities often waive fees to make such projects feasible). Moreover, if this bill takes effect, local agencies would be prohibited under the anti-NIMBY law (§ 65589.5) from imposing conditions—including fees—that make the project infeasible unless specific set of narrow conditions are met (for example, they have not yet met their RHNA number). The result is that the very language of the bill creates instances where it will be impossible to recapture such fees if the applicant argues that the imposition of the fees makes the project infeasible.

Unnecessarily Limits Discretion for Local Agencies

SB 1322 unnecessarily limits the discretion of cities to deal with large group home type facilities serving seven or more people and emergency and transitional shelters in the following ways:

- ***Limited Discretion for Social Rehabilitation and Community Care Facilities.*** SB 1322 limits local discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to

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include community care facilities, adult day programs, social rehabilitations facilities, transitional shelter care facilities, among others.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions of Section 65589.5 to allow awards to anyone *who could occupy* a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing facility. This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Changed Process, Redundancies in the Housing Element for Emergency Shelters.*** This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by-right" Then, in the amendment to Section 65583(c)(1)(C), the bill redundantly requires those agencies that have not identified adequate sites by-right in 65583(a)(7) to again identify adequate sites to be zoned by-right. In essence, the bill requires zoning by-right on the threat of zoning by-right.

CONCLUSION: NOT THE BEST MEANS TO ADDRESS THIS ISSUE

Finally, SB 1322 is not the best means to address this issue. Certainly, the needs of very low- and extremely-low income households—including emergency shelters and transitional housing—should be included in the planning process. This is why the League worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans to address local needs.

Accordingly, the League requests your veto on SB 1322 (Cedillo). If you have any questions, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

c: Senator Cedillo,
Lynn Jacobs, Director, Department of Housing and Community Development
Susan Blake, Legislative Director, Governor's Office of Planning and Research
William Weber, Principal Consultant, Assembly Republican Caucus
Michael Prosio, Legislative Deputy Secretary, Governor's Office
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Brian Augusta, Consultant, Assembly Member Lieber

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Carpi & Clay
Sacramento Representatives
County of San Diego
1100 K Street, Suite 100
Sacramento, CA 95814

(916) 441-0202 Fax (916)441-1222

Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
Sacramento Representatives
County of San Diego
770 L Street, Suite 800
Sacramento, CA 95814

(916) 446-6752 Fax (916)446-6106

September 14, 2006

Governor Arnold Schwarzenegger
State Capitol
Sacramento, CA 95814

SB 1322 (CEDILLO)
REQUEST VETO

Dear Governor Schwarzenegger,

On behalf of the County of San Diego we respectfully oppose SB 1322, a measure relating to housing. SB 1322 would add "residential service facilities" and emergency shelters to the list of housing that would automatically qualify for by right zoning approval. This bill would also amend the definition of residential service facilities to include those that serve seven or more clients.

Simply, SB 1322 impedes local land use authority and as such we must oppose the bill. SB 1322 fundamentally changes the way local jurisdictions develop housing element plans. For these reasons we respectfully oppose SB 1322. Should you have any questions or concerns please feel free to contact me at (916) 441-0202.

Sincerely,

Jonathan Clay
Legislative Representative

Provided by LRI History LLC

The City of Bellflower

Families Businesses Futures

16600 Civic Center Drive, Bellflower, CA 90706

Tel 562 804 1424 Fax 562 925 8660 www.bellflower.org

CITY OF BELLFLOWER "GROWING TOGETHER"

September 15, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento CA 95814

SUBJECT: SB 1322 (CEDILLO); HOUSING: REQUEST FOR VETO

Dear Governor Schwarzenegger:

The City of Bellflower respectfully requests that you veto SB 1322 (Cedillo). Though this bill is well-intentioned, it would create more problems for local government than it purports to fix. The City asks that you consider the following arguments:

CREATES AN UNFUNDED MANDATE
SB 1322 would create a new state mandate because it requires local agencies to revise their general plans to designate areas where emergency shelters must be approved by-right. The total cost to local agencies statewide would exceed millions of dollars. A conservative cost estimate is $10,000 per agency. But it is likely to be much higher, particularly in larger cities.

UNNECESSARILY LIMITS DISCRETION FOR LOCAL AGENCIES
SB 1322 would also unnecessarily limit the discretion of cities to deal with large group home type facilities serving seven or more people and emergency and transitional shelters. This limitation applies without regard to size. For example, a facility serving 150 people would be treated the same as a facility serving 8 persons.

CONCLUSION: NOT THE BEST MEANS TO ADDRESS THIS ISSUE
Certainly, the needs of very low and extremely-low income households, as well as the need for emergency shelters and transitional housing, is a statewide issue that require legislative solutions. However, such legislation needs to be more thoughtful and should not diminish local control. For these reasons, we respectfully ask you to veto SB 1322.

Sincerely,

Ray T. Smith
Mayor

C: City Council
Senator Alan Lowenthal
Assembly Member Hector De La Torre
League of California Cities
Joe A. Gonsalves & Son

Ray T. Smith, Mayor | John K. Pratt, Mayor Pro Tem | Dorothy R. King, Council Member | Scott A. Larsen, Council Member | Randy Bomgaars, Council Member

Provided by LRI History LLC

CITY OF EL CAJON

MAYOR AND CITY COUNCIL

September 7, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo)

Dear Governor Schwarzenegger:

The City of El Cajon urges you to **veto SB 1322** which would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy an emergency shelter.* Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- *Redundant Process in the Housing Element.* Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

The City respectfully urges you to ***VETO SB 1322*** when it comes before you for consideration.

Very truly yours,

Mark Lewis
Mayor

Provided by LRI History LLC

City of HIGHLAND Inc. 1987

Septemb 21, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento CA 95814

RE: SB 1322 (Cedillo); Housing: Request for VETO

Dear Governor Schwarzenegger:

The City of Highland requests that you veto SB 1322 (Cedillo). Local zoning authority plays an important role is assuring the quality of any community. While we recognize the unique role that shelters and large group-home type projects (7 or more beds) provide, they also can severely impact the neighboring uses of property. This is why most local government use conditional use permits to approve these uses. This bill would restrict that authority unnecessarily.

The City of Highland is opposed to SB 1322 because it limits local discretion on "special needs facilities" or emergency shelters in a way that effect neighboring uses in unintended ways. This limitation applies without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include adult day programs and social rehabilitations facilities. These are precisely the kind of developments that are likely to effect community character if they are not checked by a local approval process.

Moreover, this bill would expand the authority to sue local agencies to anyone who *"could occupy"* a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing facility. This provision merely acts to encourage lawsuits against cities.

Finally, this bill upsets the typical planning process, which allows cities to develop a full plan under the housing element. This bill would require emergency shelters by right in the housing element, setting it apart from other types on low income housing. This standard is inconsistent with the current planning process, which will increase confusion

Accordingly, the City of Highland requests your veto on SB 1322 (Cedillo).

Sincerely,

Joseph Hughes
City Manager

Cc City Council

Office of the City Manager
27215 Base Line, Highland, CA 92346
(909) 864-6861 Ext. 221 FAX (909) 862-3180
www.ci.highland.ca.us

Provided by LRI History LLC

September 14, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

I am writing to request a veto of SB 1322 (Cedillo).

Initially, this bill was voted down on the Assembly floor. However, on reconsideration, it got the bare number of votes to pass and the Senate concurred on a party line vote.

SB 1322 gives carte blanche to certain facilities that supposedly serve special needs individuals. Our community already has significant problems with small facilities, particularly for alcohol and drug rehab, which are located in residential neighborhoods and which tend to have a concentration in one area. SB 1322 would exacerbate the problem and create significant problems for our community.

We urge you to veto SB 1322.

Sincerely,

Kenneth Frank
City Manager

cc: City Council

505 FOREST AVE. • LAGUNA BEACH, CA 92651 • TEL (949) 497-3311 • FAX (949) 497-0771

RECYCLED PAPER

Provided by LRI History LLC

LegiFAX

September 6, 2006

REQUEST FOR VETO

Senate Bill 1322 (Cedillo) – Housing

The City of Lakewood opposes Senate Bill 1322 and requests that you veto this legislation.

Mayor Larry Van Nostran
On behalf of the Lakewood City Council

LVN:pb

For further information, please call Peggy Rowe at 562-866-9771, extension 2131 or 2132 N. Clark Avenue • Lakewood, California 90712 • (562) 866-9771 (voice) 866-0803 (fax)

Provided by LRI History LLC

CITY OF ONTARIO

303 EAST "B" STREET, CIVIC CENTER ONTARIO CALIFORNIA 91764-4196 (909) 395-2000
FAX (909) 395-2070

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JASON ANDERSON
SHEILA MAUTZ
COUNCIL MEMBERS

GREGORY C. DEVEREAUX
CITY MANAGER

MARY E. WIRTES, MMC
CITY CLERK

JAMES R. MILHISER
TREASURER

September 20, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento CA 95814

RE: SB 1322 (Cedillo); Housing: Request for VETO

Dear Governor Schwarzenegger:

The City of Ontario requests that you veto SB 1322 (Cedillo). It should be recognized that local zoning authority needs to be preserved for the location of emergency shelters and special needs facilities. While it is understood that shelters and group-home facilities respond to a community need, they also can severely impact the neighboring properties. This is why local governments must retain the ability to require conditional use permits for these uses. This bill would restrict that authority unnecessarily.

The City of Ontario has implemented an extensive program to address shelter needs for the homeless and provide transitional housing. The City of Ontario has also expended considerable efforts to craft local ordinances that provide for an appropriate level of local review for the location of such facilities.

The City of Ontario is opposed to SB 1322 because it will severely limit local discretion on the location and conditioning of "special needs facilities" or emergency shelters. This limitation applies without regard to size; a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include adult day programs and social rehabilitations facilities. These are precisely the kind of developments that are likely to effect community character if they are not subject to a local approval process.

Moreover, this bill would expand the authority to anyone who *"could occupy"* a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing facility to sue the local agency. This provision will have the intended impact of encouraging lawsuits against cities.

Provided by LRI History LLC

Finally, this bill provides a preemption of the typical planning process that cities use in the development of a comprehensive housing element. This bill would require that the City identify areas where emergency shelters could be located by right as part of the housing element, setting them apart from other types on low income housing. This standard is inconsistent with the long-standing planning processes.

Accordingly, the City of Ontario respectfully requests your veto on SB 1322 (Cedillo).

Sincerely,

Gregory C. Devereaux
City Manager

c: Mayor and City Council
League of California Cities

Provided by LRI History LLC

CITY OF RIDGECREST
100 West California Avenue
Ridgecrest, California 93555
FON: 760•499•5000 FAX: 760•499•1500

Wednesday, September 20, 2006

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento CA 95814

RE: SB 1322 (Cedillo); Housing: Request for VETO

Dear Governor Schwarzenegger:

The City of Ridgecrest requests that you veto SB 1322 (Cedillo). Local zoning authority plays an important role in assuring the quality of any community. While we recognize the unique role that shelters and large group-home type projects (7 or more beds) provide, they also can severely impact the neighboring uses of property. This is why most local governments use Conditional Use Permits to approve these services. This bill would restrict that authority unnecessarily.

The City of Ridgecrest is opposed to SB 1322 because it limits local discretion on "special needs facilities" or emergency shelters in a way that effect neighboring uses in unintended ways. This limitation applies without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include adult day programs and social rehabilitations facilities. These are precisely the kind of developments that are likely to effect community character if they are not checked by a local approval process.

Provided by LRI History LLC

Moreover, this bill would expand the authority to sue local agencies to anyone who *"could occupy"* a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing facility. This provision merely acts to encourage lawsuits against cities.

Finally, this bill upsets the typical planning process, which allows cities to develop a full plan under the housing element. This bill would require emergency shelters by right in the housing element, setting it apart from other types on low income housing. This standard is inconsistent with the current planning process, which will increase confusion

Accordingly, the City of Ridgecrest requests your veto on SB 1322 (Cedillo).

Sincerely,

Mayor Marshall "Chip" Holloway

Richard "Duke" Martin
Mayor Pro Tempore

Daniel O. Clark
Vice Mayor

Steven P. Morgan
Council Member

Ronald H. Carter
Council Member

CC: Senator Roy Ashburn
Assemblyman Kevin McCarthy

Provided by LRI History LLC

Office of the Mayor
Diverse • Inclusive • Committed

August 28, 2006

Governor Arnold Schwarzenegger
Legislative Unit
State Capitol, First Floor
Sacramento, CA 95814

RE: Veto Request for SB 1322 (Cedillo)

Dear Governor Schwarzenegger:

The City of Riverside is strongly opposed to SB 1322 (Cedillo), and we urge you to veto this bill. SB 1322 would limit Riverside's discretion over "special needs facilities", encourage litigation, and take away the opportunity communities now have to submit a plan for their share of the regional housing needs at the outset of the process.

- Local agencies will have to revise their local general plans to designate areas where emergency shelters must be approved by-right, thereby creating a new mandate. The total cost to local agencies statewide could easily exceed millions of dollars. A typical process will involve identifying sites or zones for the by-right designation, development a standard set of management conditions, consulting with police officers and other public safety personnel, undergoing CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city attorney. A conservative cost estimate would $10,000 per agency.

- SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies to all special needs facilities without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include community care facilities, adult day programs, social rehabilitations facilities, and transitional shelter care facilities among others.

- SB 1322 would allow awards to anyone who could occupy a social rehabilitation facility, adult day program facility, community care facility, emergency shelter, or transitional housing facility. This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

Provided by LRI History LLC

- Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If the plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. SB 1[illegible]2, however, takes away a community's initial opportunity to develop a workable plan, and instead requires at the outset that local agencies designate where emergency shelters must be approved "by-right." The bill also redundantly requires those agencies that have not identified adequate sites by-right in to again identify adequate sites to be zoned by-right. In essence, the bill requires zoning by-right on the threat of zoning by-right.

Again, I urge you to veto this legislation when it comes before you for signature. Please do not hesitate to contact me if you should have any questions.

Sincerely,

Ronald O. Loveridge
Mayor

cc: Senator Bob Dutton
Assembly Member Russ Bogh
Assembly Member John Benoit
Assembly Member John Emmerson
Bill Higgins, California League of Cities

lj

Provided by LRI History LLC

JERRY SANDERS
MAYOR

September 15, 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1322: Housing – Request for Veto

Dear Governor Schwarzenegger:

I am writing to urge you to veto SB 1322. While I am supportive of the need to for cities to provide for emergency shelters and special need facilities, SB 1322 would create serious problems for the City of San Diego and other California municipalities. Overly broad, SB 1322 would exacerbate tensions between local city officials in an effort to force a few cities to comply with the spirit of fair share housing laws.

I believe that there are three key flaws with the legislation. First, it would limit the City's discretionary powers for all special needs facilities serving seven or more persons. This prohibition would apply to all special needs facilities irrespective of size. The City of San Diego has found that discretionary planning processes provide useful forums to engage the community and service providers in a constructive dialogue about how to make operations at special needs facilities work. In instances where the City has required conditional use permits, the City has been able to create a means by which past commitments can be evaluated. The result has been a greater level of trust between potentially impacted neighborhoods and special needs service providers. By severely limiting the discretion of our City to condition these projects, I believe the inevitable result will be more, not less conflict, between residents and special needs populations.

Secondly, SB 1322 institutes a dangerous precedence in the way that housing element law is applied. Under current law, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead would require the City of San Diego, before our proposed housing element is submitted for adequacy determination, to designate where additional emergency shelters must be approved "by-right." This will create significant conflict even in situations in which such shelters are unlikely to be built.

Finally, SB 1322 will lead to more litigation by extending the attorney fee provisions to allow awards to anyone who could occupy an emergency shelter. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

Provided by LRI History LLC

For these reasons, I respectfully urge you to veto SB 1322 and urge the proponents to work next year with municipalities to find a workable compromise that facilitates the construction of special needs facilities in a way that does not create community conflicts and tensions.

Sincerely,

JERRY SANDERS
Mayor
San Diego

Provided by LRI History LLC

CITY OF SELMA
1710 TUCKER STREET · SELMA, CALIFORNIA 93662

Sept. 6, 2006

TO: The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
REQUEST FOR VETO

Why you should Veto SB 1322 (Cedillo):

- ***Creates an Unfunded Mandate.*** The cost of SB 1322 would exceed $10,000 per agency and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of emergency shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size: a 150 bed facility must be treated the same as an 8 bed facility.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could copy* a special need facility, social rehabilitation facility, adult day program facility, or community care facility. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Redundancy in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If their plan fails to meet the need, the city must then approve housing "by-right" at preset densities. SB 1322 requires cities to designate where emergency where emergency shelters must be approved "by-right" at the outset. Then, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

Based on these facts, the City of Selma asks you to veto SB 1322.

Sincerely,

Don Tow

Don Tow, Mayor

Provided by LRI History LLC

CITY OF
TORRANCE

FRANK SCOTTO
MAYOR

September 19, 2006

The Honorable Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

RE: SB 1322 (Cedillo) - Housing
REQUEST FOR VETO

Dear Governor Schwarzenegger:

The City of Torrance respectfully requests your VETO on SB 1322. While we recognize the role that emergency shelters and large group-home type developments (7 or more beds) provide, they also can severely impact the surrounding neighborhood. SB 1322 would allow special needs facilities and large group-home developments to be permitted by-right (without local regulation) within local communities without regard to size. For example, a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special Needs Facilities" are defined to include community care facilities, community treatment facilities, transitional shelter care facilities, as well as social rehabilitation facilities. SB 1322 raises concern with the safety of surrounding neighbors, the quality of management, and the over-concentration of such facilities if preempted from the local review process.

Additionally, SB 1322 would expand the authority to sue local agencies to anyone who would be eligible to occupy a social rehabilitation facility, community treatment facility, emergency shelter or transitional housing facility. This provision merely acts to encourage lawsuits against local governments.

For these reasons, the City of Torrance RESPECTFULLY REQUESTS YOUR VETO ON SB 1322. If you have any questions about our position, please feel free to call Ms. Rebecca Cutting or Carolyn Chun of the Community Development Department at (310) 618-5990.

Sincerely,

FRANK SCOTTO
Mayor

cc: Assemblyman Ted Lieu
Senator Debra Bowen
LaRoy J. Jackson, City Manager
Jacki Bacharach, Executive Director of South Bay Cities Council of Governments
Jeffery W. Gibson, City of Torrance Community Development Director

Provided by LRI History LLC

UNOFFICIAL BALLOT

2005-2006 Votes ROLL CALL

MEASURE: SB 1322
TOPIC: Housing
DATE: 08/31/06
LOCATION: SEN. FLOOR
MOTION: Unfinished Supp 2 SB1322 Cedillo
(AYES 24. NOES 14.) (PASS)

AYES
****

Alarcon	Alquist	Bowen	Cedillo
Chesbro	Ducheny	Dunn	Escutia
Figueroa	Florez	Kehoe	Kuehl
Lowenthal	Machado	Migden	Murray
Ortiz	Perata	Romero	Scott
Simitian	Speier	Torlakson	Vincent

NOES
****

Aanestad	Ackerman	Ashburn	Battin
Cox	Denham	Dutton	Harman
Hollingsworth	Maldonado	Margett	McClintock
Morrow	Poochigian		

NO VOTE RECORDED
****

Runner	Soto

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: S 1322
TOPIC: Housing.
DATE: 08/31/06
LOCATION: ASM. FLOOR
MOTION: SB 1322 Cedillo Senate Third Reading By Lieber
(AYES 41. NOES 34.) (PASS)

AYES
****

Arambula	Baca	Bass	Berg
Bermudez	Calderon	Canciamilla	Chan
Chavez	Cohn	Coto	De La Torre
Dymally	Frommer	Goldberg	Hancock
Jerome Horton	Jones	Karnette	Klehs
Koretz	Laird	Leno	Levine
Lieber	Liu	Matthews	Montanez
Mullin	Negrete McLeod	Oropeza	Parra
Ridley-Thomas	Ruskin	Saldana	Salinas
Torrico	Umberg	Vargas	Yee
Nunez			

NOES
****

Aghazarian	Benoit	Blakeslee	Bogh
Cogdill	Daucher	DeVore	Emmerson
Evans	Garcia	Haynes	Shirley Horton
Houston	Huff	Keene	La Malfa
La Suer	Leslie	Lieu	Maze
McCarthy	Mountjoy	Nakanishi	Niello
Plescia	Richman	Sharon Runner	Spitzer
Strickland	Tran	Villines	Walters
Wolk	Wyland		

ABSENT, ABSTAINING, OR NOT VOTING
****

Chu	Nation	Nava	Pavley
Vacancy			

Provided by LRI History LLC

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 05/30/06
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB1322 Cedillo
(AYES 25. NOES 11.) (PASS)

AYES
****

Alarcon	Alquist	Ashburn	Cedillo
Chesbro	Ducheny	Dunn	Escutia
Figueroa	Florez	Kehoe	Kuehl
Lowenthal	Machado	Migden	Murray
Ortiz	Perata	Romero	Scott
Simitian	Soto	Speier	Torlakson
Vincent			

NOES
****

Aanestad	Ackerman	Battin	Cox
Denham	Dutton	Hollingsworth	Maldonado
Morrow	Poochigian	Runner	

NO VOTE RECORDED
****

Bowen	Margett	McClintock	Vacancy

DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | CALIFORNIA STATE ARCHIVES
1020 O Street | Sacramento, CA 95814 | Tel (916) 653-7715 | Fax (916) 653-7363 | www.sos.ca.gov

May 2011

Under California Government Code section 6254.3, "the home addresses and home telephone numbers of state employees . . . shall not be deemed to be public records and shall not be open to public inspection."

Pursuant to section 6254.3, home and cellular telephone numbers of state employees have been redacted from enrolled bill reports contained in this file.

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Senate Policy Committee Materials

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California State Senate

SENATOR
ALAN LOWENTHAL
TWENTY-SEVENTH SENATE DISTRICT

ENVIRONMENTAL QUALITY
CHAIR

SUBCOMMITTEE ON CALIFORNIA PORTS AND GOODS MOVEMENT
CHAIR

BANKING, FINANCE AND INSURANCE

BUDGET AND FISCAL REVIEW

EDUCATION

LABOR AND INDUSTRIAL RELATIONS

NATURAL RESOURCES AND WATER

TRANSPORTATION AND HOUSING

MEMO TO: Senator Cedillo

RE: SB 1322

Room # 5100

FROM: **Senate Transportation and Housing Committee**

The Rules Committee referred the above measure to this committee. We would like to hear your bill in a timely manner and to meet your needs the best we can.

This bill is scheduled to be heard on March 21, 2006. If you would like your bill heard on a different date, please call the committee at 651-4121.

The committee staff must prepare an up-to-date analysis before the committee can hear your measure. To assist in this, **please fill out and return the attached background information request page as soon as possible.**

Amendments:

1) **If you plan substantive amendments to this bill prior to hearing, please attach to the background information request page (attached) a brief explanation of the amendments and a rough draft, if available.**

2) **Amendments, IN LEGISLATIVE COUNSEL FORM (original plus seven copies), must be received by the committee no later than 12:00 noon on the TUESDAY THE WEEK PRIOR to the hearing.**

Thank you for your cooperation.

The committee consultant assigned to your measure is:

_____Carrie Cornwell _____Art Bauer __✓__Mark Stivers _____Jennifer Gress

RETAIN THIS PAGE FOR YOUR RECORDS

Provided by LRI History LLC

SENATE TRANSPORTATION AND HOUSING COMMITTEE
Alan Lowenthal, Chairman
Background Information Request

Measure: SB 1322

Author: Senator Cedillo

Contact: Nadia Leal **Phone:** 651-4022

1) **What does your bill do?**
Please see the attached fact sheet.

2) **Why is the bill needed?**
Please see the attached fact sheet.

3) **Similar legislation: Has a similar bill been previously introduced? Identify author, session, bill #, and disposition of bill.**
Not that our office is aware of.

4) **Source: What person, organization, or governmental entity is sponsoring or requested introduction? Include name and phone number of contact person.**
Senator Cedillo

5) **Please attach any of the following that are applicable:**
***Copies of background material in explanation of the bill, or state where such material is available reference. For Assembly bills, please include policy, fiscal, and floor analyses.**
***Copies of letters of support and opposition.**

Amendments

1) **If you plan substantive amendments to this bill prior to hearing, please attach a brief explanation of the amendments and a rough draft, if available.**

2) **Amendments, IN LEGISLATIVE COUNSEL FORM (original, plus seven copies), must be received by the committee no later than 12:00 noon on the TUESDAY THE WEEK PRIOR to the hearing.**

Return completed worksheet and attachments as soon as possible to: SENATE TRANSPORTATION & HOUSING COMMITTEE, Room 2209. PHONE: 651-4121.

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SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 3048
Sacramento, CA 95814
(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 71
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

What is the problem?

Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

Because homelessness affects people of all races, gender, age and geographic location there is a growing need for every city and county to plan for the location of adequate housing and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services. Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.

The disproportioned availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the concentration of services in inner cities and poor communities like Skid Row in Downtown Los Angeles.

What does SB 1322 do?

SB 1322 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters and residential service providers are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters and residential service providers within the planning period and sufficient to shelter the families and persons in need of such service in the community.

Who supports SB 1322?

Senator Cedillo (sponsor)

Who opposes SB 1322?

For more information on this bill, please contact Nadia Leal at 916-651-4022 in the office of Senator Cedillo.

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HOMELESSNESS IN LOS ANGELES FACT SHEET

- ✓ Between January 1, 2005 and November 17, 2005, inclusive, there were 4, 149 narcotics arrest in skid row area.
- ✓ There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year.
- ✓ Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.
- ✓ Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services.
- ✓ Substance abuse is higher among unaccompanied homeless youth and single individuals.
- ✓ In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population.
- ✓ The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.
- ✓ In 2004 study, 82% to 86% of the homeless adult population of the Los Angeles County was US citizens. The Los Angeles County US citizenship rate for all adults was 71% of the county population[1].
- ✓ Women and girls account for 48% of the Los Angeles homeless population[2].
- ✓ When compared to all adults Veterans are about twice as like to be homeless[3].

Los Angels County Jail Facts

- ✓ The Los Angeles County Inmate Reception Center, located in *skid row*, releases over 10,000 inmates per month in to the downtown area of Los Angeles. Last November the county released 15,773 (13,042 males & 2,731 females) inmates at the downtown Inmate Reception Center[4].
- ✓ The Los Angeles County Jail has combined average daily in-mate population of 18,645 inmates[5].
- ✓ The Los Angeles County Jail has a sophisticated transportation program that transfers over 580,000 inmates between the county jails and courtrooms[6].
- ✓ Many of the released inmates have little or no resources available to return to their communities because of the enormous size and distance between cities in the County of Los Angeles.
- ✓ The released inmates come from significant distances with the Los Angeles County geographical area of 4,061 square miles[7] of the largest county of the United States of America.
- ✓ The released inmate population feeds into the growing population of 9,000 - 11,000 homeless individuals of the downtown Los Angeles area.
- ✓ Current resources available from the downtown service providers are saturated and in many cases fully exhausted.

---

1 *Just the facts – Homelessness in Los Angeles.* Institute for the Study of Homelessness and Poverty the Weingart Center

2 Tepper, Paul. *Homelessness in Los Angeles: A summary of recent research.* The Partnership to End Homelessness. Institute for the Study of Homelessness and Poverty. March 2004 p. 12

3 Tepper, Paul. *Homelessness in Los Angeles: A summary of recent research.* The Partnership to End Homelessness. Institute for the Study of Homelessness and Poverty. March 2004 p. 15

4 Phone conversation with the Los Angeles County Jail Inmate Reception Center Sergeant Mathy (213) 893-5276

5 Phone conversation with Los Angeles Sheriff's Headquarter Bureau Officer Scott Gage (323) 526-5541

6 Phone conversation with Los Angeles Sheriff's Headquarter Bureau Officer Scott Gage (323) 526-5541

7 U.S. Census 2000 projected estimates for 2004.

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Regional Homeless Counts and Rates[12]				
Region	*Year*	*Time Period*	*Unduplicated Homeless Count*	*Approximate % of population that is homeless*
Long Beach (city)	2003	Day	5,845	1.3%
Los Angeles (county)	2003	Day	82,096	0.9%
East San Gabriel Valley (region)	2003	Day	2,703	0.3%
Glendale (city)	2003	Day 15 Days	472 1,410	0.2% 0.7%
Pomona, La Verne, Claremont (cities)	2002	Month	1,389	0.6%
Los Angeles (county)	2002	Day Year	78,600 253,918	0.8% 2.7%
Pomona (city)	2002	15 Days	1,389	0.9%
Pasadena (city)	2000	Day Month	879 1,832	0.7% 1.4%
California	1999	Day	361,000	1.1%
Santa Monica (city)	1999	Day	1,037	1.1%
Los Angeles (county)	1994	Day Year	84,300 236,368	0.9% 2.6%
Los Angeles (county)	1992	Day	36,800 - 59,100	0.4% - 0.7%
Pasadena (city)	1992	Day	1,017	0.8%
San Bernardino, CA (county)	2003	Day	5,270-8,351	0.4%
Orange, CA (county)	2001	Day	19,740	0.7%
Monterey, CA (county)	2002	Day	3,071	0.8%

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 1322
AUTHOR: CEDILLO
VERSION: To be amended
FISCAL: YES

Analysis by: Mark Stivers

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

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- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.
- Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.
- Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.
- Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

- Apply the law to emergency shelters.
- Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current

disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches. The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. **The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities.** Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Technical amendments. The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

   - Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

     (d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
     (f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance

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services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

- The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing *or* an emergency shelter..."

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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File Item #
Senate Transportation & Housing: x-x (3/21/06)
(AYE: NO: ABS:)
Senate Appropriations: x-x
(AYE: NO: ABS:)
Vote requirement: 21
Version Date: 02/16/06

Quick Summary

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Analysis

Arguments in Support:

According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments in Opposition:

Arguing in opposition to the bill, the California Chapter of the American Planning Association identifies several areas of concern. (1) How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services? (2) Are these facilities allowed to have unlimited numbers of residents above six? 16? 40? (3) How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing small group home facilities by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a

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residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

Other Issues

Homelessness in the Press

Recent press accounts have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines.

Local Control

Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. Another element of local housing planning that is often overlooked is the use of impact fees by local communities to generate revenues on the backs of homeowners to pay for a host of services often completely unrelated to the development of housing.

There is a great deal of regulation imposed by the states on local government, much of it is appropriate and adhered to, some inappropriate and ignored. At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, is this the appropriate method for meeting the needs of the homeless across the entire state?

Digest

Requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

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Amends housing element law to require local governments to analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Requires local governments to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Requires local governments that have an inadequate supply of emergency shelters and residential service facilities to accommodate the need identified by their analysis to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Amends the anti-NIMBY law to apply the law to emergency shelters and provides that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Background

Housing Element Law

Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right

If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law

California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project: (1) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact; (2) the denial is required to comply with state or federal law; (3) the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or (4) the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Support & Opposition Received

Support: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

Opposition: League of Cities
California Chapter of the American Planning Association

Senate Republican Office of Policy/ *Edward Morley*

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AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter, transitional housing, and residential service facilities to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

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The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after ~~January 1, 2007~~ *the effective date of this bill or when revision is otherwise required, whichever comes first*, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

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(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

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special needs housing

conform definition throughout

(f) "Residential service facility" includes all of the following that serve seven or more persons:

(1) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.

(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

SEC. 3. 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, residential service facilities, 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

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(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, families and persons in need of emergency shelter, transitional housing, and persons in need of residential service facilities.

(7) An inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities that are zoned to permit the development of these shelters or facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters and residential service facilities identified pursuant to paragraph (6).

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted

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housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each

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available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing,

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factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, residential service facilities, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters and residential service facilities identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters and residential service facilities. The sites shall be zoned to permit the development of shelters or residential service facilities as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelter and residential service facilities.

and management

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for

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occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters and residential service facilities pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these facilities pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters and residential services facilities that are zoned to permit the development of these shelters and facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the

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combined need for emergency shelters and residential service facilities of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

~~(c) On and after January 1, 2007, the adoption or amendment of the housing element by a city, county, or city and county pursuant to this chapter shall incorporate the changes to the housing element required by this section.~~

(e) (1) Except as provided in paragraph (2), amendments to this section that add or alter contents of a housing element shall also apply to any draft or adopted housing element or housing element amendment prepared pursuant to Section 65588 and submitted by a city or county to the department for review pursuant to Section 65585, after the effective date of the amendment to this section, or when revision of the element is required pursuant to Section 65588, whichever comes first.

(2) Amendments to this section that add or alter contents of a housing element shall not apply to an adopted element submitted to the department for review within 90 days of the date of the department's written findings regarding the final draft element submitted pursuant to Section 65585, provided that the final draft element was submitted to the department for review prior to the effective date of the amendments.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

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(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, residential service facilities, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the

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number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than

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2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of

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the use for an emergency shelter, a residential service facility, or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing

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developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or

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an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the

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development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified ~~as suitable~~ for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for

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lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing

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development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue

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an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of

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Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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CONFLICT NOTIFICATION

March 30, 2006

S.B. 1322

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Senate Transportation and Housing Committee

appears to be in conflict with

A.B. 2511 - Jones
A.B. 2634 - Lieber
A.B. 2772 - Nation
S.B. 286 - Lowenthal
S.B. 1330 - Dunn
S.B. 1800 - Ducheny and Cedillo
S.B. 1802 - Ducheny

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

We urge you to consult our Corrections Section at Corrections.Section@legislativecounsel.ca.gov or 916-341-8230 at your earliest convenience.

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CONFLICT NOTIFICATION

March 7, 2006

S.B. 1322

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Senate Transportation and Housing Committee

appears to be in conflict with

A.B. 2634 - Lieber
A.B. 2772 - Nation
S.B. 286 - Lowenthal
S.B. 1322 - Cedillo
S.B. 1800 - Ducheny and Cedillo

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

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AMENDMENTS TO SENATE BILL NO. 1322

Amendment 1
In line 1 of the title, strike out "65583 and 65583.2" and insert:

65582, 65583, 65583.2, and 65589.5

Amendment 2
On page 2, strike out lines 17 to 23, inclusive

Amendment 3
On page 2, line 24, strike out "(d)" and insert:

(c)

Amendment 4
On page 2, line 29, strike out "(e)" and insert:

(d)

Amendment 5
On page 2, line 33, strike out "(f)" and insert:

(e)

Amendment 6
On page 3, line 1, strike out "(g)" and insert:

(f)

Amendment 7
On page 3, between lines 3 and 4, insert:

SEC. 2. Section 65582 of the Government Code is amended to read:
65582. As used in this article the following definitions apply:
(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

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(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Residential service facility" includes all of the following that serve seven or more persons:

(1) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.

(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

Amendment 8

On page 3, line 4, strike out "SEC. 2." and insert:

SEC. 3.

Amendment 9

On page 3, line 12, strike out "and mobilehomes" and insert:

mobilehomes, residential service facilities, and emergency shelters

Amendment 10

On page 4, strike out lines 11 to 14, inclusive, and insert:

families with female heads of households, families and persons in need of emergency shelter, transitional housing, and persons in need of residential service facilities.

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Amendment 11
On page 4, between lines 14 and 15, insert:

(7) An inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities that are zoned to permit the development of these shelters or facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters and residential service facilities identified pursuant to paragraph (6).

Amendment 12
On page 4, line 15, strike out "(7)" and insert:

(8)

Amendment 13
On page 4, line 17, strike out "(8)" and insert:

(9)

Amendment 14
On page 6, line 23, strike out "providers" and insert:

facilities

Amendment 15
On page 6, line 39, strike out "(3)" and insert:

(7)

Amendment 16
On page 7, strike out lines 1 to 7, inclusive, and insert:

the need for emergency shelters and residential service facilities identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters and residential service facilities. The sites shall be zoned to permit the development of shelters or residential service facilities as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development standards and served with appropriate infrastructure to

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accommodate the community's need for emergency shelter and residential service facilities.

Amendment 17

On page 7, line 30, strike out "(8)" and insert:

(9)

Amendment 18

On page 8, strike out lines 3 to 15, inclusive, and insert:

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters and residential service facilities pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these facilities pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters and residential services facilities that are zoned to permit the development of these shelters and facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters and residential service facilities of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

Amendment 19

On page 8, line 16, strike out "SEC. 3." and insert:

SEC. 4.

Amendment 20

On page 9, line 25, strike out "providers" and insert:

facilities

Amendment 21

On page 11, strike out lines 35 and 36, and insert:

the use for an emergency shelter, a residential service facility, or an owner-occupied or rental multifamily residential development

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Amendment 22
On page 12, between lines 9 and 10, insert:

SEC. 5. Section 65589.5 of the Government Code is amended to read:
65589.5. (a) The Legislature finds and declares all of the following:
(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.
(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.
(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).
(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.
(d) A local agency shall not disapprove an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:
(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons

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prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

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(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income

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households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or

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to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund

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within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

Amendment 23

On page 12, line 10, strike out "SEC. 4." and insert:

SEC. 6.

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"residential service facilities" is not a defined term in the law. In fact, there are a substantial variety of those facilities, and they are all very specifically defined, and already subject to statutes that govern the ability of local government to approve or disapprove their development. See H & S 1502 et seq, 1568.01, 1569.2, 1250. With respect to development approval, most of the statutes allow localities to subject licensed facilities with more than six residents to CUPs, but require localities to treat homes or resd care facilities with six or fewer residents no different than family housing (therefore, these facilities may be developed by-right on sites designated by-right for other residential structures). See H & S 1267.8, 1566.3, 1568.0831 and W & I C 5116. (The authority to discriminate against facilities with more than six residents, however, needs to be thought of in the context of the Fair Housing Act as well, which in some circumstances would prohibit denial of approvals.)

HS 1502

1568.01

1569.2

1250

50801

1267.8

1566.3

1568.0831

WIC 5116

AMENDMENTS TO SENATE BILL NO. 1322

Amendment 1
In line 1 of the title, strike out "65583 and 65583.2" and insert:

65582, 65583, 65583.2, and 65589.5

Amendment 2
On page 2, strike out lines 17 to 23, inclusive

Amendment 3
On page 2, line 24, strike out "(d)" and insert:

(c)

Amendment 4
On page 2, line 29, strike out "(e)" and insert:

(d)

Amendment 5
On page 2, line 33, strike out "(f)" and insert:

(e)

Amendment 6
On page 3, line 1, strike out "(g)" and insert:

(f)

Amendment 7
On page 3, between lines 3 and 4, insert:

SEC. 2. Section 65582 of the Government Code is amended to read:
65582. As used in this article the following definitions apply:
(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

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(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Residential service facility" means any residential facility that provides social rehabilitation services for adults and children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development. "Residential service facility" shall also include an individual or entity pursuant to Sections 1502 and 1569.2 of the Health and Safety Code.

(g) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirement for subsidized housing for low-income persons. Rents and services fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing. Transitional housing shall also include a transitional housing placement facility and transitional housing program, as defined by paragraph (12) of subdivision (c) of Section 1502 and subdivision (g) of Section 50582 of the Health and Safety Code.

Amendment 8

On page 3, line 4, strike out "SEC. 2." and insert:

SEC. 3.

Amendment 9

On page 3, line 12, strike out "and mobilehomes" and insert:

mobilehomes, residential service facilities, and emergency shelters

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Amendment 10
On page 4, strike out lines 11 to 14, inclusive, and insert:

families with female heads of households, families and persons in need of emergency shelter, transitional housing, and persons in need of residential service facilities.

Amendment 11
On page 4, between lines 14 and 15, insert:

(7) An inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities that are zoned to permit the development of these shelters or facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters and residential service facilities identified pursuant to paragraph (6).

Amendment 12
On page 4, line 15, strike out "(7)" and insert:

(8)

Amendment 13
On page 4, line 17, strike out "(8)" and insert:

(9)

Amendment 14
On page 6, line 23, strike out "providers" and insert:

facilities

Amendment 15
On page 6, line 39, strike out "(3)" and insert:

(7)

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Amendment 16
On page 7, strike out lines 1 to 7, inclusive, and insert:

the need for emergency shelters and residential service facilities identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters and residential service facilities. The sites shall be zoned to permit the development of shelters or residential service facilities as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelter and residential service facilities.

Amendment 17
On page 7, line 30, strike out "(8)" and insert:

(9)

Amendment 18
On page 8, line 16, strike out "SEC. 3." and insert:

SEC. 4.

Amendment 19
On page 9, line 25, strike out "providers" and insert:

facilities

Amendment 20
On page 11, strike out lines 35 and 36, and insert:

the use for an emergency shelter, a residential service facility, or an owner-occupied or rental multifamily residential development

Amendment 21
On page 12, between lines 9 and 10, insert:

SEC. 5. Section 65589.5 of the Government Code is amended to read:
65589.5. (a) The Legislature finds and declares all of the following:
(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

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(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing and an emergency shelter, the jurisdiction shall have met or exceeded the

or

need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted

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within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income

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shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and

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unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing or emergency shelter for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days

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after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

Amendment 22

On page 12, line 10, strike out "SEC. 4." and insert:

SEC. 6.

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CONFLICT NOTIFICATION

March 7, 2006

S.B. 1322

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Senate Transportation and Housing Committee

appears to be in conflict with

A.B. 2634 - Lieber
A.B. 2772 - Nation
S.B. 286 - Lowenthal
S.B. 1322 - Cedillo
S.B. 1800 - Ducheny and Cedillo

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

We urge you to consult our Corrections Section at Corrections.Section@legislativecounsel.ca.gov or 916-341-8230 at your earliest convenience.

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Planning Company Associates
Playa Vista Capital Company
Port of Los Angeles
Related Companies of California
Safeway, Inc.
Sammus Group
Sheppard, Mullin, Richter & Hampton
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South Group
Southern California Edison
Southern California Gas Company
Southwest Airlines
Standard Parking Corporation
Staples Center/Los Angeles Arena Co.
State Farm Insurance Company
Stonebridge Holdings, Inc.
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Univision KMEX TV-34
Walt Disney Company
Warner Bros. Entertainment Inc.
Washington Mutual
Wells Fargo
Westin Bonaventure Hotel & Suites
The Yellin Company

March 20, 2006

Senate Committee on Transportation and Housing
C/o The Honorable Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Sent via fax: (213) 612-9591

Dear Members of the Senate Transportation and Housing Committee:

Central City Association of Los Angeles (CCA) is L.A.'s premier business advocacy organization, shaping public policy on a broad range of issues and leading the renaissance in Downtown Los Angeles. Established in 1924, CCA is a membership organization representing more than 450 businesses, trade associations, and non-profit organizations employing more than 300,000 people in Los Angeles County.

This letter is to inform you that the Central City Association is in support of Senator Cedillo's SB 1322, scheduled to be heard on Tuesday, March 21, 2006. Please include the Central City Association as a supporter on record for this bill. A more detailed letter will follow.

Thank you.

Sincerely,

Carol E. Schatz
President & CEO

Provided by LRI History LLC

CCA | Central City Association of LOS ANGELES

Fax

To: Senate Committee on Transportation & Housing Fax: 916-445-2209

Company:

From: Central City Assn. Date: March 20, 2006

Re: SB 1322 Pages: 2 (incl. cover)

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Notes:

Support for SB1322 - more detailed letter to follow.

Hearing date: March 21, 2006

626 Wilshire Blvd, Suite 200 Los Angeles, CA 90017 PH: 213-624-1213 Fax: 213-624-0858

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Marc Brown
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March 14, 2006

Honorable Gil Cedillo
Member of the Senate
State Capitol
Sacramento, CA 95814

Re: SB 1322 (SUPPORT)

Dear Senator Cedillo:

On behalf of our clients, the CRLA Foundation is please to support the above referenced measure.

The Department of Housing and Community Development estimates that as many as 360,000 Californians are homeless. Proposals to build emergency shelters to house this vulnerable population are often met with resistance by local governments and vehement opposition by neighborhood groups. SB 1322 provides that homeless shelters are to be permitted by local governments without special discretionary approvals.

Currently, most projects of this type automatically require conditional use authorization (and the public hearing process that goes along with it). In this context, the purpose of a conditional use requirement should largely be to provide design review. If there are no other reasons why a conditional use would be required (such as reduced parking or some other exception), then design review should be handled at the staff level without a CUP.

The net result of SB 1322 would be to remove another risk factor in the approval process and shorten the review timeline, which in turn would promote the construction emergency shelters.

Thank you for your leadership on this important issue.

Sincerely,

Marc Brown
Staff Attorney

Provided by LRI History LLC

WCLP
WESTERN CENTER ON LAW & POVERTY

Sacramento Office
1107 Ninth Street, Suite 801
Sacramento, California 95814
916.442.0753 (voice) • 916.442.7966 (facsimile)
www.wclp.org

MAR 15 2006

14 March 2006

The Honorable Gil Cedillo
Member of the Senate
State Capitol
Sacramento, CA 95814

Re: Support for SB 1322

Dear Senator Cedillo:

On behalf of our low-income clients, the Western Center on Law and Poverty is pleased to support SB 1322.

The Department of Housing and Community Development estimates that as many as 360,000 Californians are homeless, and a recent Los Angeles county survey estimated a homeless population of 88,000. Proposals to build emergency shelters to house this vulnerable population are often met with resistance by local governments and vehement opposition by neighborhood groups. SB 1322 provides that homeless shelters are to be permitted by local governments without special discretionary approvals.

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The net result of SB 1322 would be to remove another risk factor in the approval process and shorten the review time-line, which in turn would promote the construction emergency shelters.

We are pleased to support your bill and look forward to working with you on its enactment.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Senate Transportation and Housing Committee

Provided by LRI History LLC

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cc: Senate Transportation and Housing Committee

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2209

WWW.CACITIES.ORG

March 22, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: **SB 1322 (Cedillo) Mental health/drug rehab housing "by right"**
Notice of Opposition

Dear Senator Cedillo:

We regret to inform you the League of California Cities is in opposition to your SB 1322.

This bill adds *"persons in need of residential mental health and drug rehabilitation services or other residential services"* to the definition of "special housing needs, " then states that if a local government's housing element inventory of sites does not identify adequate sites to accommodate the need to shelter families and persons in need of emergency shelter and residential service providers, then those projects must be accommodated "by right," meaning without the issuance of a conditional use permit or other discretionary permit.

The introduced version of the bill, along with a set of extensive proposed amendments that we have reviewed (RN06 06517), raise numerous issues that we have discussed with your staff over the last several days:

- The bill seems to be attempting to address "emergency shelters" and "group homes" in the same way, when each issue may need to be approached differently. Housing the homeless in not just a land use issue, the issue is layered with many social service issues that often require a more regional approach to solutions. The subject of group homes triggers many other discussions that range from the type of facility, the clients of the facility, whether or not the facility is regulated by the state, the management quality of the facility, the safety of the surrounding neighbors, the overconcentration of six-or-fewer facilities in residential neighborhoods, pattern of use, and other issues.

- Local governments have already lost much of their land use authority to plan for six-or-fewer group homes, and – from a community perspective – the result has not been positive, and has led to much community concern, reflected in the fact that nearly 20 bills have been introduced in the current legislative session attempting to address some aspect of the issue.

- This bill approaches this issue in the housing element law, which is already laden with controversy.

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Many communities with group home problems, overconcentration, etc. may be willing to explore the focus of the intent language in contained in subdivision (f) (Page 2, line33), and voluntarily plan for their group home needs if this means that all group home operators would be limited to the specific sites planned for by the community. This could be a win/win for both providers and local governments.

For these reasons we oppose this measure in its present form.

Sincerely,

Daniel Carrigg
Legislative Director

cc: Members, Senate Committee on Transportation and Housing
Sunne Wright McPeak, Secretary, Business Transportation and Housing Agency
Judy Nevis, Acting Director, Department of Housing and Community Development
Susan Blake, Acting Legislative Director, Governor's Office of Planning and Research

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AMERICAN PLANNING ASSOCIATION
California Chapter

MEMO TO: SENATE TRANSPORTATION & HOUSING COMMITTEE

FROM: CCAPA

DATE: MARCH 15, 2006

SUBJECT: **OPPOSE UNLESS AMENDED SB 1322** – ALLOWING GROUP HOMES WITH SIX OR MORE RESIDENTS BY RIGHT IN SENATE TRANSPORTATION & HOUSING COMMITTEE 3/21/2006

The California Chapter of the American Planning Association is opposed to SB 1322 unless it is amended. SB 1322 would require cities and counties to provide sufficient sites with zoning that permits for emergency shelter facilities and residential service providers with six or more residents, or allow such facilities by right.

CCAPA agrees that jurisdictions should provide for homeless emergency shelter facilities in commercial zones with appropriate local development standards and believe we could work with the author on such a requirement. However, we have several concerns with the requirement for each jurisdiction to either zone or allow by right residential service providers with six or more residents. Here are our concerns:

1. How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services?

2. Are these facilities allowed to have unlimited numbers of residents above six? 16? 40?

3. How can residential neighborhoods absorb impacts of such large facilities?

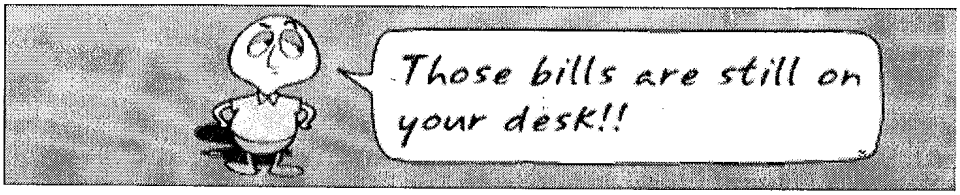
The current law allowing group home facilities with six or fewer residents by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

We would be pleased to meet with you to discuss our concerns. If you have any questions, please contact CCAPA's lobbyist Sande George, Stefan/George Associates at 916-443-5301, sgeorge@stefangeorge.com.

1333 36th Street • Sacramento, CA 95816 • (916) 736-2434 • FAX (916) 456-1283
www.calapa.org

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Los Angeles Times
latimes.com



http://www.latimes.com/news/opinion/editorials/la-ed-nimby04may04,0,1796260.story?coll=la-news-comment-editorials
From the Los Angeles Times

FINDING A WAY HOME

A place to call their own

May 4, 2006

FOUR WEEKS AGO, JAMIE KRONICK moved into her first home in six years. She had been sleeping on the streets of Santa Monica, often in a doorway if the building's owners didn't make too much of a fuss. Now Kronick, who is 50, lives in a clean, well-lighted studio apartment in Silver Lake so new it smells of fresh paint.

Kronick's story, sadly, is as exceptional as her apartment. It's hard enough to get homeless people the services they need so they can begin to get their lives together. The task is made all the more difficult when local residents and officials stymie attempts to provide such services simply because they don't want them in their neighborhood. Until Los Angeles realizes that everyone has to be part of the solution, it will stay the nation's capital of homelessness.

Run by the nonprofit Community of Friends, Kronick's complex is permanent housing for the chronically homeless with untreated mental illness. Each resident gets a bathroom, a small kitchen and a few pieces of furniture. There's a laundry room on each floor and a patio out back. On the first floor, staff members offer services such as mental health counseling and classes in how to balance a budget.

A consensus is building that the best way to help Los Angeles' 34,000 chronically homeless — out of about 88,000 total — is to get them permanent supportive housing like this new building in Silver Lake. New York, San Francisco and Philadelphia are investing heavily and seeing decreases in their homeless population by as much as 15% in recent years.

In Los Angeles, Mayor Antonio Villaraigosa recently announced $50 million in new spending on housing, and the county followed with $100 million of its own. Thanks to the Mental Health Services Act, the state also will be providing money for supportive housing throughout the region.

But these efforts are already at risk. There have been dozens of projects — often paid with private dollars — that have been quashed in recent years, usually because politicians buckled to a small but vocal number of local residents who opposed them. Among the projects blocked have been a home in Sylmar for children living on skid row, a winter shelter for families in North Hollywood and a project in San Pedro for veterans.

Provided by LRI History LLC 2007-633 Page 934 of 1377

The result is that both homeless services and housing remain too concentrated on skid row. There are 2.1 homeless people per shelter bed in downtown L.A., compared with 22.4 per bed in the San Gabriel Valley. Only 21 cities in the area spend more than $10,000 a year on homeless services.

Now, opposition is focused on the mayor's first big pilot project, a 60-bed supportive housing complex in Hollywood. At a recent community meeting to discuss the plan, opponents set up billboards in the back of the room warning parents that pedophiles would be moved into the building. It's not true, of course, but now the plan is less certain. The county's plan to put more services on five small pilot sites across the region also appears shaky. The minute the plan was announced, several cities promised to fight.

When will this stop? Neighbors, of course, often block projects they don't like, sometimes for good reasons. But services need to be dispersed throughout the region to lessen the burden on skid row.

One idea is to enforce or augment existing laws. There are state laws, for instance, that require all of the county's 88 cities to have plans for low-income housing, but most ignore the law. The California Department of Housing and Community Development could investigate, but it doesn't have enforcement powers. That should change. State Sen. Gilbert Cedillo (D-Los Angeles) has introduced legislation to require cities and counties to identify housing sites for emergency homeless shelters. The bill wouldn't require any construction, but local governments couldn't block proposals once available sites were identified.

Homeless services needn't destroy the fabric of a neighborhood. And studies show that they don't increase crime or decrease property values. What they can do is help keep the most vulnerable from becoming homeless and help others find housing quickly.

As she shows a visitor around her new apartment, Kronick happily points out her new bed, dishes from a recently cooked meal, a stack of freshly read books. "It's a start," she says. If only such a new beginning were available to more of Los Angeles' homeless.

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Los Angeles Times
latimes.com

http://www.latimes.com/news/local/la-me-homeless7apr07,0,7310201.story
From the Los Angeles Times

W. Covina Resists Idea of Regional Homeless Center

A county bid to clean up skid row by moving services for the needy to the suburbs gets flak in one city that fears its downtown renewal will suffer.

By Cynthia H. Cho and Cara Mia DiMassa
Times Staff Writer

April 7, 2006

Downtown West Covina is a classic picture of a certain sort of Southern California revitalization.

In a district that was once a shabby collection of commercial businesses, there are new stuccoed buildings with splashy signs, proclaiming a host of chain stores and restaurants, with names like Applebee's, Quiznos, Best Buy and T-Mobile.

But now, Los Angeles County is considering adding something that West Covina officials say doesn't fit the urban revitalization plan. County officials are looking at a small homeless service center in the area as a possible site for building one of five large homeless stabilization facilities to reduce the concentration of the homeless in downtown L.A.'s skid row.

West Covina officials and some residents say their town has its share of homeless people. And although many think the city needs to do more to help them, the prospect of establishing a regional shelter there doesn't sit well.

Why ruin their downtown, residents say, so that downtown L.A. can improve?

"You should get one of the high-rises in L.A. and help people," suggested Jorge Morfin, a commercial painter and two-year West Covina resident. He described the homeless as "eyesores."

"We are not ready to have more of them," he said.

The reactions in this San Gabriel Valley city of about 111,000 offer a reality check of sorts for county leaders who want to move homeless services out of downtown Los Angeles and into the suburbs.

"This area here, they're building it up," said Roxanne Sanchez, a secretary at the Bank of the West branch next door to the homeless center. "They're trying to make it appealing to West Covina residents, and I don't think this will help."

Sanchez, who has worked at the bank for 25 years, said she is already bothered by homeless people who sometimes sleep in the bank parking lot and on its doorstep. She worries that having more homeless people nearby might prevent customers from coming to the bank.

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"I'm sorry for them, but not this close to a business," she said. "We have a business to run here."

The West Covina Access Center is among 14 homeless drop-in centers that the county is considering for conversion into full-service shelters open around the clock. The center is in a two-story commercial building that also houses a dentist's office and a real estate agency at the border between the city's commercial and residential areas.

Workers say they provide referral services for healthcare, employment and housing to about five to 10 homeless people a day. Nearly half of those who come for service are families.

The county plan calls for each of the stabilization centers to have 30 to 40 shelter beds, along with support services, and serve as a destination point for homeless people who are leaving County Jail or hospitals, or who are taken to the center by law enforcement officials as an alternative to jail.

West Covina residents interviewed Thursday said they support helping the homeless more. But they expressed concern about that help occurring in their city — particularly in a downtown area they have worked so hard to revitalize.

Leaving the Starbucks at The Lakes shopping center, a few blocks from the drop-in center, Christy Wright said she has family members who live nearby.

"Realizing that homeless shelters are needed, I am not against having them," she said. "But I'm not pleased with the location."

Many in West Covina said that the building's small size — 7,500 square feet for six commercial units — might prove problematic.

Also, all of the offices are occupied and the building's owner said he has no plans to sell.

Others in the city say they don't want to shoulder the burden for what they perceive to be someone else's problem.

Mayor Steve Herfert complained that the county had not consulted with him before issuing its 47-page plan, which included building the stabilization centers as part of a $100-million effort to combat homelessness.

"It's unfortunate that they don't consult the cities at all. There have been no discussions about this site becoming a site for the county," he said.

The county is also looking at drop-in centers in Glendale, Pasadena, Santa Monica, Venice, North Hollywood and other communities.

And West Covina is not the only community girding for battle.

Los Angeles City Councilman Bill Rosendahl said his phone had been "ringing off the hook" after he suggested in The Times that "it would be great if we could locate one that would work for the Westside."

Rosendahl, who said that each community should take on its fair share of the problem, said most were calls from constituents fearing what having a homeless shelter nearby would do to their

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neighborhoods.

Rosendahl spoke after a news conference Thursday unveiling a blue-ribbon plan to end homelessness in Los Angeles,

The 115-page plan — drafted by the committee known as "Bring L.A. Home!" — makes 200 suggestions for how the region can end homelessness within a decade.

Chief among those recommendations is a call to build 50,000 units of affordable housing with nearby social services. That alone could cost as much as $12 billion, according to the report.

But officials were quick to point out that no money has been identified for that and other suggestions made in the report.

The report comes as Mayor Antonio Villaraigosa and state legislators have vowed to make fixing skid row a priority. The shift came after The Times ran a series highlighting the district's problems.

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If you can only use your health care when you're sick, ...

Los Angeles Times latimes.com

http://www.latimes.com/news/local/la-me-homeless24mar24,0,2261615.story
From the Los Angeles Times

THE STATE

A Plan to Spread Homeless Countywide

By Cara Mia DiMassa and Richard Winton
Times Staff Writers

March 24, 2006

Los Angeles County officials Thursday proposed establishing five regional homeless centers in an effort to reduce "dumping" by hospitals and police agencies in skid row, while spreading out the burden of providing care for homeless people beyond downtown Los Angeles.

The plan marks a significant shift in government policy on homelessness, which until now has concentrated drug rehabilitation services as well as transient shelter beds on skid row. Critics have long said the policy has made downtown a dumping ground for criminals, drugs addicts, mentally ill people and others without homes.

But the proposal is also expected to spark a public debate over whether suburban areas should be — and are capable of — taking on a greater role in providing services and shelters for the homeless. The county plan calls for one regional shelter in each supervisorial district but does not specify where.

In the past, communities have opposed efforts to place homeless shelters in residential areas — one reason why downtown now has the largest homeless population in the western United States.

The plan is "a recognition of what we know to be true: That we have to regionalize the issue," said Orlando Ward, director of public affairs for the Midnight Mission in downtown.

But some community leaders say the plan could be a hard sell in their neighborhoods.

"It isn't going to go down well if this city was chosen for one of these centers, and I suspect it will be much the same in other cities," said Burbank Mayor Jef Vander Borght. "We wouldn't want to house the county homeless population. We probably represent a hundredth of that population, not a fifth. I hate to sound like I suffer from NIMBYism, but it is unlikely to fit in with the neighborhoods."

The five proposed facilities are the centerpiece of a long-awaited $100-million effort by the county to improve conditions on skid row.

While the county is focusing on services for the homeless, the Los Angeles Police Department is

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expected to decide in the next few weeks on a new approach for attacking drug dealing and other crimes on skid row. And Mayor Antonio Villaraigosa has set aside $50 million to build new housing for homeless and low-income residents, while state legislators have sponsored measures aimed at halting dumping.

But the county's plan may end up being the most controversial, because it would disperse homeless services into other communities.

"That will need a lot of leadership ... to get those [centers] sited, because of that issue of 'Not in My Backyard' that we all face," said Ruth Schwartz, executive director of Shelter Partnership, a nonprofit organization based downtown.

The five centers would serve as 24-hour drop-off points where hospital, police and care providers could leave people who need housing. Each facility would provide at least 30 beds for short-term stays, as well as mental health and substance abuse services.

Officials said each center's goal would be to find long-term shelter within its supervisorial district for those served. The county hopes to encourage creation of such private shelters with grants.

The LAPD has accused about a dozen suburban police agencies of driving homeless people downtown and leaving them on skid row. The Los Angeles city attorney is investigating whether hospitals around the county regularly dump homeless patients there upon discharge.

On Wednesday, Kaiser Permanente apologized after authorities released a videotape showing a patient from the company's Bellflower hospital being dropped off by taxi and left on the street.

County Chief Administrative Officer David E. Janssen said the new plan was drawn from a score of proposals by all five supervisors to deal with pieces of the homeless problem. The 47-page proposal, he said, represents "the building block. This is not going to solve the problem. But maybe it will be the foundation."

The board will consider it April 4. The centers would cost a total of about $7 million a year and would probably be on county property. The plan would also:

- Establish an $80-million trust fund, from unallocated county money, to help build emergency, traditional and permanent housing. Some of the fund would also be used for rent subsidies.

- Create a Homeless Family Access Center, designed to move families off skid row by assessing them and swiftly connecting them to services and housing. The center would be part of what the county has labeled a policy of zero tolerance for having families on skid row.

- Establish a homeless court, which would allow transients with outstanding warrants for quality-of-life misdemeanor crimes to have warrants resolved upon completion of a recovery program for mental health or narcotics addiction. County officials say such warrants prevent those people from gaining access to needed social services. Another court would handle cases of individuals with preexisting mental conditions charged with felony drug violations.

- Create a database of affordable rental housing.

Besides hospitals, jail officials have been accused of skid row dumping. Pilot programs would try to help people who would otherwise be homeless upon discharge to get social services, benefits and

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housing.

Although Janssen said he believes that he has enough votes for the proposal to pass, reaction from the county supervisors' offices was mixed.

Supervisor Zev Yaroslavsky praised the plan, calling it "a comprehensive and historic engagement on the part of the county on an issue that needs this level of attention and more."

David Sommers, spokesman for Supervisor Don Knabe, called the proposal "step one," saying he felt it offered an outline for addressing the issues but not enough specifics.

Tony Bell, a spokesman for Supervisor Mike Antonovich, said he was concerned that the plan costs too much and might take funding from public safety programs.

Even if the supervisors support the plan, the political debate is unlikely to stop there. The five centers would require full environmental impact studies, including public comments.

"My knee-jerk reaction is: not in my city," said Burbank's Vander Borght. "It would be very hard to fit it in."

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PARTNERS: ktla Hoy

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Stivers, Mark

From: Stivers, Mark
Sent: Thursday, December 01, 2005 11:57 AM
To: Leal, Nadia
Subject: RE: Housing Bill

Nadia, There are two provisions of housing element law that pertain to homeless shelters:

Gov. Code 65863(c)(1) states in part:

> 65583(c)(1) Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, *emergency shelters*, and transitional housing.

GC 65583.2(c) states:

> (c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, *emergency shelters*, and transitional housing.

In practice, this means that HCD wants to see sites where shelters are allowed either by-right or with a conditional use permit. To beef this up, we probably should add a new subdivision to 65583 that says a city or county shall identify sites where emergency shelters are allowed as a use by-right, as defined in 65583.2(i). The sites shall be developable for emergency shelters within the planning period and sufficient to shelter the families and persons in need of emergency shelter indentified pursuant to 65583(a)(6).

-- Mark

> -----Original Message-----
> **From:** Leal, Nadia
> **Sent:** Tuesday, November 29, 2005 2:32 PM
> **To:** Stivers, Mark
> **Subject:** Housing Bill
>
> Hi Mark,
>
> I wanted to double check with you and make sure I wrote down the right number in the Government Code relating to homeless shelters. Did you say Gov. Code 65583?
>
> I have not found the section of the code you mentioned but I did no a quick run. I just want to make sure.
>
> Also, I wanted to ask you if you know of any states that do have this provision in their housing element. I am not sure if I asked you but just in case.
>
> I am going to give it my first stab at writing languge so I'll share with you once I have something. Thanks for all of your help.

Provided by LRI History LLC

Nadia Leal
Office of Senator Gilbert Cedillo
State Capitol, 5100
Sacramento, California 95814
Tel: 916-445-3456
Fax: 916-327-8817
E-mail: nadia.leal@sen.ca.gov

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SENATE
CALIFORNIA LEGISLATURE

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(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT

MEMORANDUM

TO: Legislative Counsel

FROM: Nadia Leal, Office of Senator Cedillo

DATE: March 8, 2006

RE: Amendments to SB 1322

Please draft amendments that reflect the following language:

1) Definitions to the following terms-

"Emergency shelter" (pursuant to Health and Safety Code, Section 50801) means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because on an inability to pay.

"Transitional housing" (pursuant to Health and Safety Code, Section 50801) means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirement for subsidized housing for low-income persons. Rents and services fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing. Transitional housing shall also include a transitional housing placement facility and transitional housing program as defined by Health and Safety Code, Section 1502 (c) (12) and 50582 (g).

Provided by LRI History LLC

"Residential service provider" means any residential facility that provides social rehabilitation services for adults and children, regular individualized case management services which may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development. Residential service provider shall also be defined to include and individual or entity pursuant to Health and Safety Code Section 1502 and 1569.2.

2) Amend SB 1322 as indicated in the attached document.

3) Amend Government Code, Section 65589.5 as indicated in the attached document.

Provided by LRI History LLC

SENATE BILL **No. 1322**

Introduced by Senator Cedillo

February 16, 2006

An act to amend Sections 65583 and 65583.2 of the Government Code, relating to housing.

legislative counsel's digest

SB 1322, as introduced, Cedillo. Housing: use by right.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter and residential service providers to these provisions, as specified. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) 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 these statutory provisions.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate of substance abuse and mental illness is at 16 percent among homeless individuals.

(d) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like Skid Row area in downtown Los Angeles.

(e) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(f) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

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(g) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. 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, and mobilehomes, 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental

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constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter, *transitional housing and persons in need of residential mental health and drug rehabilitation services or other residential services.*

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

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(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and

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development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, *residential service providers,* and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate

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the need to shelter families and persons in need of emergency shelters, ~~*and*~~ transitional housing and *residential service providers identified pursuant to paragraph (6) of subdivision (a), the program shall identify sufficient sites that can be developed within the planning period pursuant to paragraph (1) of this subdivision to meet the need with zoning that permits emergency shelters,* ~~*and*~~ transitional housing and *residential service providers use by right.*

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the

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development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 3. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

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(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, *residential service providers,* and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

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(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

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(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied, *farmworker housing, emergency shelter, residential service provider,* transitional housing, or *rental* multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public

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Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

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

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65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, transitional housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, transitional housing and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible, transitional housing, emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove transitional housing, an emergency shelter or a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the

regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing and an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to 65583(a)(6). Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project transitional housing or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the transitional housing or emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of transitional housing or emergency shelter financially infeasible.

(4) The development project, transitional housing or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, transitional housing or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. Nor shall this paragraph be utilized to disapprove or conditionally approve transitional housing or an emergency shelter if they are both proposed on a site that is identified as suitable for transitional housing and emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section

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65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project, transitional housing or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households"

means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or

to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, transitional housing or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing, transitional housing or emergency shelters for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, transitional housing or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, transitional housing or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, transitional housing or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the

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local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

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Stivers, Mark

From: Leal, Nadia
Sent: Friday, March 03, 2006 3:20 PM
To: Stivers, Mark
Subject: SB 1322

Hi Mark,

I just wanted to give you an update on SB 1320. After discussing the bill with the Senator, we will be amending the bill to also include transitional housing and make the amendments to the Anti-NYMBY section of the code as you suggested.

I am also going to define residential service providers, emergency shelters, and transitional housing.

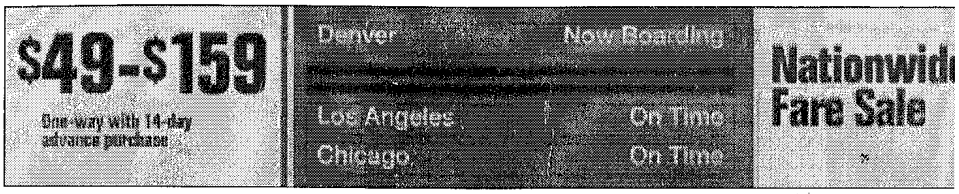
I hope to be able to get that language ready by early next week.

I know the committee has not set hearing dates but Senator Cedillo does want to set the bill for the first available hearing.

Have a great weekend and as always thanks for all of you help.

Nadia Leal
Office of Senator Gilbert Cedillo
State Capitol, 5100
Sacramento, California 95814
Tel: 916-651-4022
Fax: 916-327-8817
E-mail: nadia.leal@sen.ca.gov

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Los Angeles Times
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http://www.latimes.com/news/local/la-me-skidrow18aug18,1,6549073.story

Legislation to Help California's Homeless Advances

A key Assembly panel approves bills that would provide treatment for nonviolent offenders and curtail 'dumping.'

By Jordan Rau and Cara Mia DiMassa
Times Staff Writers

August 18, 2006

SACRAMENTO — Legislation to combat chronic homelessness on Los Angeles' skid row and in other places around California where the dispossessed congregate is on track to become law after receiving approval from a key Assembly panel Thursday.

The package of bills includes a $150,000 pilot program in Los Angeles County Superior Court for probation supervision and treatment of nonviolent offenders with mental health or substance abuse problems or both.

The legislation would also require all municipalities to devise plans to help their homeless population rather than dump them in other areas where treatment programs already exist.

In addition, people convicted of peddling drugs within 1,000 feet of homeless shelters and drug treatment programs would have a year added to their sentences. The legislation had called for a two-year sentence extension, but that was cut in half by the Assembly Appropriations Committee, which approved the bills Thursday. The measures will be voted on sometime in the next two weeks.

Lawmakers dropped an idea pushed by businesses and developers to ban people on probation from entering the area of Los Angeles bounded by 3rd, Alameda, 7th and Main streets. Lawmakers abandoned the proposal out of concern that it would not survive a court challenge.

"We're taking action to make sure that the people who need the help get it," said Assembly Speaker Fabian Nuñez (D-Los Angeles). "But we're also taking action to see that those who prey on the homeless get dealt with adequately."

The bills are in addition to money lawmakers added to the state budget in June to help California's skid rows.

At that time legislators added $8 million for drug courts and $5 million for homeless family assistance, to help protect those teetering on the edge of eviction. The state also boosted from $40 to $65 a night the stipend for emergency housing, which is available once in a person's lifetime for up to 16 days straight. And counties can now provide financial assistance to families before they become homeless.

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Michael Tynan, supervising drug court judge for L.A. County Superior Court, said he hoped the pilot program could deal with 50 to 100 people a year from the downtown homeless population, which he said numbers in the tens of thousands.

"If we can demonstrate that some of these programs work a whole lot better than others, then we can motivate the City Council, the Board of Supervisors and the state to fund these things adequately," he said.

Carol Schatz, president and chief executive of the Central City Assn., a business advocacy group, praised the overall package but expressed disappointment that the drug dealing penalty had been reduced and that lawmakers ditched the no-entry zone.

"We got a lot, but we didn't get it all in," she said. "I think it is very frustrating that we couldn't get these simple bills through, given the enormity of the problem."

Joel John Roberts, chief executive of People Assisting the Homeless, an L.A.-based service and housing provider outside of downtown, said that although improvements to the courts and the other changes might be merited, lawmakers needed to provide more money for housing.

"If you are going to do one, you should emphasize the other as well," he said.

One of the more inventive parts of the package, lawmakers said, is aimed at preventing the practice of dumping, in which communities tacitly — and in some cases actively — encourage their most troubled residents to migrate to existing skid rows because their own areas do not provide drug treatment services or homeless shelters.

"Downtown L.A. gets dumped on. Santa Monica gets dumped upon. Sacramento gets dumped upon. Truckee, Calif., gets dumped upon," said Sen. Gil Cedillo (D-Los Angeles), who proposed several of the measures.

"Every community will have to take responsibility for poor people, homeless people and the various problems that lead to homelessness," he added.

The League of California Cities as well as Torrance and the Sacramento suburb of Roseville oppose the measure.

The league said the bill usurps municipalities' rights and will be costly.

The new legislation requires all counties and cities to designate acceptable zones for emergency shelters and transitional housing.

It would prohibit the localities from refusing to issue permits for such facilities unless they had reasons aside from the nature of the population.

Los Angeles Councilwoman Jan Perry, who represents much of downtown L.A., called the approach "very realistic and relevant."

"It's a very good start if it gets out of their process and we can actually implement it," she said.

Besides requiring approval from the full Assembly, the measures must also be ratified by the state

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Senate before the Legislature adjourns at the end of the month.

Gov. Arnold Schwarzenegger has taken no position on the legislation.

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PARTNERS: ktla hoy

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Senate Fiscal Committee Materials

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

SB 1322 (Cedillo)

Hearing Date: 5/25/06 **Amended:** 3/28/06
Consultant: Mark McKenzie **Policy Vote: T&H (9-1)**

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually -----see staff comments-----			GF

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

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Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

Amends:

- ✓ in w/ Counsel about local fee auth.

- allow LG to update on next cycle

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 28, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for residential service facilities and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or residential service facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

The Department of Housing and Community Development (HCD) staff indicate that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs
- Given that the homeless population is notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for the homeless population. If the requirement to provide sites for shelters was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal (0741) B. Ehlers	Date	Program Budget Manager Mark Hill	Date
Bryan Ehlers	4/18/06	Mark Hill	4/18/06
Department Deputy Director		Original signed by John Lloyd	Date
Governor's Office:	By:	Date: 4/20	Position Approved ✓ Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand state housing element law to require cities and counties to identify housing sites to accommodate residential service facilities and emergency shelters in order to address the city or county's share of the state's homeless population. If the city or county could not identify these sites, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the bill's author, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including residential service facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include residential service facilities and emergency shelters in their housing element.

HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as residential service facilities and emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters. The author's staff acknowledges that this problem has already been raised to the attention of their office.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population is notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

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B. Fiscal Analysis

HCD staff indicates that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. Significant expense would be incurred in conducting a census of homeless persons in each jurisdiction. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2005-2006	FC	2006-2007	FC	2007-2008	Fund Code
2240/HCD	SO	No		---------- See Fiscal Analysis ----------					0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

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SENATE COMMITTEE ON APPROPRIATIONS

4/27 — Date Heard

5/25 (S) — Date Reheard

_____ — Date Reheard

TESTIMONY:

Up → Susp

Dept. of Finance position: _____

_____

_____

Amendments: _____

_____

_____

	ACTION ON BILL							
Murray								
Aanestad								
Alarcon								
Alquist								
Ashburn								
Battin								
Dutton								
Escutia								
Florez								
Ortiz								
Poochigian								
Romero								
Torlakson								
Totals								

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Senate Republican Fiscal Office Materials

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

1322 (Cedillo)

Hearing Date: 4/24/06 Amended: 3/28/06
Consultant: Mark McKenzie Policy Vote: T&H (9-1)

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200	annually		GF
	-----see staff comments-----			

STAFF COMMENTS: This bill meets the criteria for referral to the Suspense File.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

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Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would

likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average

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annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

SB 1322 (Cedillo)

Hearing Date: 5/25/06 **Amended:** 3/28/06
Consultant: Mark McKenzie **Policy Vote: T&H (9-1)**

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually -----see staff comments-----			GF

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

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Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 28, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for residential service facilities and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or residential service facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

The Department of Housing and Community Development (HCD) staff indicate that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs
- Given that the homeless population is notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for the homeless population. If the requirement to provide sites for shelters was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal (0741) B. Ehlers	Date	Program Budget Manager Mark Hill	Date
Bryan Ehlers	4/18/06	Mark Hill	4/18/06
Department Deputy Director			Date
Original signed by Ed Boyd			
Governor's Office: By:		Date: 4/20	Position Approved ✓ Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

BTH :SB1322-3429.doc 4/17/2006 5:33:00 PM

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand state housing element law to require cities and counties to identify housing sites to accommodate residential service facilities and emergency shelters in order to address the city or county's share of the state's homeless population. If the city or county could not identify these sites, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the bill's author, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including residential service facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include residential service facilities and emergency shelters in their housing element.

HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as residential service facilities and emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters. The author's staff acknowledges that this problem has already been raised to the attention of their office.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population is notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

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B. Fiscal Analysis

HCD staff indicates that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. Significant expense would be incurred in conducting a census of homeless persons in each jurisdiction. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2005-2006	FC	2006-2007	FC	2007-2008	Fund Code
2240/HCD	SO	No	---------- See Fiscal Analysis ----------						0001
2240/HCD	LA	No	Unknown Mandate Costs						0001

File Item #
SB 1322 (Cedillo)
Oppose

Senate Floor: 25-11 (5/30/06)
(AYE: Ashburn; NO: All other Republicans; except, ABS: Battin, McClintock)
Vote requirement: 21
Version Date: 8/21/06

Quick Summary

Assembly amendments add special needs housing, as defined, to the bill and requires that these facilities get the same treatment as the transitional facilities envisioned when the bill passed the Senate floor.

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Fiscal Effect 8-24-06 CD

MINOR TO SIGNIFICANT COSTS.

State. Minor support costs, likely less than $150,000, within the Department of Housing and Community Development for workload associated with site review of additional facilities included in local government's housing element plan.

Local. Potentially significant costs, likely less than $500,000 for local governments to modify their housing element plans to include additional emergency shelter, transitional housing, and residential service facilities within their housing element plans.

Fiscal Consultant: Chantele Denny

Analysis

Arguments in Support:

According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that

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responsibility seriously rather than simply sloughing it off on other communities.

Arguments in Opposition:
Arguing in opposition to the bill, the California Chapter of the American Planning Association identifies several areas of concern. (1) How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services? (2) Are these facilities allowed to have unlimited numbers of residents above six? 16? 40? (3) How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing small group home facilities by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

Other Issues
Homelessness in the Press
Recent press accounts have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines.

Local Control
Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. Another element of local housing planning that is often overlooked is the use of impact fees by local communities to generate revenues on the backs of homeowners to pay for a host of services often completely unrelated to the development of housing.

There is a great deal of regulation imposed by the states on local government, much of it is appropriate and adhered to, some inappropriate and ignored. At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent

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problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, is this the appropriate method for meeting the needs of the homeless across the entire state?

Digest

Requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Amends housing element law to require local governments to analyze the need for transitional housing transitional housing, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions to serve the homeless and the need for residential facilities that provide rehabilitation services.

Requires local governments to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Requires local governments that have an inadequate supply of emergency shelters and residential service facilities to accommodate the need identified by their analysis to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Amends the anti-NIMBY law-which prohibits a local governments from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason-to apply to emergency shelters and "special needs facilities, " as defined.

Requires local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and prohibits adoption of any ordinance prohibiting such facilities.

Requires that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards.

Provides that a local agency may require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards

Further requires that any housing element adopted or amended after 1/1/07 incorporate all the changes required by this act.

Background

Housing Element Law

Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right

If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law

California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project: (1) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact; (2) the denial is required to comply with state or federal law; (3) the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or (4) the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the

project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Support & Opposition Received

Support: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

Opposition: League of Cities
California Chapter of the American Planning Association

Senate Republican Office of Policy/ *Edward Morley*

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SB 1322 (CEDILLO)
HOMELESS SHELTERS.

Version: 8/21/06 Last Amended
Vote: Majority
Oppose

Vice-Chair: Bill Emmerson
Tax or Fee Increase: No

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Policy Question

Shall local governments be required to identify specific sites with by-right zoning to accommodate homeless shelters and be prohibited from disapproving these facilities unless specified findings are made?

Summary

Requires cities and counties to include in the housing element of their general plan an analysis of the need for homeless shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Specifically, this bill:

1. Adds homeless shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.
2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.
3. Requires the city or county to identify and rezone s odate the need for eme ntory does not identify iodate the commu the analysis and requires rezoned sites to permit homeless shelters as a use by right.
4. Allows a local government to satisfy the requirement to identify sites for homeless shelters through a multi-jurisdictional agreement with adjacent communities.
5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.
6. Defines "emergency shelter" as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.
7. Requires the analysis of special housing needs within the housing element to address transitional housing.
8. Defines "transitional housing" as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.
9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.
10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.
11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.
12. Amends the anti-NIMBY (for "not in my back yard") law to:
    - Apply the law to emergency shelters and special needs facilities; and,
    - Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Senate Republican Floor Votes (25-11) 5/30/06
Ayes: None
Noes: All Republicans Except
Abs. / NV: Margett, Mc Clintock

Assembly Republican Housing Votes (5-2) 6/28/06
Ayes: None
Noes: Garcia, La Suer
Abs. / NV: None

Assembly Republican Local Gov Votes (5-2) 6/28/06
Ayes: None
Noes: Emmerson, Houston
Abs. / NV: None

Assembly Republican Appropriations Votes (13-5) 8/16/06
Ayes: None
Noes: Runner, Emmerson, Haynes, Nakanishi, Walters
Abs. / NV: None

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13. Clarify when a housing element would have to conform to the requirements of the bill.
14. Add double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law.
15. Add double-jointing language to prevent chaptering out problems should this bill and AB 2511 (Jones), pending in the Senate, both become law.

Support

Housing California.

Opposition

League of CA Cities.

Arguments In Support of the Bill

1. According the author, there are an estimated 360,000 homeless individuals and families in California. Since homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.
2. Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Argumen Bill

1. First, h supposed to determine the need on which to base the zoning for facilities serving the homeless? This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.
2. Second, how can residential neighborhoods absorb impacts of such large facilities?
3. Finally, there are potentially significant costs, likely less than $500,000 for local governments, to modify their housing element plans to include additional homeless shelters and transitional housing. By expanding the scope of the housing element, this bill would likely result in a reimbursable state mandate.

Fiscal Effect

NO STATE COST.

Comments

Use by Right:

1. If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.
2. Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.
3. Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law:

1. California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project:
   - The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
   - the denial is required to comply with state or federal law;
   - the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
   - the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
2. Since an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Housing Element Law:

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1. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.
2. Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Policy Consultant: William Weber 8/22/06
Fiscal Consultant: Allan Cooper 08/17/06

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Substantive

AMENDMENTS TO SENATE BILL NO. 1322
AS AMENDED IN SENATE MARCH 28, 2006

Amendment 1
Below line 1 of the heading, insert:

(Coauthor: Senator Kuehl)

Amendment 2
On page 10, between lines 34 and 35, insert:

(e) On and after January 1, 2007, the adoption or amendment of the housing element by a city, county, or city and county pursuant to this chapter shall incorporate the changes to the housing element required by this section.

- 0 -

no fiscal report

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AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo

February 16, 2006

An act to amend Sections ~~65583 and 65583.2~~ *65582, 65583, 65583.2, and 65589.5* of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. ~~Housing: use by right.~~ *Housing.*

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter, *transitional housing,* and residential service ~~providers~~ *facilities* to these provisions, as specified, *and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions.* By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would also delete obsolete provisions relating to assisted housing developments.

(2) *The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker*

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government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

~~(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.~~

~~(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.~~

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters and residential service facilities pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these facilities pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters and residential services facilities that are zoned to permit the development of these shelters and facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters and residential service facilities of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

~~SEC. 3.~~

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites

Insert RN identifies housing elements adopted on or after 1-1-07 to incorporate these changes

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~~SEC. 4.~~

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 1322
AUTHOR: cedillo

VERSION: To be amended
Analysis by: Mark Stivers
FISCAL: Yes

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such

http://info.sen.ca.gov/pub/bill/sen/sb_1301-1350/sb_1322_cfa_20060317_091824_sen_c... 04/17/2006
Provided by LRI History LLC 2007-633 Page 998 of 1377

housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

How is "need" determined?

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for

analysis identifies need as well

emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and

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What is involved in rezoning?

rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

Apply the law to emergency shelters.

Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Who at State level validates need + ensures locals are meeting needs?

COMMENTS:

1. Purpose of the bill . According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping . Recent press accounts in the Los Angeles and Sacramento regions have described cases

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where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability . To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches . The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities. Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of

homelessness.

5. Technical amendments . The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

(d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
(f) "Residential service facility" means any residential

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facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing or an emergency shelter?"

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday,
March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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Office of Senate Floor Analyses Materials

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

SB 1322 (Cedillo)

Hearing Date: 4/24/06
Consultant: Mark McKenzie

Amended: 3/28/06
Policy Vote: T&H (9-1)

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually			GF
	-----see staff comments-----			

STAFF COMMENTS: This bill meets the criteria for referral to the Suspense File.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

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Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 28, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for residential service facilities and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or residential service facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

The Department of Housing and Community Development (HCD) staff indicate that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs
- Given that the homeless population is notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for the homeless population. If the requirement to provide sites for shelters was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal (0741) B. Ehlers	Date	Program Budget Manager Mark Hill	Date
Bryan Ehlers	4/18/06	Mark Hill	4/18/06
Department Deputy Director Original signed by John Lloyd			Date
Governor's Office:	By:	Date: 4/20	Position Approved ✓ Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

BTH :SB1322-3429.doc 4/17/2006 5:33:00 PM

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand state housing element law to require cities and counties to identify housing sites to accommodate residential service facilities and emergency shelters in order to address the city or county's share of the state's homeless population. If the city or county could not identify these sites, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the bill's author, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including residential service facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include residential service facilities and emergency shelters in their housing element.

HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as residential service facilities and emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters. The author's staff acknowledges that this problem has already been raised to the attention of their office.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population is notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Provided by LRI History LLC

B. Fiscal Analysis

HCD staff indicates that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. Significant expense would be incurred in conducting a census of homeless persons in each jurisdiction. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2005-2006	FC	2006-2007	FC	2007-2008	Fund Code
2240/HCD	SO	No		---------- See Fiscal Analysis ----------					0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 7, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

According to Department of Housing and Community Development (HCD) staff, this bill would generate one-time costs to the department of $145,000.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the March 28, 2006 version include the following significant amendments which do not change our position:

- The bill requires cities and counties to identify sites or zones for special needs facilities, and includes residential services facilities within the definition of "special needs facilities."
- Changes to a local government's housing element as a result of the bill would only be required when revision of the housing element is otherwise required.
- The bill requires local governments to zone emergency shelter sites with appropriate management standards.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers		Mark Hill	8/10/06
Department Deputy Director			Date
Governor's Office:	By:	Date: 8/14/06	Position Approved / Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Department of Housing and Community Development (HCD) staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters.

Additionally, HCD staff note concern that provisions in the bill would require local governments to zone management standards for emergency shelters. HCD staff indicate they are unclear what these provisions mean or how the HCD would implement them.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population and the related subpopulation with special needs are notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to

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verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

B. Fiscal Analysis

According to HCD staff, this bill would generate one-time costs of $145,000 to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE: 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR: 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR: Not available

SUBJECT: Emergency shelters and transitional housing to serve the homeless

SOURCE: Author

CONTINUED

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DIGEST: This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

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1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

CONTINUED

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5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

    A. Apply the law to emergency shelters and special needs facilities.

    B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

CONTINUED

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FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT: (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California
JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 8/28/06)

City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego
League of California Cities
Town of Apple Valley

CONTINUED

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ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 8/30/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

****** END ******

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE: 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR: 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR: 41-34, 8/31/06 - See last page for vote

SUBJECT: Emergency shelters and transitional housing to serve the homeless

CONTINUED

Provided by LRI History LLC

SOURCE: Author

DIGEST: This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

CONTINUED

Provided by LRI History LLC

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

CONTINUED

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4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

    A. Apply the law to emergency shelters and special needs facilities.

    B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the

CONTINUED

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need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT: (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California
JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 8/28/06)

City of Elk Grove
City of Roseville

CONTINUED

Provided by LRI History LLC

City of Torrance
City of Vista
County of San Diego
League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

ASSEMBLY FLOOR:
AYES: Arambula, Baca, Bass, Berg, Bermudez, Calderon, Canciamilla, Chan, Chavez, Cohn, Coto, De La Torre, Dymally, Frommer, Goldberg, Hancock, Jerome Horton, Jones, Karnette, Klehs, Koretz, Laird, Leno, Levine, Lieber, Liu, Matthews, Montanez, Mullin, Negrete McLeod, Oropeza, Parra, Ridley-Thomas, Ruskin, Saldana, Salinas, Torrico, Umberg, Vargas, Yee, Nunez
NOES: Aghazarian, Benoit, Blakeslee, Bogh, Cogdill, Daucher, DeVore, Emmerson, Evans, Garcia, Haynes, Shirley Horton, Houston, Huff, Keene, La Malfa, La Suer, Leslie, Lieu, Maze, McCarthy, Mountjoy, Nakanishi, Niello, Plescia, Richman, Sharon Runner, Spitzer, Strickland, Tran, Villines, Walters, Wolk, Wyland
NO VOTE RECORDED: Chu, Nation, Nava, Pavley, Vacancy

JJA:do 9/5/06 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
****** END ******

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 1322

UNFINISHED BUSINESS

Bill Nó: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE: 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR: 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR: Not available

SUBJECT: Emergency shelters and transitional housing to serve the homeless

SOURCE: Author

CONTINUED

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This bill
DIGEST: Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

CONTINUED

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1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

CONTINUED

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5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

    A. Apply the law to emergency shelters and special needs facilities.

    B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language ~~to prevent chaptering out problems~~ should this bill and AB 2634 (Lieber) with ~~pending in the Senate, both~~

CONTINUED

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become law; and should this bill and AB 2511 (Jones), pending in the Senate, both become law.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT: (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California
JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 8/28/06)

City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego

CONTINUED

Provided by LRI History LLC

League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 8/28/06 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
****** END ******

Provided by LRI History LLC

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 1322

THIRD READING

Bill No: SB 1322
Author: Cedillo (D)
Amended: ~~5/26/06~~ 8/24/06
Vote: 21

A.SF: 25-11 5/30/06 AF: Not available

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE: 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SUBJECT: Emergency shelters and transitional housing to serve the homeless

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ASM amendments 1X

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing

CONTINUED

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development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings,based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation andthe zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

CONTINUED

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This bill: B1 B2 B3

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

1. Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

2. Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3. To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4. Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing element.

5. Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

6. Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

7. Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

CONTINUED

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1. Apply the law to emergency shelters.

2. Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Related Legislation

SB 1800 (Ducheny), requires local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber), requires communities to analyze the need for extremely low-income housing in their housing element.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually			GF

SUPPORT: (Verified ~~5/25/06~~) 6/28/6

California Rural Legal Assistance Foundation
Western Center on Law and Poverty

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of

CONTINUED

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the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 5/26/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

****** END ******

Opp.

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SB 1322
Page 1

SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 24, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT 5-2		HOUSING 5-2	
Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

APPROPRIATIONS 13-5			
Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. ~~Specifically, this bill~~ :

1)Adds emergency shelters to the list of types of housing for

A

B

which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5) Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7) Requires the analysis of special housing needs within the housing element to address transitional housing.

8) Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9) Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10) Prohibits a local agency from enacting or enforcing an

B2

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ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11) Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for

the elderly.

12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13) Includes double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law; and should this bill and AB 2511 (Jones), pending in the Senate, both become law.

EXISTING LAW :

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

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3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's

housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and,

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects

or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT: According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or

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other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities, or

5) The jurisdiction has identified sufficient and adequate sites

to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters and special needs facilities do not contain housing "units," they are not considered housing

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development projects and are therefore not currently protected by the anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, and ages, and all geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. According to the author, this bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

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This bill adds protections in law for emergency shelters, transitional housing, and special needs facilities in three ways. First, it would require every city and county to zone by right enough sites for emergency shelters to accommodate the community's need as identified in the housing element. Second, it would require every city and county to zone for special needs facilities and transitional housing and would prohibit local agencies from banning these types of uses. Third, it would apply the anti-NIMBY law to emergency shelters and special needs facilities to protect these types of projects from being unreasonably denied or conditioned in a manner that renders them infeasible to develop.

Under current law, special needs facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

The category of "special needs facilities" as defined in this bill is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that
serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

Opponents argue that this bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for emergency shelters by taking away a community's initial

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opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0017068

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Assembly amendments 1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, 2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings, 3) define special needs housing, 4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit, and 5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

Support:

City of Santa Monica
California Rural Legal Assistance Foundation
California Mental Health Directors Association
Western Center on Law and Poverty
The Midnight Mission
Central City Association of Los Angeles
Union Rescue Mission
Shelter Partnership, Inc.
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc.
JERICHO
San Diego Housing Federation
Housing California
Progressive Jewish Alliance

Opposition:

League of California Cities
City of Elk Grove
County of San Diego
City of Roseville
City of Torrance
City of Vista
Town of Apple Valley

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Ths F h N T enfld

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478 Version:

SB 1322

Verified

THIRD READING

Bill No: SB 1322
Author: Cedillo (D)
Amended: ~~As introduced~~ 5/26/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

Sen. Approps 9-4 @ 5/25/06

SUBJECT: Emergency shelters and transitional housing to serve the homeless.

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by

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right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

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Specifically, the bill amends housing element law to:

1. Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

2. Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3. To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4. [redacted] 2x

5. 4. Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

6. 5. Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

7. 6. Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

1. Apply the law to emergency shelters.

2. Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

CONTINUED

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RELATED LEGISLATION

SB 1800 (Ducheny), requires local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber), requires communities to analyze the need for extremely low-income housing in their housing element.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

IX-7

SUPPORT: (Verified ~~3/27/06~~) 5/25/06

California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSITION: (Verified >)

>

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

ARGUMENTS IN OPPOSITION: >

CONTINUED

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JJA:do 3/27/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

SUPPORT/OPPOSITION: NONE RECEIVED

****** END ******

POSITIONS: (Communicated to the Committee before noon on Wednesday,

March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation

Western Center on Law and Poverty

OPPOSED: None received.

SCA By: Sen. Committee on Transportation And Housing (02/16/06)

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

SB 1322 (Cedillo)

Hearing Date: 5/25/06 **Amended:** 3/28/06
Consultant: Mark McKenzie **Policy Vote: T&H (9-1)**

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

According to the Senate Approps Cmte:

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually ~~-----see staff comments-----~~			GF

IX

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

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Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS ~~a clarifying amendment that would~~ allow a city or county to comply with the requirement ~~to include additional information in the housing element~~ of the bill during the next regular update cycle. of their housing element

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

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SENATE FLOOR ANALYSES WORKSHEET CONSULTANT: JOA

THIRD READING / CONSENT / (DO AHEAD)

Bill No.: SB 1332
Author: Cedillo (D)
Amended:
Vote Required:: 21

SEN. T+H COM.: Vote 9-1, Date 3/21/06
SEN. APPROP. COM.: Vote _____, Date _____ / 28.8 / NONFISCAL
SEN. FLOOR: Vote _____, Date _____ / ASSY FLOOR: Vote _____, Date _____

SUBJECT: Emergency shelters + transitional housing ~~SCHOOL~~ to serve the homeless
SOURCE: Author

DIGEST: A

ANALYSIS: B D

FISCAL EFFECT: Appropriation: N Fiscal Committee: Y Local: Y

SUPPORT: Verification Date _____
CA Rural Legal Assistance Foundation
Western Center on Law + Poverty

OPPOSITION: Verification Date _____

ARGUMENTS IN SUPPORT:
C

ARGUMENTS IN OPPOSITION:

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 1322
AUTHOR: CEDILLO
VERSION: To be amended
FISCAL: YES

Analysis by: Mark Stivers

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

A

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

B

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

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- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.
- Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.
- Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.
- Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

- Apply the law to emergency shelters.
- Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current

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disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches. The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. **The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities.** Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Technical amendments. The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

   - Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

     (d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
     (f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance

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services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

- The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing *or* an emergency shelter..."

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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Senate Republican Policy Office Materials

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 1322
AUTHOR: CEDILLO
VERSION: To be amended
FISCAL: YES

Analysis by: Mark Stivers

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

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- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.
- Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.
- Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.
- Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services and independent living skills development.

The bill also amends the anti-NIMBY law to:

- Apply the law to emergency shelters.
- Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities

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that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches. The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. **The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities.** Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Technical amendments. The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

- Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

  (d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
  (f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:

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(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

- The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing *or* an emergency shelter..."

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received

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File Item #
SB 1322 (Cedillo)
None

File Item #
Senate Transportation & Housing: x-x (3/21/06)
(AYE: NO: ABS:)
Senate Appropriations: x-x
(AYE: NO: ABS:)
Vote requirement: 21
Version Date: 02/16/06

Quick Summary

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Analysis

Arguments in Support:

According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every community to take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments in Opposition:

Arguing in opposition to the bill, the California Chapter of the American Planning Association identifies several areas of concern. (1) How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services? (2) Are these facilities allowed to have unlimited numbers of residents above six? 16? 40? (3) How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing small group home facilities by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a

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residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

Other Issues

Homelessness in the Press

Recent press accounts have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines.

Local Control

Housing development is an extremely politicized process that often pits statewide planners against local planners, and developers against anti-growth NIMBY groups. Housing element law requires every community to plan for the need for housing across all income categories and further limits the ability for a community to deny affordable housing projects. That being said, housing element requirements are not strictly enforced, and communities often ignore some of the requirements of the law. Another element of local housing planning that is often overlooked is the use of impact fees by local communities to generate revenues on the backs of homeowners to pay for a host of services often completely unrelated to the development of housing.

There is a great deal of regulation imposed by the states on local government, much of it is appropriate and adhered to, some inappropriate and ignored. At some point, the development of a community and the identification of housing needs must fall upon local officials who are better equipped to make those determinations for their communities. This control must be weighed against the evident unwillingness among some local officials to address intransigent problems like affordable housing, homeless shelters and other services that are often unpopular with local residents.

Homelessness is a difficult issue to track and accommodate. Although it is clear that every community should accommodate the needs of all its citizens, is this the appropriate method for meeting the needs of the homeless across the entire state?

Digest

Requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

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Amends housing element law to require local governments to analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Requires local governments to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Requires local governments that have an inadequate supply of emergency shelters and residential service facilities to accommodate the need identified by their analysis to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

Amends the anti-NIMBY law to apply the law to emergency shelters and provides that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Background

Housing Element Law

Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.

Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Use by Right

If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.

Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

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Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law

California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project: (1) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact; (2) the denial is required to comply with state or federal law; (3) the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or (4) the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Support & Opposition Received

Support: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

Opposition: League of Cities
California Chapter of the American Planning Association

Senate Republican Office of Policy/ *Edward Morley*

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MEMO TO: SENATE TRANSPORTATION & HOUSING COMMITTEE

FROM: CCAPA

DATE: MARCH 15, 2006

SUBJECT: **OPPOSE UNLESS AMENDED SB 1322** – ALLOWING GROUP HOMES WITH SIX OR MORE RESIDENTS BY RIGHT IN SENATE TRANSPORTATION & HOUSING COMMITTEE 3/21/2006

The California Chapter of the American Planning Association is opposed to SB 1322 unless it is amended. SB 1322 would require cities and counties to provide sufficient sites with zoning that permits for emergency shelter facilities and residential service providers with six or more residents, or allow such facilities by right.

CCAPA agrees that jurisdictions should provide for homeless emergency shelter facilities in commercial zones with appropriate local development standards and believe we could work with the author on such a requirement. However, we have several concerns with the requirement for each jurisdiction to either zone or allow by right residential service providers with six or more residents. Here are our concerns:

1. How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services?

2. Are these facilities allowed to have unlimited numbers of residents above six? 16? 40?

3. How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing group home facilities with six or fewer residents by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

We would be pleased to meet with you to discuss our concerns. If you have any questions, please contact CCAPA's lobbyist Sande George, Stefan/George Associates at 916-443-5301, sgeorge@stefangeorge.com.

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Assembly Policy Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE TRANSPORTATION & HOUSING COMMITTEE **BILL NO: SB 1322**
SENATOR ALAN LOWENTHAL, CHAIRMAN **AUTHOR: cedillo**

VERSION: To be amended
Analysis by: Mark Stivers **FISCAL: Yes**

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

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Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such

housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

* The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
* The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
* The denial is required to comply with state or federal law;
* The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
* The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites

with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

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* Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
* Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
* To the extent that the community's inventory of sites for

emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.
* Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.
* Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.
* Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

* Apply the law to emergency shelters.
* Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional

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housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches. The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. **The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities.** Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of

homelessness.

5. Technical amendments. The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

* Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

(d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
(f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement

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education, employment and training assistance services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

* The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing or an emergency shelter?"

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber)□ would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

1322 (Cedillo)

Hearing Date: 5/25/06 **Amended:** 3/28/06
Consultant: Mark McKenzie **Policy Vote: T&H (9-1)**

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200 annually -----see staff comments-----			GF

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

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This bill amends housing element law to:

* Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
* Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
* Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local

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governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

SENATE RULES COMMITTEE	SB 1322
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

THIRD READING

Bill No: SB 1322
Author: Cedillo (D)
Amended: 5/26/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE: 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SUBJECT: Emergency shelters and transitional housing to serve the homeless

SOURCE: Author

DIGEST: This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the communitys need for homeless shelters and prohibits a city or county from disapproving applications for shelter

facilities unless specified findings are made.

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected

CONTINUED

housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate

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or avoid the impact.

3.The denial is required to comply with state or federal law.

4.The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5.The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

1. Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

2. Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by

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right.

3. To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4. Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing element.

5. Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.

6. Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.

7. Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

1. Apply the law to emergency shelters.

2. Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community

has met the need for such facilities identified in its housing element analysis of special housing needs.

Related Legislation

SB 1800 (Ducheny), requires local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber), requires communities to analyze the need for extremely low-income housing in their housing element.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09

Fund	
Reimbursable mandate unknown, likely over $200 annually	
GF	

SUPPORT: (Verified 5/25/06)

California Rural Legal Assistance Foundation
Western Center on Law and Poverty

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and

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transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 5/26/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Gene Mullin, Chair
Background Information Request

JUN 15 2006

Measure: ____Sb 1322_____

Author: _____Senator Cedillo___

- Contact: _____Nadia Leal_____ Phone: 916-651-4022_

Estimated time to present bill in committee: _Approx 10-20 minutes_____

Name(s) of witnesses: Marc Brown, California Rural Legal Foundation. May be others but at this time I do not have confirmation.

Origin of the bill:

1) **Source: What person, organization, or governmental entity requested introduction? Include name, address and phone number of contact person.**

Senator Cedillo

2) **Similar legislation: Has a similar bill been previously introduced? Identify author, session, bill #, and disposition of bill.**

No.

Background (attach additional sheet(s) if necessary):

1) **What is the problem or deficiency in existing law that this bill seeks to remedy?**

Please see the attached fact sheet.

2) **If there has been interim committee's report on the bill, please identify the report and source committee.**

No.

3) **Please attach any of the following that are applicable:**
   * **Copies of background material in explanation of the bill, or state where such material is available for reference. Senate bills please include policy, fiscal, and floor analyses.**
   * **Copies of letters of support or opposition.**
   * **Previous committee or senate votes.**

Amendments:

1) **If you plan substantive amendments to this bill prior to hearing, please attach a brief explanation of the amendments and a rough draft, if available.**

Please see the attached mock-up. Amendments would allow a city and county to comply with this requirement at their next regular update cycle.

2) **Amendments, <u>IN LEGISLATIVE COUNSEL FORM</u> (original plus six copies), must be received by the committee no later than 12:00 noon on the <u>MONDAY THE WEEK PRIOR</u> to the hearing.**

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SENATE
CALIFORNIA LEGISLATURE

STATE CAPITOL
ROOM 3048
Sacramento, CA 95814
(916) 445-3456

DISTRICT OFFICE
Oviatt Building
617 S. Olive Street, Suite 710
Los Angeles, CA 90014
(213) 612-9566

GILBERT A. CEDILLO
SENATOR, TWENTY SECOND DISTRICT
SB 1322 Fair Share Zoning

What is the problem?

Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

Because homelessness affects people of all races, gender, age and geographic location there is a growing need for every city and county to plan for the location of adequate housing and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services. Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.

The disproportioned availability of shelter and service providers for homeless individuals and families in cities and counties across the State leads to the concentration of services in inner cities and poor communities like Skid Row in Downtown Los Angeles.

What does SB 1322 do?

SB 1322 would require a city or county to identify sites, in the housing element of their general plan, where emergency homeless shelters and residential service providers are allowed to locate without the ability of the local governing body to change the plan once it is adopted. The sites shall be available for emergency shelters, residential service facilities, and transitional housing within the planning period and sufficient to shelter the families and persons in need of such service in the community. Cities and Counties also have the option of meeting this requirement as a region. Cities would need to comply with this requirement at their next regular update cycle.

Who supports SB 1322?

Senator Cedillo (sponsor)
California Rural Legal Assistance Foundation
Western Center on Law and Poverty
The Midnight Mission
Central City Association of Los Angeles
Union Rescue Mission
Shelter Partnership, Inc.
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc.
JERICHO
San Diego Housing Federation
Housing California

Who opposes SB 1322?

League of California Cities
American Planning Association California Chapter
City of Roseville
City of Torrance

For more information on this bill, please contact Nadia Leal at 916-651-4022 in the office of Senator Cedillo.

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HOMELESSNESS IN LOS ANGELES FACT SHEET

- ✓ Between January 1, 2005 and November 17, 2005, inclusive, there were 4, 149 narcotics arrest in skid row area.
- ✓ There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year.
- ✓ Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.
- ✓ Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for substance abuse and mental health services.
- ✓ Substance abuse is higher among unaccompanied homeless youth and single individuals.
- ✓ In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population.
- ✓ The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate is at 16% among homeless individuals.
- ✓ In 2004 study, 82% to 86% of the homeless adult population of the Los Angeles County was US citizens. The Los Angeles County US citizenship rate for all adults was 71% of the county population[1].
- ✓ Women and girls account for 48% of the Los Angeles homeless population[2].
- ✓ When compared to all adults Veterans are about twice as like to be homeless[3].

Los Angels County Jail Facts

- ✓ The Los Angeles County Inmate Reception Center, located in *skid row*, releases over 10,000 inmates per month in to the downtown area of Los Angeles. Last November the county released 15,773 (13,042 males & 2,731 females) inmates at the downtown Inmate Reception Center[4].
- ✓ The Los Angeles County Jail has combined average daily in-mate population of 18,645 inmates[5].
- ✓ The Los Angeles County Jail has a sophisticated transportation program that transfers over 580,000 inmates between the county jails and courtrooms[6].
- ✓ Many of the released inmates have little or no resources available to return to their communities because of the enormous size and distance between cities in the County of Los Angeles.
- ✓ The released inmates come from significant distances with the Los Angeles County geographical area of 4,061 square miles[7] of the largest county of the United States of America.
- ✓ The released inmate population feeds into the growing population of 9,000 - 11,000 homeless individuals of the downtown Los Angeles area.
- ✓ Current resources available from the downtown service providers are saturated and in many cases fully exhausted.

---

[1] *Just the facts – Homelessness in Los Angeles.* Institute for the Study of Homelessness and Poverty the Weingart Center

[2] Tepper, Paul. *Homelessness in Los Angeles: A summary of recent research.* The Partnership to End Homelessness. Institute for the Study of Homelessness and Poverty. March 2004 p. 12

[3] Tepper, Paul. *Homelessness in Los Angeles: A summary of recent research.* The Partnership to End Homelessness. Institute for the Study of Homelessness and Poverty. March 2004 p. 15

[4] Phone conversation with the Los Angeles County Jail Inmate Reception Center Sergeant Mathy (213) 893-5276

[5] Phone conversation with Los Angeles Sheriff's Headquarter Bureau Officer Scott Gage (323) 526-5541

[6] Phone conversation with Los Angeles Sheriff's Headquarter Bureau Officer Scott Gage (323) 526-5541

[7] U.S. Census 2000 projected estimates for 2004.

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Regional Homeless Counts and Rates[12]				
Region	*Year*	*Time Period*	*Unduplicated Homeless Count*	*Approximate % of population that is homeless*
Long Beach (city)	2003	Day	5,845	1.3% *
Los Angeles (county)	2003	Day	82,096	0.9%
East San Gabriel Valley (region)	2003	Day	2,703	0.3%
Glendale (city)	2003	Day 15 Days	472 1,410	0.2% 0.7%
Pomona, La Verne, Claremont (cities)	2002	Month	1,389	0.6%
Los Angeles (county)	2002	Day Year	78,600 253,918	0.8% 2.7%
Pomona (city)	2002	15 Days	1,389	0.9%
Pasadena (city)	2000	Day Month	879 1,832	0.7% 1.4%
California	1999	Day	361,000	1.1%
Santa Monica (city)	1999	Day	1,037	1.1%
Los Angeles (county)	1994	Day Year	84,300 236,368	0.9% 2.6%
Los Angeles (county)	1992	Day	36,800 - 59,100	0.4% - 0.7%
Pasadena (city)	1992	Day	1,017	0.8%
San Bernardino, CA (county)	2003	Day	5,270-8,351	0.4%
Orange, CA (county)	2001	Day	19,740	0.7%
Monterey, CA (county)	2002	Day	3,071	0.8%

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Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Gene Mullin, Chair
SB 1322 (Cedillo) – As Amended: June 15, 2006

SENATE VOTE: 25-11

SUBJECT: Housing: emergency shelters

SUMMARY: Requires cities and counties to include in the housing element of their general plan an analysis of the need for residential service facilities and emergency shelters and also to identify specific sites with by-right zoning to accommodate such facilities. Specifically, this bill:

1) Requires local governments to include in their housing element an analysis of the need for residential service facilities and emergency shelters.

2) Requires the inventory of sites (a requirement of the housing element) to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3) Requires local governments to identify and rezone sufficient sites to accommodate the need, if the inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4) Allows local governments to comply with the requirements of the bill during the next regular update cycle of their housing element.

5) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is consistent with the existing law definition in the Health and Safety Code.

6) Defines residential service facility as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

7) Amends the anti-NIMBY law to:

   a) Apply the law to emergency shelters.

   b) Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

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EXISTING LAW

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving the state housing goal and adequately plan and take steps to meet those goals (Government Code Section 65581).

2) Requires the planning agency of each city and county to adopt a general plan "to guide the future growth of a community" containing various elements including a housing element (Government Code Sections 65300 and 65302).

3) Requires the housing element of a city or county to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, analyze opportunities for energy efficiency, and establish community goals related to housing for all income levels (Government Code Section 65583).

4) Each community's identification of adequate sites must satisfy the housing allocation targets set by the Council of Government (COG) [Government Code Section 65584].

5) Requires, prior to each Housing Element revision, that each COG, in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where COGs do not exist, HCD shall determine the local share of the region's housing need (Government Code Section 65584).

6) Requires the following income categories (and their definitions) to be provided for under Housing Element Law:

   a) Very low income (50% or lower of area median income);
   b) Lower income (80% or lower of area median income);
   c) Moderate income (between 80% and 120% of area median income); and
   d) Above moderate income (exceeding 120% area median income).

   (Government Code Section 65584)

7) Prohibits a local agency from disapproving specified affordable housing projects or conditioning its approval of a project in a manner that would render the affordable housing aspect infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason. Permissible reasons include a specific, adverse impact on public health or safety where there is no satisfactory mitigation method, a need to comply with a specific state or federal law, or a project's inconsistency with a zoning ordinance or general plan. Known as anti-NIMBY law (Not In My Back Yard) [Government Code Section 65589.5].

8) Requires cities and counties to allow the development of second housing units in single-family and multifamily residential zones (Government Code Section 65852.2).

FISCAL EFFECT: Unknown.

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COMMENTS:

Background

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

3) The denial is required to comply with state or federal law;

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Arguments in Support

According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the

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state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need.

Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

Arguments in Opposition

Opponents argue that SB 1322 would change the housing element law in at least three critical ways. First, SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would apply to nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities (including registered sex offenders). These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an eight bed facility.

Second, this bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop a land inventory at the outset where all residential care facilities, emergency shelters, and other similar housing be approved "by-right."

Third, SB 1322 does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of homeless and other transitional needs, others number are more difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or sex offender parolees that will relocate to the community? There is no source for this information. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

Opponents assert that SB 1322 introduces too vague a standard upon which to judge a general plan document. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code Section 50105(b) clarifies that the term very low income includes extremely low income households.) This is why opponents have worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

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Staff Comments

The Committee may wish to consider whether there is any practical way to determine the size of the population and therefore the actual need of those to be served by residential service facilities as provided under SB 1322. It would seem that the homeless are a population that can be reasonably calculated for which emergency shelters may be planned for under the housing element process. However, the committee may wish to consider whether there is any way to calculate the number of heroin addicts in a community and estimate what that figure will be during the next housing element planning cycle (projected growth of that population over 10 years). So too for abused women with children, or emancipated foster youth, or mentally ill. The committee may wish to consider whether amending the housing element law is a the appropriate tool to estimate the need for residential service facilities.

Suggested Amendments

Staff suggests retaining the portion of the bill that adds "emergency shelters" to the housing element planning process but deleting references to "residential service facilities" including the requirement that such facilities be zoned as a use by right. Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

Staff further recommends amending planning and zoning law to include a provision, similar to existing law requirements for second units, a provision that will require every city and county to designate areas that allow with conditional use if necessary "residential service facilities".

Staff also suggests adding "residential service facilities" to provisions of Government Code Section 65589.5, anti-NIMBY law.

Double referred: The Assembly Committee on Rules referred SB 1332 to Housing and Community Development and Local Government Committee. If SB 1332 passes this committee, the bill must be referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation (as introduced)
Central City Association of Los Angeles (as introduced)
City of Santa Monica (as amended March 28, 2006, with requested amendment)
Housing California
JERICHO (as amended March 28, 2006)
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc. (as amended March 28, 2006)
San Diego Housing Federation (as amended March 28, 2006)
Shelter Partnership, Inc., Los Angeles (as amended March 28, 2006)
The Midnight Mission, Los Angeles (as introduced)
Union Rescue Mission, Los Angeles (as introduced)
Western Center on Law & Poverty

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Opposition

American Planning Association, California Chapter (as introduced, unless amended)
City of Roseville
City of Torrance (as amended March 28, 2006)
League of California Cities

Analysis Prepared by: Hubert Bower / H. & C.D. / (916) 319-2085

Provided by LRI History LLC

Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Simon Salinas, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE: 25-11

SUBJECT: Housing.

SUMMARY: Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and residential service facilities and also to accommodate the need for such facilities on sites that are zoned to allow their use by right. Specifically, this bill:

1) Adds emergency shelters and residential service facilities to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Adds residential service facilities to the list of types of housing that must be included in the housing element's analysis of special housing needs.

3) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities and requires these sites to be zoned to permit shelters or residential service facilities as a use by right.

4) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters and residential service facilities as a use by right.

5) Allows a local government to satisfy the requirement to identify sites for emergency shelters and residential service facilities through a multijurisdictional agreement with adjacent communities.

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6) Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing

element.

7) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

8) Defines residential service facility as any of the following, consistent with existing law definitions in the Health and Safety Code, that serve seven or more persons: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

9) Amends the anti-NIMBY law to:

   a) Apply the law to emergency shelters; and

   b) Prohibit a community from using the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW :

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

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3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "Anti-NIMBY Law," a local agency from disapproving specified affordable housing projects

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or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Senate Committee on Appropriations, SB 1322 would likely result in a general fund cost of over $200,000 annually due to the reimbursable state mandate for cities and counties to include additional information in their housing elements.

COMMENTS :

1) Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

2) Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such

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housing is permitted, but does not require that specific sites for special housing needs be identified.

3) Current law, commonly referred to as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

c) The denial is required to comply with state or federal law;

d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

4) According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a

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growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles. SB 1322 seeks to require every city and county to identify sufficient sites where emergency shelters and residential service facilities can locate by right to address each community's own need.

5) Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 1322 seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

6) The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such

facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

7) Opponents argue that SB 1322 sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to

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plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. SB 1322 creates a different process for emergency shelters and residential service facilities by taking away a community's initial opportunity to develop a workable plan for accommodating these uses and instead requires that the local agencies develop a land inventory at the outset where emergency shelters and residential service facilities are allowed by right. In other words, communities must be able to accommodate 100% of their need for such facilities on sites that are zoned by right.

8) Under current law, residential service facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, small residential service facilities are a by-right use in residential zones in most communities. SB 1322 would dramatically expand by-right zoning for such facilities by requiring by-right zoning for facilities of any size. A 100-bed facility would have to be treated the same as a 4-bed facility.

9) The category of "residential service facilities" as defined in SB 1322 is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that

serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

10) The housing element process already requires cities and counties to address the need for emergency shelters in their

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analysis of special needs housing. As such, cities and counties should already have some idea of how to count their homeless population. The need for residential service facilities, however, is a new addition, and it is unclear how a local agency would determine its fair share of such facilities. As has already been noted, the term "residential service facilities" is defined broadly and such facilities serve a variety of populations. How would a city or county calculate with any accuracy the number of drug addicts that may enter a rehabilitation program during the 10-year planning period, or the number of mentally ill persons who may need treatment, or the number of persons in need of a variety of other residential services? Basing a portion of a local agency's housing element on numbers that are so difficult to estimate would make the element particularly vulnerable to litigation. Indeed, existing law allows a judge to stop all development within a community if a single element of the general plan is out of compliance with the law.

11) PROPOSED AMENDMENTS :

a) Delete the addition of residential service facilities to the housing element process, including the requirement that such facilities be zoned as a use by right;

b) Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

c) Add a new provision to the Planning and Zoning Law that would require every city and county to identify zones that allow, with conditional use if necessary, residential service facilities; and

d) Add residential service facilities to provisions of Government Code Section 65589.5, the anti-NIMBY law.

12) This bill has been double-referred to the Committees on Local Government and Housing and Community Development.

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REGISTERED SUPPORT / OPPOSITION□:

Support

CA Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Santa Monica
Housing CA
JERICHO
Midnight Mission, Los Angeles
National Association of Social Workers, CA Chapter
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc., Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law & Poverty

Opposition

American Planning Association, CA Chapter (unless amended)
CA State Association of Counties (unless amended)
Cities of Roseville and Torrance
League of CA Cities

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

SB 1322
Page 1

Date of Hearing: August 16, 2006

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Judy Chu, Chair

SB 1322 (Cedillo) - As Amended: August 7, 2006

Policy Committee: Local Government — HousingVote:5-2 5-2

Urgency: No — State Mandated Local Program: Yes — Reimbursable: Yes

SUMMARY

This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and to accommodate the need for such facilities on sites zoned to allow this use by right. Specifically, this bill:

1) Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned, with appropriate development and management standards, to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Amends the anti-NIMBY law-which prohibits a local governments from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a

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specified, statutorily approved reason-to apply to emergency shelters and "special needs facilities, " as defined.

5) Requires local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and prohibits adoption of any ordinance prohibiting such facilities.

FISCAL EFFECT

Cities and counties will incur the following non-reimbursable cost to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years about be about $500,000

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS

1) Purpose. According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit

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that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

2) Background . The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing,

including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

3) Opposition . The League of California Cities' concerns include the new, mandated activities required in the bill, which the League believes will be very costly. According the League, "This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If the plan fails to meet the need, the agency must then approve housing "by-right" at present densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by right".

Analysis Prepared by : Chuck Nicol / APPR. / (916) 319-2081

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SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 21, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT	5-2	HOUSING	5-2
Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

APPROPRIATIONS	13-5		
Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. Specifically, this bill :

1) Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5) Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7) Requires the analysis of special housing needs within the housing element to address transitional housing.

8) Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9) Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

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10) Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11) Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter

care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW :

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify

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housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element's identification of adequate

sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

a) Very low-income (50% or lower of area median income);

b) Lower-income (80% or lower of area median income);

c) Moderate-income (between 80% and 120% of area median income); and,

d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based

on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS : Current housing element law requires each city and

county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning,

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projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities, or

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share

of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters and special needs facilities do not contain housing "units," they are not considered housing

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development projects and are therefore not currently protected by the anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, and ages, and all geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. According to the author, this bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

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This bill adds protections in law for emergency shelters, transitional housing, and special needs facilities in three ways. First, it would require every city and county to zone by right enough sites for emergency shelters to accommodate the community's need as identified in the housing element. Second, it would require every city and county to zone for special needs facilities and transitional housing and would prohibit local agencies from banning these types of uses. Third, it would apply the anti-NIMBY law to emergency shelters and special needs facilities to protect these types of projects from being unreasonably denied or conditioned in a manner that renders them infeasible to develop.

Under current law, special needs facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

The category of "special needs facilities" as defined in this bill is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that
serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

Opponents argue that this bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for

emergency shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0016486

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SB 1322
Page 1

SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 24, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT 5-2 HOUSING 5-2

Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

APPROPRIATIONS 13-5

Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. Specifically, this bill :

1)Adds emergency shelters to the list of types of housing for

which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5) Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7) Requires the analysis of special housing needs within the housing element to address transitional housing.

8) Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9) Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10) Prohibits a local agency from enacting or enforcing an

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ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11) Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for

the elderly.

12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13) Includes double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law; and should this bill and AB 2511 (Jones), pending in the Senate, both become law.

EXISTING LAW:

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

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3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's

housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and,

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects

or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT: According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS: Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or

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other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities, or

5) The jurisdiction has identified sufficient and adequate sites

to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters and special needs facilities do not contain housing "units," they are not considered housing

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development projects and are therefore not currently protected by the anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, and ages, and all geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. According to the author, this bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

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This bill adds protections in law for emergency shelters, transitional housing, and special needs facilities in three ways. First, it would require every city and county to zone by right enough sites for emergency shelters to accommodate the community's need as identified in the housing element. Second, it would require every city and county to zone for special needs facilities and transitional housing and would prohibit local agencies from banning these types of uses. Third, it would apply the anti-NIMBY law to emergency shelters and special needs facilities to protect these types of projects from being unreasonably denied or conditioned in a manner that renders them infeasible to develop.

Under current law, special needs facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

The category of "special needs facilities" as defined in this bill is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that
serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

Opponents argue that this bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for emergency shelters by taking away a community's initial

opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0017068

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SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR : 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR : 41-34, 8/31/06 - See last page for vote

SUBJECT : Emergency shelters and transitional housing to serve the homeless

CONTINUED

SOURCE : Author

DIGEST : This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local

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government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where

such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

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Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within

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the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social

rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

A. Apply the law to emergency shelters and special needs facilities.

B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT: (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica

Housing California
JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION: (Verified 8/28/06)

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City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego
League of California Cities
Town of Apple Valley

ARGUMENTS IN SUPPORT: According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

ASSEMBLY FLOOR:
AYES: Arambula, Baca, Bass, Berg, Bermudez, Calderon, Canciamilla, Chan, Chavez, Cohn, Coto, De La Torre,

Dymally, Frommer, Goldberg, Hancock, Jerome Horton, Jones, Karnette, Klehs, Koretz, Laird, Leno, Levine, Lieber, Liu, Matthews, Montanez, Mullin, Negrete McLeod, Oropeza, Parra, Ridley-Thomas, Ruskin, Saldana, Salinas, Torrico, Umberg, Vargas, Yee, Nunez

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NOES: Aghazarian, Benoit, Blakeslee, Bogh, Cogdill, Daucher, DeVore, Emmerson, Evans, Garcia, Haynes, Shirley Horton, Houston, Huff, Keene, La Malfa, La Suer, Leslie, Lieu, Maze, McCarthy, Mountjoy, Nakanishi, Niello, Plescia, Richman, Sharon Runner, Spitzer, Strickland, Tran, Villines, Walters, Wolk, Wyland
NO VOTE RECORDED: Chu, Nation, Nava, Pavley, Vacancy

JJA:do 9/5/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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VETO/CHAPTER SUMMARY

Bill: SB 1322 2005-2006

VETOED DATE: 09/30/06

To the Members of the California State Senate:

I am returning Senate Bill 1322 without my signature.

This bill would require local governments to include in their housing plans an analysis of the need for emergency shelters and special needs facilities. Though the intentions of this bill are laudable, the specifics of the measure would place overly burdensome mandates on cities and counties.

Specifically, this measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.

For these reasons I am returning this bill without my signature. However, I am signing AB 2634, which achieves similar results relative to the inclusion of emergency shelters in housing plans but without placing onerous burdens on local governments.

Sincerely,

Arnold Schwarzenegger

2005-2006 COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1322
AUTHOR : Cedillo
TOPIC : Housing.
TYPE OF BILL :

INACTIVE BILL	NON-URGENCY
NON-APPROPRIATION	2/3
STATE-MANDATED LOCAL PROGRAM	FISCAL
NON-TAX-LEVY	

BILL HISTORY

2006

Nov. 30 Died on file.
Oct. 4 In Senate. To unfinished business. (Veto)
Sept. 30 Vetoed by Governor.
Sept. 13 Enrolled. To Governor at 4 p.m.
Aug. 31 Senate concurs in Assembly amendments. (Ayes 24. Noes 14. Page 5592.) To enrollment.
Aug. 31 In Senate. To unfinished business.
Aug. 31 Read third time. Passed. (Ayes 41. Noes 34. Page 7567.) To Senate.
Aug. 30 Reconsideration granted.
Aug. 28 Read third time. Refused passage. (Ayes 32. Noes 38. Page 7165.) Motion to reconsider on next legislative day made by Assembly Member Lieber.
Aug. 24 Read third time. Amended. To third reading.
Aug. 22 Read second time. To third reading.
Aug. 21 Read second time. Amended. To second reading.
Aug. 17 From committee: Do pass as amended. (Ayes 13. Noes 5.)
Aug. 7 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 5. Noes 2.) Read second time. Amended. Re-referred to Com. on APPR.
June 28 From committee: Do pass, but first be re-referred to Com. on L. GOV. (Ayes 5. Noes 2.) Re-referred to Com. on L. GOV.
June 19 Re-referred to Coms. on H. & C.D. and L. GOV.
June 15 From committee with author's amendments. Read second time. Amended. Re-referred to committee.
June 15 To Coms. on L. GOV. and H. & C.D.
May 31 In Assembly. Read first time. Held at Desk.
May 30 Read third time. Passed. (Ayes 25. Noes 11. Page 4142.) To Assembly.
May 26 From committee: Do pass as amended. (Ayes 9. Noes 4. Page 4044.) Read second time. Amended. To third reading.
May 22 Set for hearing May 25.
Apr. 24 Placed on APPR. suspense file.
Apr. 12 Set for hearing April 24.
Mar. 28 Read second time. Amended. Re-referred to Com. on APPR.

Mar. 27	From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 9. Noes 1. Page 3314.)
Mar. 6	Set for hearing March 21.
Feb. 22	To Com. on T. & H.
Feb. 17	From print. May be acted upon on or after March 19.
Feb. 16	Introduced. Read first time. To Com. on RLS. for assignment. To print.

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CONFLICT NOTIFICATION

June 20, 2006

S.B. 1322

The above measure, introduced by Senator Cedillo , which was set for hearing in the

Assembly Housing and Community Development Committee

appears to be in conflict with

A.B. 2511 - Jones
A.B. 2634 - Lieber
S.B. 286 - Lowenthal
S.B. 1330 - Dunn
S.B. 1800 - Ducheny and Cedillo

The enactment of these measures in their present form may give rise to a serious legal problem which possibly can be avoided by appropriate amendments.

We urge you to consult our Corrections Section at Corrections.Section@legislativecounsel.ca.gov or 916-341-8230 at your earliest convenience.

Provided by LRI History LLC 2007-633 Page 1137 of 1377

AUG 31

StrategicCounsel

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August 31, 2006

The Honorable Gil Cedillo
California State Senate
State Capitol, Room 5050
Sacramento, CA 95814

Re: SB 1322 (Cedillo) **NEUTRAL**

Dear Senator Cedillo:

On behalf of our client, the City of Compton; we would like to apprise you of its change from an "opposed" to a "neutral" position on your SB 1322.

The City wants to acknowledge that, as the author, you have made significant efforts to meet the concerns of cities, counties and other local governments in this legislation and wants to encourage more discussions of this issue.

The City, along with others, has some concerns about the measure, which prompted our earlier position on it. However, we believe that we can work out our differences with your proposal in a way that is beneficial to the City and to your efforts.

The City would be very interested in pursuing such discussions with you and hope that you will continue to work on this legislation.

Thank you for your kind consideration of these comments.

Sincerely,
Strategic Counsel

Mel Assagai
Director of Government Affairs

Judy Chu, Chair, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bowler, Consultant, Housing and Community Development
William Weber, Principal Consultant, Assembly Republican Caucus
Barbara Kilroy, City Manager, City of Compton

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California
Rural
Legal
Assistance
Foundation

1107 9th Street, Suite 801
Sacramento, CA 95814
Voice: 916.446.9241
Facsimile: 916.442.7966
www.housingadvocates.org

Marc Brown
Staff Attorney
mbrown@housingadvocates.org

March 14, 2006

Honorable Gil Cedillo
Member of the Senate
State Capitol
Sacramento, CA 95814

Re: SB 1322 (SUPPORT)

Dear Senator Cedillo:

On behalf of our clients, the CRLA Foundation is please to support the above referenced measure.

The Department of Housing and Community Development estimates that as many as 360,000 Californians are homeless. Proposals to build emergency shelters to house this vulnerable population are often met with resistance by local governments and vehement opposition by neighborhood groups. SB 1322 provides that homeless shelters are to be permitted by local governments without special discretionary approvals.

Currently, most projects of this type automatically require conditional use authorization (and the public hearing process that goes along with it). In this context, the purpose of a conditional use requirement should largely be to provide design review. If there are no other reasons why a conditional use would be required (such as reduced parking or some other exception), then design review should be handled at the staff level without a CUP.

The net result of SB 1322 would be to remove another risk factor in the approval process and shorten the review timeline, which in turn would promote the construction emergency shelters.

Thank you for your leadership on this important issue.

Sincerely,

Marc Brown
Staff Attorney

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CCA | Central City Association of LOS ANGELES

Los Angeles, CA 90017 www.ccala.org

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March 20, 2006

Senate Committee on Transportation and Housing
C/o The Honorable Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Sent via fax: (213) 612-9591

Dear Members of the Senate Transportation and Housing Committee:

Central City Association of Los Angeles (CCA) is L.A.'s premier business advocacy organization, shaping public policy on a broad range of issues and the leading renaissance in Downtown Los Angeles. Established in 1924, CCA is a membership organization representing more than 450 businesses, trade associations, and non-profit organizations employing more than 300,000 people in Los Angeles County.

This letter is to inform you that the Central City Association is in support of Senator Cedillo's SB 1322, scheduled to be heard on Tuesday, March 21, 2006. Please include the Central City Association as a supporter on record for this bill. A more detailed letter will follow.

Thank you.

Sincerely,

Carol E. Schatz
President & CEO

Provided by LRI History LLC



AN END TO HOMELESSNESS. AFFORDABLE HOUSING FOR ALL.

JUN 21

The statewide coalition of nonprofit housing developers, homeless services organizations and other housing advocates.

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www.housingca.org

June 20, 2006

The Honorable Gene Mullin
Chair, Assembly Housing and Community Development Committee
P. O. Box 942849
Sacramento, CA 94249

Dear Chairman Mullin:

Housing California is pleased to support SB 1322 (Cedillo), which would add residential mental health and drug rehabilitation services to the types of housing that must be accommodated under the housing element and ensure that homeless shelters can be built to meet local needs throughout California. We urge your "aye" vote when it heard in the Assembly Housing and Community Development Committee on June 28, 2006.

Currently, shelter and service providers experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters. According to Jan Perry, Los Angeles City Councilmember , "not-in-my-backyard" perspectives lead to programs being concentrated and inadequate to meet the needs ("ACLU's victory is a loss for skid row", April 18, 2006, Los Angeles Times).

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and residential facilities. Reducing red tape and community struggle to develop and operate badly-needed facilities is an important step toward ending homelessness in California.

Please support this important measure.

Sincerely,

Narisha Bonakdar
Legislative Assistant

cc: Hubert Bower, Consultant, Assembly Housing and Community Development Committee
William Weber, Consultant, Republican Caucus

26

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JERICHO

April 18, 2006

The Honorable Kevin Murray
Chair Senate Appropriations
State Capitol, Room 2206
Sacramento, California 95814

Re: Support of SB 1322 (Cedillo) as amended March 28, 2006

Dear Senator Murray,

Providing affordable housing and emergency shelter facilities for an estimated 360,000 homeless Californians is challenging. Equally challenging for those working to provide shelter and services to improve people's situation are the obstacles often in the way of siting facilities for those who need them.

SB 1322 would include specific planning for emergency shelter, transitional housing and residential service facilities in the housing element of a city or county's general plan. The bill would require an inventory of appropriately zoned sites suitable for development of these needed facilities or require identification of actions that would be taken within the planning period to make available sites for these facilities—permitting development of emergency shelters and residential facilities as a use by right.

SB 1322 permits a regional approach to facility siting but helps to ensure the development of emergency and residential facilities by removing some of the obstacles (conditional use permit, for example) that are used to block needed residential programs and services.

Community-based programs have shown through the years that services cost less when they are available at the time they are needed. Support services offered through residential programs enable people to move on with their lives. Let's assist Californians to return to the workforce by providing service in a community-based setting.

JERICHO members urge a "Yes" vote on SB 1322.

Sincerely,

Elizabeth A. Lopez
Public Policy Coordinator

cc: Senator Gil Cedillo
Mark McKenzie, Consultant

1225 8th Street, Suite 590 • Sacramento, CA 95814

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The Midnight Mission
Making a Difference Since 1914
1 South San Pedro Street, Los Angeles, California 90014 213.624.9258 www.midnightmission.org

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March 20, 2006

Senate Transportation and Housing Committee
State Capital, Room 2209
Sacramento, CA 95814

To the Senate Transportation and Housing Committee:

This letter is to inform you that we are in support of Senator Cedillo's SB 1322 scheduled to be heard on March 21st, 2006. Please include The Midnight Mission as a supporter on record for this bill.

As part of many groups and task forces working together to end homelessness in the Los Angeles area, we have concluded that many issues need to be addressed. We must address the lack of affordable housing and create transitional job opportunities. Resources must be devoted to recovery services and mental health outreach and treatment. We must improve access to mainstream systems and insure that we create solutions with measurable outcomes. We have identified many other facets that will be included in any framework we devise.

But clearly, one of the most trying issues that we have to overcome is addressing NIMBYISM. As a largely privately funded organization we struggled to site our new improved larger facility in a community where there was a need. We were unable to overcome the unfounded fears of community members. Fortunately, we have moved on and now provide drug and alcohol services, education, jobs and basic subsistence services for thousands of homeless and formerly homeless men, women and children.

We urge you to take the bold and important step described in this legislation to ensure that the people that are most vulnerable in our communities get the help they need where they live and that no community is unduly burdened. This legislation is a critical step in crafting regional solutions to the shameful regional problem of homelessness.

We ask you to support fully SB 1322, which we feel is a good start in our effort to regionalize effective sustainable solutions to homelessness. With combined political will, strong leadership and adequate resources we can and will eliminate this form of human suffering.

Thank you,

Larry Adamson
President and CAO

Provided by LRI History LLC

NASW CALIFORNIA CHAPTER ...the power of social work

National Association of Social Workers

June 20, 2006

The Honorable Gene Mullin
Chair, Assembly Housing and Community Development Committee
State Capitol, Room 2136
Sacramento, CA 95814

Re: SB 1322 (Cedillo) – Support

Dear Assemblymember Mullin,

The National Association of Social Workers, California Chapter (NASW-CA) supports SB 1322, which calls for an increased availability of homeless shelters and residential service providers across the state of California.

The sites shall be used as emergency shelters, residential service facilities and transitional housing, all of which are necessary for the welfare and safety of California's homeless population. At this time, such services are sparsely available, leaving many homeless in the cold. And, indeed, it is because such needed resources are unequally distributed that services for the homeless are concentrated in inner cities and impoverished communities. Due to lack of availability, many people who deserve and would benefit from such resources are not even offered the option of their receipt. SB 1322 would undoubtedly provide for the homeless population of California through more equal dissemination of homeless services.

The National Association of Social Workers, California Chapter represents over 12,000 professional social workers who have degrees from accredited social work programs across the country. NASW-CA advocates, on behalf of our members and their clients, for the implementation and improvement of programs and policies designed to enhance human well-being and help meet the basic needs of all people. SB 1322 will help the homeless population of California. Increased availability of shelters and related services will help get them on their feet, a definite courtesy if not a right, for an ailing population. The National Association of Social Workers stands in support of SB 1322.

Should you have any questions regarding our position on SB 1322, please feel free to contact me at (916) 442-4565, ext. 12 or whill@naswca.org.

Sincerely,

Wendy Rae Hill, BSW

Wendy Rae Hill, BSW
Director of Government Relations and Political Affairs

Cc: Senator Cedillo, Room 5100
Assembly Housing and Community Development Committee

1016 23rd Street, Sacramento, California 95816
916) 442-4565 • (800) 538-2565 • FAX (916) 442-2075 • naswca@naswca.org • www.naswca.org

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Protection & Advocacy, Inc.

LEGISLATION & PUBLIC INFORMATION UNIT
1029 J Street, Suite 150, Sacramento CA 95814
Telephone: (916) 497-0331 Fax: (916) 497-0813
www.pai-ca.org

April 17, 2006

Honorable Kevin Murray
Chair, Senate Appropriations Committee
California State Senate
P.O. Box 942848
Sacramento, CA 94248-0001

RE: SB 1322 (Cedillo) – SUPPORT

Dear Senator Murray:

Protection and Advocacy, Inc. (PAI), a non-profit advocacy agency mandated to advance the human and legal rights of persons who have disabilities, is pleased to inform you that the organization has taken a support position on SB 1322 (Cedillo). The bill is set to be heard in the Senate Appropriations Committee on April 24, 2006.

SB 1322 would includes language to have the provision of emergency shelters, transitional housing and residential service facilities be added to the five-year schedule of actions to implement the housing element and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities under these provisions. Specifically, SB 1322 would add emergency shelters to the list of projects that the local agency may not disapprove and would revise the conditions upon which a conditional use restriction for an emergency shelter is based.

Many people with disabilities reside in all kinds of residential care facilities, such as group homes, in the community. However, there is a shortage of such facilities and because of shortages many individuals end up in larger institutional settings due to the lack of available community placements. SB 1322 would increase the number of residential care facilities and, potentially make it easier for them to open.

Provided by LRI History LLC

Studies indicate that many people who are homeless are people with disabilities. Most homeless people rely on emergency shelters to have a place to sleep and get out of the cold. This bill would make it easier for emergency shelters to open by prohibiting the ability of a local agency to disapprove them, thereby promoting integration and prohibiting discrimination. Individuals with disabilities have an inherent, constitutional right to live in the community, in the least restrictive environment. We commend you legislative efforts to advance these rights. For the foregoing reasons, PAI supports this bill. Feel free to contact me if you have any questions about our position on this legislation.

Sincerely,

Evelyn M. Abouhassan

Evelyn Abouhassan
Legislative Advocate

CC: Honorable Members, Senate Appropriations Committee
CC: Nadia Leal, Legislative Aide, Gilbert Cedillo's Office
CC: Mark McKenzie, Consultant, Senate Appropriations Committee

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SAN DIEGO HOUSING FEDERATION

450 B Street, Suite 1010
San Diego, CA 92101-8007
Phone: (619) 239-6693
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Tom Scott, *Secretary*
Executive Director

April 20, 2006

Honorable Gilbert Cedillo
California State Senate
Room 5100
State Capitol
Sacramento, CA 95814

Re: Support SB 1322

Dear Senator Cedillo:

At its meeting April 19, 2006, The San Diego Housing Federation Board of Directors voted unanimously to **support SB1322** "Housing Use by Right".

The San Diego Housing Federation is a coalition of affordable housing developers, advocates and other organizations who promote the creation of quality affordable housing focused on lower income families and people in need.

We appreciate your sponsorship of this legislation and look forward to providing any assistance in securing its passage.

Thank you for your support of legislation that provides additional affordable housing for California's neediest residents.

Respectfully,

Tom Scott

Tom Scott
Executive Director

Provided by LRI History LLC

City of
Santa Monica

Robert Holbrook
Mayor

City Council Office
1685 Main Street
PO Box 2200
Santa Monica
California 90407-2200

April 18, 2006

The Honorable Kevin Murray
Chair, Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing – SUPPORT WITH REQUESTED AMENDMENT

Dear Senator Murray,

On behalf of the City of Santa Monica I urge you to **SUPPORT SB 1322**, regarding housing, when it is heard in your Appropriations Committee.

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

The City of Santa Monica is working with the author to craft an amendment to address cities which may already be serving their fair share.

The City of Santa Monica again urges you to **SUPPORT SB 1322 (Cedillo) with requested amendment.** Thank you for your consideration of our position.

Sincerely,

Robert Holbrook
Mayor

cc: Other Members, Senate Health Committee
The Honorable Gil Cedillo
The Honorable Sheila Kuehl
The Honorable Fran Pavley
Consultants, Senate Health Committee
Joshua Shaw, Legislative Advocate, Shaw/Yoder, Inc.

tel: 310 458-8201 • fax: 310 458-1621 • e-mail: robert.holbrook@smgov.net

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Shelter Partnership

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www.shelterpartnership.org

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*Past Chairperson

April 28, 2006

Honorable Gilbert Cedillo
State Senator
State Capitol, Room 5100
Sacramento, CA 95814

Re: *Support of Senate Bill 1322: Fair Share Zoning*

Dear Senator Cedillo:

On behalf of the board and staff of Shelter Partnership, Inc., we are pleased to support SB 1322. If enacted, this bill would require that local jurisdictions do their part and allow housing, by right, to persons with disabilities and people who are homeless.

This law is critically needed based on a recent study that Shelter Partnership conducted in Summer 2005 of all of the housing elements of the 88 cities in Los Angeles County, as well as the County of Los Angeles' housing element. Only two jurisdictions, the City and County and Los Angeles, explicitly allow emergency shelters by right in specific zones, both subject to a limit of 30 beds or less. Twenty-five jurisdictions (28%) required a conditional use permit, which necessitates a public hearing, a delay of anywhere from two to several months, often the payment of a significant fee, and the imposition of conditions on their operation. *And most disturbing, 61 cities, or more than two-thirds of all jurisdictions in Los Angeles County, made no provision for emergency shelters or transitional housing in their zoning ordinances.* I have attached this information for your perusal.

As a result, nearly two-thirds of the short-term housing beds for the homeless are located in the City of Los Angeles! The homeless problem is most evidenced in our Central City East where significant housing and resources for the homeless are located, yet about 1,500 individuals sleep on the street nightly.

We will never solve homelessness if all jurisdictions in our State do not do their part in helping to solve this problem. Your legislation, SB 1322, will go a long way toward that end.

We thank you for your important leadership on this issue. Please let us know how we can assist you in securing passage of this important measure.

Sincerely,

Ruth Schwartz
Executive Director

Provided by LRI History LLC

Table 54: Status of Zoning Ordinance Provisions for Emergency Shelters and Transitional Housing in Los Angeles County by Jurisdiction[3]		
Jurisdiction	**Status of Zoning Ordinance**	**Description of Ordinance Provisions**
Agoura Hills	Approved	CUP to allow ES in commercial zones & TH in residential zones.
Alhambra	None	
Arcadia	None	
Artesia	None	
Avalon	None	
Azusa	Approved	UP like a CUP to allow ES & TH in industrial zones.
Baldwin Park	None	
Bell	None	
Bell Gardens	None	
Bellflower	Approved	CUP for community-care facilities including transitional care facilities in general commercial facilities.
Beverly Hills	None	
Bradbury	None	
Burbank	None	
Calabasas	None	
Carson	Adopted	CUP ES & TH in commercial zones, requires 300 foot distance between programs.
Cerritos	None	

[3] Notes: CUP stands for Conditional Use Permit; UP stands for use permit; ES stands for Emergency Shelter; and TH stands for transitional housing. The determination was based on review of Housing Elements submitted to the California Department of Housing and Community Development viewed at their Sacramento headquarters in May 2005. "None" applies where the jurisdiction either (1) stated their intention to not develop an ordinance or (2) where the jurisdiction stated their intent to develop an ordinance but had not done so based on telephone surveys during May 2005, as well as internet research on www.lexisnexis.com/municipal codes and www.amlegal.com/online_library.htm May 2005.

Provided by LRI History LLC

Jurisdiction	Status of Zoning Ordinance	Description of Ordinance Provisions
Claremont	None	
Commerce	None	
Compton	None	
Covina	None	
Cudahy	None	
Culver City	None	
Diamond Bar	None	
Downey	None	
Duarte	None	
El Monte	Approved	CUP for TH in any zone.
El Segundo	None	
Gardena	None	
Glendale	None	
Glendora	None	
Hawaiian Gardens	None	
Hawthorne	None	
Hermosa Beach	Adopted	CUP in any area of the city.
Hidden Hills	None	
Huntington Park	Approved	CUP ES in one commercial zone.
Industry	None	
Inglewood	Approved	CUP for Community-Care Facilities of over 6 beds if "no detriment to property values."
Irwindale	None	

Provided by LRI History LLC

Jurisdiction	Status of Zoning Ordinance	Description of Ordinance Provisions
La Canada Flintridge	None	Note: Planning Director determines if development fits in with current uses.
La Habra Heights	None	
La Mirada	None	
La Puente	None	La Puente
La Verne	Approved	CUP for ES & TH in some commercial zones in Foothill Blvd. Specific Plan.
Lakewood	None	
Lancaster	Adopted	CUP TH in some commercial zones.
Lawndale	None	
Lomita	None	
Long Beach	Approved	CUP ES some commercial zones, high density residential and institutional zones where owned/operated by govt. agency.
Los Angeles	Approved	By right, 30 beds or less for emergency housing (up to six months stay) allowed in high density residential and commercial zones. Subject to a discretionary permit (not CUP) in some manufacturing zones. Allows for reduced parking requirements.
Los Angeles County	Approved	Subject to Director's review and approval not to exceed 30 beds in high density Residential zones, commercial zones, and manufacturing zones.
Lynwood	Approved	CUP ES & TH in some commercial and industrial zones.
Malibu	None	Note: Planning Director determines if development fits in with current uses.
Manhattan Beach	Approved	CUP ES & TH in some high density residential and commercial zones.
Maywood	Approved	CUP ES and TH in some commercial zones based on following: management plan; 30 or fewer beds; one parking space/employee; and other provisions.
Monrovia	None	

Provided by LRI History LLC

Jurisdiction	Status of Zoning Ordinance	Description of Ordinance Provisions
Montebello	Approved	CUP the same as for other residential uses* except parking requirements are one space per two employees.
Monterey Park	None	
Norwalk	None	
Palmdale	Approved	CUP for homeless shelter in C-3, M-1, and PF zones.
Palos Verdes Estates	None	
Paramount	Approved	CUP ES & TH in any area zoned for multifamily housing.
Pico Rivera	None	
Pomona	None	
Rancho Palos Verdes	None	
Redondo Beach	None	
Rolling Hills	None	
Rolling Hills Estates	None	
Rosemead	None	
San Dimas	Approved	CUP for TH in public semi public zone.
San Fernando	Adopted	CUP for ES and TH in some manufacturing zones.
San Gabriel	None	
San Marino	None	
Santa Clarita	Adopted	CUP/MUP (Minor Use Permit) depends on zone development is in.
Santa Fe Springs	None	
Santa Monica	Adopted	CUP ES in all but one multifamily residential district and in all non-residential districts. TH allowed by right in all multifamily residential and commercial zones.

Provided by LRI History LLC

Jurisdiction	Status of Zoning Ordinance	Description of Ordinance Provisions
Sierra Madre	None	
Signal Hill	None	
South El Monte	None	
South Gate	None	
South Pasadena	Approved	CUP for ES in commercial business and business park zones.
Temple City	Adopted	CUP ES & TH in M-2 zone.
Torrance	Adopted	CUP temporary housing in commercial zones.
Vernon	None	
Walnut	None	
West Covina	None	
West Hollywood	None	
Westlake Village	None	
Whittier	Adopted	CUP ES & TH for R-4 zone.

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Union Rescue Mission®
the way home

March 20, 2006

To the Senate Transportation and Housing Committee:

This letter is to inform you that we are in support of Senator Cedillo's SB 1322 scheduled to be heard on March 21, 2006. Please include The Union Rescue Mission as a supporter on record for this bill.

As part of many collaborative efforts and task forces that labor together to end homelessness in the Los Angeles area, we have concluded that many issues need to be addressed; the lack of affordable housing being paramount. We must create transitional job opportunities and resources must be devoted to recovery services and mental health outreach and treatment. We must improve access to mainstream systems and insure that we create solutions with measurable outcomes.

But clearly, one of the most trying issues that we have to overcome is addressing NIMBYISM. As a largely privately funded organization we are currently experiencing opposition from a few residents relating to our new 71 acre property in Sylmar, California.

We urge you to take the bold and important step described in this legislation to ensure that the people that are most vulnerable in our communities get the help they need where they live and that no community is unduly burdened. This legislation is a critical step in crafting regional solutions to the shameful regional problem of homelessness.

We ask you to support fully SB 1322, which we feel is a good start in our effort to regionalize effective sustainable solutions to homelessness. With combined political will, strong leadership and adequate resources we can and will eliminate this form of human suffering.

Thank you,

Andy Bales
President

545 S. San Pedro Street • Los Angeles, CA 90013 USA • 213/347-6300 • www.UnionRescueMission.org

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WCLP
WESTERN CENTER ON LAW & POVERTY

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Sacramento, California 95814
916.442.0753 (voice) • 916.442.7966 (facsimile)
www.wclp.org

21 June 2006

The Honorable Gil Cedillo
Member of the Senate
State Capitol
Sacramento, CA 95814

Re: Support for SB 1322

Dear Senator Cedillo:

On behalf of our low-income clients, the Western Center on Law and Poverty is pleased to continue to support SB 1322.

The Department of Housing and Community Development estimates that as many as 360,000 Californians are homeless, and a recent Los Angeles county survey estimated a homeless population of 88,000. Proposals to build emergency shelters to house this vulnerable population are often met with resistance by local governments and vehement opposition by neighborhood groups.

SB 1322 addresses this problem in two ways. First, it requires communities to identify specific sites with by-right zoning for transitional housing. This type of housing, which includes a support component, has been shown to be effective in eradicating homelessness. Your bill ensures that transitional housing is planned for in each community.

Second, your bill closes a gap in which shelters are not considered subject to the anti-NIMBY law because they have no housing "units." Your bill clarifies that shelters are included in the anti-NIMBY provisions.

We are pleased to continue to support your bill and look forward to working with you on its enactment.

Sincerely,

Christine Minnehan

Christine Minnehan
Director of Legislative Advocacy

cc: Assembly Housing and Community Development Committee

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AMERICAN PLANNING ASSOCIATION

California Chapter

MEMO TO: SENATE TRANSPORTATION & HOUSING COMMITTEE

FROM: CCAPA

DATE: MARCH 15, 2006

SUBJECT: **OPPOSE UNLESS AMENDED SB 1322** – ALLOWING GROUP HOMES WITH SIX OR MORE RESIDENTS BY RIGHT IN SENATE TRANSPORTATION & HOUSING COMMITTEE 3/21/2006

The California Chapter of the American Planning Association is opposed to SB 1322 unless it is amended. SB 1322 would require cities and counties to provide sufficient sites with zoning that permits for emergency shelter facilities and residential service providers with six or more residents, or allow such facilities by right.

CCAPA agrees that jurisdictions should provide for homeless emergency shelter facilities in commercial zones with appropriate local development standards and believe we could work with the author on such a requirement. However, we have several concerns with the requirement for each jurisdiction to either zone or allow by right residential service providers with six or more residents. Here are our concerns:

1. How are cities and counties supposed to determine the need on which to base the zoning for facilities serving at-risk youths, residential mental health, drug and alcohol rehabilitation services or other residential services?

2. Are these facilities allowed to have unlimited numbers of residents above six? 16? 40?

3. How can residential neighborhoods absorb impacts of such large facilities?

The current law allowing group home facilities with six or fewer residents by right in residential areas has resulted in limited impacts on neighborhoods where such facilities are located. Allowing a group home with an unlimited number of residents in a residential neighborhood, however, would impose substantial impacts on residents of homes near those facilities.

We would be pleased to meet with you to discuss our concerns. If you have any questions, please contact CCAPA's lobbyist Sande George, Stefan/George Associates at 916-443-5301, sgeorge@stefangeorge.com.

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LEAGUE OF CALIFORNIA CITIES

www.cacities.org

August 24, 2006

FLOOR ALERT

TO: Members of the California Assembly

FROM: Bill Higgins, Legislative Representative, League of California Cities

RE: **SB 1322 (Cedillo) Housing**
REQUEST FOR NO VOTE

Why you should vote "NO" on SB 1322 (Cedillo):

- ***Creates an Unfunded Mandate.*** The cost of SB 1322 would exceed $10,000 per agency—and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of emergency shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size: a 150 bed facility must be treated the same as an 8 bed facility.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* a special need facility, social rehabilitation facility, adult day program facility, or community care facility. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Redundancy in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If their plan fails to meet the need, the city must then approve housing "by-right" at preset densities. SB 1322 requires cities to designate where emergency shelters must be approved "by-right" at the outset Then, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

Cc: Senator Gil Cedillo
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

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LEAGUE OF CALIFORNIA CITIES

www.cacities.org

August 8, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
Revised NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the League of California Cities remains opposed to SB 1322 (Cedillo) despite the recent amendments made to the bill.

This bill would make the following changes to local planning and approval processes:

- ***Creates an Unfunded Mandate: Estimated at $10,000 per Agency.*** Local agencies will have to revise their local general plans to designate areas where emergency shelters must be approved by-right, thereby creating a new mandate. The total cost to local agencies statewide could easily exceed millions of dollars. A typical process will involve identifying sites or zones for the by-right designation, development a standard set of management conditions, consulting with police officers and other public safety personnel, undergoing CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city attorney. A conservative cost estimate would $10,000 per agency. But its likely to be much higher, particularly in larger cities.

- ***Limited Discretion for Social Rehabilitation and Adult Day Program Facilities Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies to all special needs facilities without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include community care facilities, adult day programs, social rehabilitations facilities, transitional shelter care facilities, among others.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions of Section 65589.5 to allow awards to anyone *who could occupy* a social rehabilitation facility, adult day program facility, community care facility,

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emergency shelter, or transitional housing facility.[1] This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Changed Process, Redundancies in the Housing Element for Emergency Shelters.*** This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by-right" Then, in the amendment to Section 65583(c)(1)(C), the bill redundantly requires those agencies that have not identified adequate sites by-right in 65583(a)(7) to again identify adequate sites to be zoned by-right. In essence, the bill requires zoning by-right on the threat of zoning by-right.

Finally, the proposed amendments in SB 1322 are not the best means to address this issue. Certainly, the needs of very low- and extremely-low income household—which includes emergency shelters and transitional housing—should be included in the planning process. This is why the League has worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans to address local needs.

Accordingly, the League is opposed to SB 1322 (Cedillo). If you have any questions, or if I can be of any assistance, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Michael Prosio, Legislative Deputy Secretary, Governor's Office
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Brian Augusta, Consultant, Assembly Member Lieber

[1] The version of the bill currently in print only extends the attorney fees provision to emergency shelters. However, we understand that the bill will be amended to include all "special needs facilities" as that term would be defined in Section 65589.5.

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LEAGUE OF CALIFORNIA CITIES

WWW.CACITIES.ORG

June 26, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
NOTICE OF OPPOSITION

Dear Assembly Member Cedillo:

We regret to inform you that the League of California Cities opposes SB 1322 (Cedillo).

This bill seeks to insert a new, statewide planning mandate by requiring "by-right" approvals for "residential service facilities" that include seven or more people. This would change the housing element law in at least three critical ways.

- ***"By-Right" Approvals for Large Residential Service Facilities.*** SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would to all nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities. These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an 8 bed facility.

- ***Changed Process in the Housing Element Law.*** This bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop an land inventory at the outset where all residential care facilities, emergency shelters, and other similar housing be approved "by-right."

- ***No Source for the Fair Share Number.*** Finally, the bill does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of homeless and other transitional needs, others number are more difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or prison parolees that will relocate to the community? There is no source for this information, which will make local determinations particularly vulnerable

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to litigation. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

SB 1322 simply introduces too vague a standard upon which to judge a general plan document. The League also has other issues with the bill, including the addition of the term residential care facilities to the inventory requirement in Section 65583.2 and the proposed amendments to the anti-NIMBY law.

Finally, the proposed amendments in SB 1322 are not the appropriate means to address this issue. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code § 50105(b) clarifies that the term very low-income includes extremely low income households.) This is why the League has worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

Accordingly, the League is opposed to SB 1322 (Cedillo). If you have any questions, or if I can be of any assistance, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

Cc: Members and Consultant, Assembly Housing and Community Development Committee
Members and Consultant, Assembly Local Government Committee
Assembly Member Sally Lieber
William Weber, Principal Consultant, Assembly Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Michael Prosio, Legislative Deputy, Governor's Office
Brian Augusta, Consultant, Assembly Member Lieber

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LEAGUE OF CALIFORNIA CITIES

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Phone: 916.658.8200 Fax: 916.658.8240
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June 23, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: AB 1322 (Cedillo) Housing
NOTICE OF OPPOSITION

Dear Assembly Member Cedillo:

We regret to inform you that the League of California Cities opposes SB 1322 (Cedillo).

This bill seeks to insert a new, statewide planning mandate by requiring "by-right" approvals for "residential service facilities" that include seven or more people. This would change the housing element law in at least three critical ways.

- ***"By-Right" Approvals for Large Residential Service Facilities.*** SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would to all nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities. These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an 8 bed facility.

- ***Changed Process in the Housing Element Law.*** This bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop an land inventory at the outset where all residential care facilities, emergency shelters, and other similar housing be approved "by-right."

- ***No Source for the Fair Share Number.*** Finally, the bill does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of homeless and other transitional needs, others number are more difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or prison parolees that will relocate to the community? There is no source for this information, which will make local determinations particularly vulnerable

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to litigation. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

SB 1322 simply introduces too vague a standard upon which to judge a general plan document. The League also has other issues with the bill, including the addition of the term residential care facilities to the inventory requirement in Section 65583.2 and the proposed amendments to the anti-NIMBY law.

Finally, the proposed amendments in SB 1322 are not the appropriate means to address this issue. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code § 50105(b) clarifies that the term very low-income includes extremely low income households.) This is why the League has worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

Accordingly, the League is opposed to SB 1322 (Cedillo). If you have any questions, or if I can be of any assistance, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

Cc: Members and Consultant, Assembly Housing and Community Development Committee
Members and Consultant, Assembly Local Government Committee
Assembly Member Sally Lieber
William Weber, Principal Consultant, Assembly Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Michael Prosio, Legislative Deputy, Governor's Office
Brian Augusta, Consultant, Assembly Member Lieber

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LEAGUE OF CALIFORNIA CITIES

www.cacities.org

March 22, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: **SB 1322 (Cedillo) Mental health/drug rehab housing "by right"**
Notice of Opposition

Dear Senator Cedillo:

We regret to inform you the League of California Cities is in opposition to your SB 1322.

This bill adds *"persons in need of residential mental health and drug rehabilitation services or other residential services"* to the definition of "special housing needs, " then states that if a local government's housing element inventory of sites does not identify adequate sites to accommodate the need to shelter families and persons in need of emergency shelter and residential service providers, then those projects must be accommodated "by right," meaning without the issuance of a conditional use permit or other discretionary permit.

The introduced version of the bill, along with a set of extensive proposed amendments that we have reviewed (RN06 06517), raise numerous issues that we have discussed with your staff over the last several days:

- The bill seems to be attempting to address "emergency shelters" and "group homes" in the same way, when each issue may need to be approached differently. Housing the homeless in not just a land use issue, the issue is layered with many social service issues that often require a more regional approach to solutions. The subject of group homes triggers many other discussions that range from the type of facility, the clients of the facility, whether or not the facility is regulated by the state, the management quality of the facility, the safety of the surrounding neighbors, the overconcentration of six-or-fewer facilities in residential neighborhoods, pattern of use, and other issues.

- Local governments have already lost much of their land use authority to plan for six-or-fewer group homes, and – from a community perspective – the result has not been positive, and has led to much community concern, reflected in the fact that nearly 20 bills have been introduced in the current legislative session attempting to address some aspect of the issue.

- This bill approaches this issue in the housing element law, which is already laden with controversy.

Provided by LRI History LLC

Many communities with group home problems, overconcentration, etc. may be willing to explore the focus of the intent language in contained in subdivision (f) (Page 2, line33), and voluntarily plan for their group home needs if this means that all group home operators would be limited to the specific sites planned for by the community. This could be a win/win for both providers and local governments.

For these reasons we oppose this measure in its present form.

Sincerely,

Daniel Carrigg
Legislative Director

cc: Members, Senate Committee on Transportation and Housing
Sunne Wright McPeak, Secretary, Business Transportation and Housing Agency
Judy Nevis, Acting Director, Department of Housing and Community Development
Susan Blake, Acting Legislative Director, Governor's Office of Planning and Research

Provided by LRI History LLC

CITY OF COVINA

125 East College Street ● Covina, California 91723-2199

September 5, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: **SB 1322 (Cedillo) Housing**
NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Covina opposes SB 1322 (Cedillo). SB 1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size. The impact of up to 150 people in any residential neighborhood in Covina would be overwhelming. Certainly, the fundamental purpose of planning and CEQA guidelines would be to show the impacts that will occur. This law will demand that we disregard and abandon fundamental planning and environmental analyses. The bill adds "persons in need of residential mental health and drug rehabilitation services." To service 150 patients at a hospital would require a sizeable staff and support group. Most residential neighborhoods were not planned to accommodate this type of activity.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

Provided by LRI History LLC

- ***Creates an Unfunded Mandate.*** Cities will be forced to amend their General Plan, Housing Element and the City Code. The City of Covina has not been able to budget any work on its General Plan or City Code for the past five years. Consequently, we would attempt to complete this work with existing staff. However, this bill does not provide adequate time to study and prepare options for our community.

For these reasons, the City of Covina is opposed to SB 1322 (Cedillo).

Sincerely,

John King
Mayor Pro Tem

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

Provided by LRI History LLC

August 9, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing - NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Fontana opposes SB 1322 (Cedillo). SB 1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

Provided by LRI History LLC

For these reasons, the City of Fontana is opposed to SB 1322 (Cedillo).

Sincerely,

Kenneth R. Hunt, City Manager

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly HCD Committee
William Weber, Principal Consultant, Assembly Republic
League of Califgornia Cities
Joe A. Gonsalves & Son

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PAUL K. TANAKA, *Mayor*
OSCAR MEDRANO JR., *Mayor Pro Tem*
STEVEN C. BRADFORD, *Councilmember*
RONALD K. IKEJIRI, *Councilmember*
RACHEL C. JOHNSON, *Councilmember*

1700 WEST 162nd STREET / GARDENA, CALIFORNIA 90247-3778 / PHONE (310) 217-9507

CITY of GARDENA **OFFICE OF MAYOR PAUL K. TANAKA**

MARIA ELENA MARQUEZ, *City Clerk*
J. INGRID TSUKIYAMA, *City Treasurer*
MITCHELL G. LANSDELL, *City Manager*
EDWARD W. LEE, *City Attorney*

August 30, 2006

The Honorable Gil Cedillo
Senator, State of California
State Capitol Building, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Gardena opposes SB 1322 (Cedillo). SB1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.
- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone who could occupy an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees, as a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.
- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by- right to again identify adequate sites to be zoned by-right.

For these reasons, the City of Gardena is opposed to SB 1322 (Cedillo).

Respectfully,

PAUL K. TANAKA
Mayor

PKT:MLA:lb
c: City Council
City Manager
Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus
State Assemblyman Jerome Horton
State Senator Edward Vincent

Provided by LRI History LLC

City of HIGHLAND Inc. 1987

August 16, 2006

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City Council

Mayor
Ross B. Jones

Mayor Pro Tem
Penny Lilburn

Larry McCallon
Jody Scott
John P. Timmer

City Manager
Joseph A. Hughes

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

Subject: **SB 1322 (Cedillo) Housing**
NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Highland opposes SB 1322 (Cedillo). SB 1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.

- ***Encourages Litigation by Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

Provided by LRI History LLC

For these reasons, the City of Highland is opposed to SB 1322 (Cedillo).

Sincerely,

Joseph A. Hughes
City Manager

JAH:ejh

cc: City Council
Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

C:\MyFiles\WPDATA\Joe\sb1322 opp LTR.wpd

Provided by LRI History LLC

AUG 16

CITY OF OAKLAND

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

IGNACIO De La FUENTE
President of the City Council

510 / 238-7005
FAX / 238-6910
TDD / 238-7413

August 15, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Oakland opposes SB 1322 (Cedillo). Oakland has one of the highest concentrations of residential facilities in Alameda County. It is our experience that any limitation on our ability to regulate where facilities are placed or to establish conditions that mitigate impacts to neighborhoods will severely compromise the quality of life for Oakland residents. SB 1322 would make the following changes to local planning and approval processes:

Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons. SB 1322 would require cities and counties to eliminate the requirements of a conditional use permit (CUP) for transitional and emergency housing. Oakland currently requires a CUP for such facilities. Because such facilities serve populations that require care and monitoring by licensed care providers, additional security or lighting, and possible mitigation of increased vehicle traffic (either for providers or delivery of goods), it is critical for cities to have an ability to implement measures to allow for such facilities to meet the capacity and characteristic of the residential area they are being placed at. A CUP allows for such facilities to be placed in communities reducing public safety or quality of life impacts for residents.

Further, SB 1322 would dramatically expand by-right zoning for residential facilities by requiring by-right zoning for facilities of any size. A 100-bed facility would have to be treated the same as a 4-bed facility. Depending on what the characteristics and capacity of a neighborhood, the impacts of a 100 bed facility can be very different than a 4 bed facility.

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Definition of "Facilities" too broad.
The definition of a facilities covered by this bill is very broad and lumps unrelated services and target populations together in one bill. It lumps services for people transitioning out of homelessness, along with drug recovery and emancipation of minors from the foster care system.

Encourages Litigation By Increasing Scope of Attorney Fee Awards.
SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

For these reasons, the City of Oakland is opposed to SB 1322 (Cedillo).

Sincerely,

IGNACIO DE LA FUENTE
President, Oakland City Council

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

Provided by LRI History LLC

CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
Mayor

Keith Canevaro
Mike Harris
Mike Healy
Karen Nau
Mike O'Brien
Pamela Torliatt
Councilmembers

August 18, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing - NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Petaluma opposes SB 1322 (Cedillo). SB 1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.
- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees, As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.
- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

For these reasons, the City of Petaluma is opposed to SB 1322 (Cedillo).

Sincerely,

David A. Glass
Mayor of Petaluma

cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

City Manager's Office
11 English Street
Petaluma, CA 94952

Phone (707) 778-4345
Fax (707) 778-4419
E-Mail
citymgr@ci.petaluma.ca.us

Animal Services
840 Hopper Street Ext.
Petaluma, CA 94952
Phone (707) 778-4396
Fax (707) 778-4397

Risk Management
11 English Street
Petaluma, CA 94952
Phone (707) 778-1118
Fax (707) 778-8213
E-Mail
icabdr@aol.com or
riskmgt@ci.petaluma.ca.us

Provided by LRI History LLC

CITY OF
ROSEVILLE
CALIFORNIA • FOUNDED • 1909

City Council
311 Vernon Street
Roseville, California 95678-2649

April 11, 2006

Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: **Notice of opposition: SB 1322 (Emergency Shelters By Right)**

Dear Senator Cedillo:

On behalf of the citizens of the City of Roseville, I regret to inform you that we **OPPOSE** SB 1322 which would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters and residential service facilities. While serving the homeless and transitional population is important, your bill's approach would pre-empt local authority to ensure they are appropriately sited and conditioned to minimize impacts to all residents.

SB 1322 would add "emergency shelter, transitional housing, and residential service facilities" to the provisions for adequate sites within the General Plan Housing element. The bill states that if a local government's housing element inventory of sites does not identify adequate sites to accommodate the need to shelter, then those projects must be accommodated "by right", meaning without the issuance of a conditional use permit or other discretionary permit.

Local governments have lost most land use authority to plan for group homes with six or fewer residents. The ability to plan for emergency shelters at the local level must be preserved. The placement of emergency shelters is not just a land use issue, but a community services issue with many potential local impacts.

The potential for impacts is dependent on:

1. the location,
2. type of the facility, duration (hours, days of operation),
3. the clients of the facility,
4. whether or not the facility is regulated by the state,
5. the management quality of the facility,
6. the safety of the surrounding neighborhood,
7. the impact on the City in relation to increased calls for service from police and fire,
8. the over-concentration of facilities in residential neighborhoods,
9. access to adequate public transportation and services for the shelter residents, and other issues.

Provided by LRI History LLC

The placement of emergency facilities is too complex for a one-size-fits-all approach. Shelter residents and the community are best served when facilities are sited with conditions to ensure they are appropriately sited and conditioned to minimize impacts to all residents.

Further, this bill would increase the duties of local public officials by requiring additional provisions to the City's General Plan Housing Element to plan for and accommodate an inventory of emergency shelter and transitional housing and residential service facilities.

For these reasons the City of Roseville opposes SB 1322. Thank you for considering our concerns.

Sincerely,

Gina Garbolino
Mayor

C: Senator Dave Cox
Assemblyman Tim Leslie
League of California Cities
Gonsalves and Sons

Provided by LRI History LLC

CITY OF
TORRANCE

DAN WALKER
MAYOR

March 29, 2006

The Honorable Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: **SB 1322 (Cedillo): Housing Use By-Right - NOTICE OF OPPOSITION**

Dear Senator Cedillo:

The City of Torrance respectfully **OPPOSES** SB 1322. SB 1322 would add "*persons in need of residential mental health and drug rehabilitation services or other residential services*" to the list of special housing needs required to be analyzed in the housing element of the general plan. It would further require that special need housing be accommodated "by-right" if the housing element fails to identify adequate sites for shelters for families/persons in need of emergency shelters and for residential service providers. The City of Torrance opposes SB 1322 for the following reasons:

1. SB 1322 would further preempt local governments' ability to regulate residential uses which has already been reduced by the permitting of group homes for six or fewer residents as by-right uses;

2. SB 1322 expands the special housing needs requirements for local governments which raise concerns over the safety of surrounding neighbors, the quality of management, and the over-concentration of residential care facilities in our community if allowed by-right without local regulation.

Again, the City of Torrance OPPOSES SB 1322. Should you have any questions, please call Ms. Rebecca Cutting of the Community Development Department, at (310) 618-5990. Thank you for your consideration in this matter.

Sincerely,

DAN WALKER
Mayor
City of Torrance

DW:RC:maw

Provided by LRI History LLC

UNOFFICIAL BALLOT

Bill: SB 1322 2005-2006

Author: Cedillo
Topic: Housing.

08/31/06 SEN. FLOOR
Unfinished Supp 2 SB1322 Cedillo

AYES 24 NOES 14 (PASS)

08/31/06 ASM. FLOOR
SB 1322 Cedillo Senate Third Reading By Lieber

AYES 41 NOES 34 (PASS)

08/30/06 ASM. FLOOR
SB 1322 Cedillo Motion to Reconsider By Lieber

AYES 46 NOES 32 (PASS)

08/28/06 ASM. FLOOR
SB 1322 Cedillo Senate Third Reading By Lieber

AYES 32 NOES 38 (FAIL)

08/24/06 ASM. FLOOR
SB 1322 Cedillo Senate Third Reading By Lieber Amendment Set #1

AYES 44 NOES 31 (PASS)

08/16/06 ASM. APPR.
Do pass as amended.

AYES 13 NOES 5 (PASS)

06/28/06 ASM. L. GOV.
Do pass as amended and be re-referred to the Committee on Appropriations.

AYES 5 NOES 2 (PASS)

06/28/06 ASM. H. & C.D.
Do pass and be re-referred to the Committee on Local Government.

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AYES 5 NOES 2 (PASS)

05/30/06 SEN. FLOOR
Senate 3rd Reading SB1322 Cedillo

AYES 25 NOES 11 (PASS)

05/25/06 SEN. APPR.
Do pass as amended.

AYES 9 NOES 4 (PASS)

04/24/06 SEN. APPR.
Placed on Appropriations Suspense file.

AYES 11 NOES 0 (PASS)

03/21/06 SEN. T. & H.
Do pass as amended, and re-refer to the Committee on Appropriations.

AYES 9 NOES 1 (PASS)

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/31/06
LOCATION: SEN. FLOOR
MOTION: Unfinished Supp 2 SB1322 Cedillo
(AYES 24. NOES 14.) (PASS)

AYES
****

Alarcon	Alquist	Bowen	Cedillo
Chesbro	Ducheny	Dunn	Escutia
Figueroa	Florez	Kehoe	Kuehl
Lowenthal	Machado	Migden	Murray
Ortiz	Perata	Romero	Scott
Simitian	Speier	Torlakson	Vincent

NOES
****

Aanestad	Ackerman	Ashburn	Battin
Cox	Denham	Dutton	Harman
Hollingsworth	Maldonado	Margett	McClintock
Morrow	Poochigian		

NO VOTE RECORDED
****

Runner	Soto

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/31/06
LOCATION: ASM. FLOOR
MOTION: SB 1322 Cedillo Senate Third Reading By Lieber
(AYES 41. NOES 34.) (PASS)

AYES
****

Arambula	Baca	Bass	Berg
Bermudez	Calderon	Canciamilla	Chan
Chavez	Cohn	Coto	De La Torre
Dymally	Frommer	Goldberg	Hancock
Jerome Horton	Jones	Karnette	Klehs
Koretz	Laird	Leno	Levine
Lieber	Liu	Matthews	Montanez
Mullin	Negrete McLeod	Oropeza	Parra
Ridley-Thomas	Ruskin	Saldana	Salinas
Torrico	Umberg	Vargas	Yee
Nunez			

NOES
****

Aghazarian	Benoit	Blakeslee	Bogh
Cogdill	Daucher	DeVore	Emmerson
Evans	Garcia	Haynes	Shirley Horton
Houston	Huff	Keene	La Malfa
La Suer	Leslie	Lieu	Maze
McCarthy	Mountjoy	Nakanishi	Niello
Plescia	Richman	Sharon Runner	Spitzer
Strickland	Tran	Villines	Walters
Wolk	Wyland		

ABSENT, ABSTAINING, OR NOT VOTING
****

Chu	Nation	Nava	Pavley
Vacancy			

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/30/06
LOCATION: ASM. FLOOR
MOTION: SB 1322 Cedillo Motion to Reconsider By Lieber
(AYES 46. NOES 32.) (PASS)

AYES
****

Arambula	Baca	Bass	Berg
Bermudez	Calderon	Canciamilla	Chan
Chavez	Chu	Cohn	Coto
De La Torre	Dymally	Evans	Frommer
Goldberg	Hancock	Jerome Horton	Jones
Karnette	Klehs	Koretz	Laird
Leno	Levine	Lieber	Lieu
Liu	Montanez	Mullin	Nation
Nava	Oropeza	Parra	Pavley
Ridley-Thomas	Ruskin	Saldana	Salinas
Torrico	Umberg	Vargas	Wolk
Yee	Nunez		

NOES
****

Aghazarian	Benoit	Blakeslee	Bogh
Cogdill	Daucher	DeVore	Emmerson
Garcia	Haynes	Shirley Horton	Houston
Huff	Keene	La Malfa	La Suer
Leslie	Matthews	Maze	McCarthy
Mountjoy	Nakanishi	Niello	Plescia
Richman	Sharon Runner	Spitzer	Strickland
Tran	Villines	Walters	Wyland

ABSENT, ABSTAINING, OR NOT VOTING
****

Negrete McLeod	Vacancy

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/28/06
LOCATION: ASM. FLOOR
MOTION: SB 1322 Cedillo Senate Third Reading By Lieber
(AYES 32. NOES 38.) (FAIL)

AYES
****

Arambula	Bass	Berg	Bermudez
Calderon	Cohn	Coto	De La Torre
Dymally	Goldberg	Hancock	Jones
Klehs	Koretz	Laird	Leno
Levine	Lieber	Liu	Montanez
Mullin	Negrete McLeod	Oropeza	Ridley-Thomas
Ruskin	Saldana	Salinas	Torrico
Umberg	Vargas	Yee	Nunez

NOES
****

Aghazarian	Benoit	Blakeslee	Bogh
Canciamilla	Chavez	Cogdill	Daucher
DeVore	Emmerson	Evans	Garcia
Haynes	Jerome Horton	Shirley Horton	Houston
Huff	Keene	La Malfa	La Suer
Leslie	Lieu	Matthews	Maze
McCarthy	Mountjoy	Nakanishi	Niello
Parra	Plescia	Richman	Sharon Runner
Spitzer	Strickland	Tran	Villines
Walters	Wyland		

ABSENT, ABSTAINING, OR NOT VOTING
****

Baca	Chan	Chu	Frommer
Karnette	Nation	Nava	Pavley
Wolk	Vacancy		

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/24/06
LOCATION: ASM. FLOOR
MOTION: SB 1322 Cedillo Senate Third Reading By Lieber Amendment Set #1 (AYES 44. NOES 31.) (PASS)

AYES
****

Arambula	Baca	Bass	Berg
Bermudez	Chan	Chavez	Chu
Cohn	Coto	De La Torre	Dymally
Evans	Frommer	Goldberg	Hancock
Jerome Horton	Jones	Karnette	Klehs
Koretz	Laird	Leno	Levine
Lieber	Lieu	Liu	Matthews
Montanez	Mullin	Nation	Nava
Negrete McLeod	Oropeza	Parra	Ridley-Thomas
Ruskin	Saldana	Salinas	Torrico
Umberg	Vargas	Wolk	Yee

NOES
****

Aghazarian	Benoit	Blakeslee	Bogh
Cogdill	Daucher	DeVore	Emmerson
Garcia	Haynes	Shirley Horton	Houston
Huff	Keene	La Malfa	La Suer
Leslie	Maze	McCarthy	Mountjoy
Nakanishi	Niello	Plescia	Richman
Sharon Runner	Spitzer	Strickland	Tran
Villines	Walters	Wyland	

ABSENT, ABSTAINING, OR NOT VOTING
****

Calderon	Canciamilla	Pavley	Nunez
Vacancy			

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 08/16/06
LOCATION: ASM. APPR.
MOTION: Do pass as amended.
(AYES 13. NOES 5.) (PASS)

AYES
****

Chu	Bass	Berg	Calderon
De La Torre	Mullin	Klehs	Leno
Nation	Oropeza	Ridley-Thomas	Saldana
Yee			

NOES
****

Sharon Runner	Emmerson	Haynes	Nakanishi
Walters			

ABSENT, ABSTAINING, OR NOT VOTING
****

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 06/28/06
LOCATION: ASM. H. & C.D.
MOTION: Do pass and be re-referred to the Committee on Local Government. (AYES 5. NOES 2.) (PASS)

AYES
****

Mullin Baca Hancock Salinas
De La Torre

NOES
****

Garcia La Suer

ABSENT, ABSTAINING, OR NOT VOTING
****

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 06/28/06
LOCATION: ASM. L. GOV.
MOTION: Do pass as amended and be re-referred to the Committee on Appropriations.
(AYES 5. NOES 2.) (PASS)

AYES
****

Salinas De La Torre Lieber Berg
Jones

NOES
****

Emmerson Houston

ABSENT, ABSTAINING, OR NOT VOTING
****

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 03/21/06
LOCATION: SEN. T. & H.
MOTION: Do pass as amended, and re-refer to the Committee on Appropriations.
(AYES 9. NOES 1.) (PASS)

AYES
****

Lowenthal	Ashburn	Cedillo	Ducheny
Kehoe	Machado	Simitian	Soto
Torlakson			

NOES
****

Dutton

NO VOTE RECORDED
****

McClintock	Margett	Runner

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 05/25/06
LOCATION: SEN. APPR.
MOTION: Do pass as amended.
(AYES 9. NOES 4.) (PASS)

AYES
****

Murray	Alarcon	Alquist	Ashburn
Escutia	Florez	Ortiz	Romero
Torlakson			

NOES
****

Aanestad	Battin	Dutton	Poochigian

NO VOTE RECORDED
****

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 04/24/06
LOCATION: SEN. APPR.
MOTION: Placed on Appropriations Suspense file.
(AYES 11. NOES 0.) (PASS)

AYES
****

Murray	Alarcon	Alquist	Ashburn
Battin	Dutton	Escutia	Florez
Ortiz	Romero	Torlakson	

NOES
****

NO VOTE RECORDED
****

Aanestad	Poochigian

UNOFFICIAL BALLOT

2005-2006 Votes - ROLL CALL

MEASURE: SB 1322
TOPIC: Housing.
DATE: 05/30/06
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB1322 Cedillo
(AYES 25. NOES 11.) (PASS)

AYES
****

Alarcon	Alquist	Ashburn	Cedillo
Chesbro	Ducheny	Dunn	Escutia
Figueroa	Florez	Kehoe	Kuehl
Lowenthal	Machado	Migden	Murray
Ortiz	Perata	Romero	Scott
Simitian	Soto	Speier	Torlakson
Vincent			

NOES
****

Aanestad	Ackerman	Battin	Cox
Denham	Dutton	Hollingsworth	Maldonado
Morrow	Poochigian	Runner	

NO VOTE RECORDED
****

Bowen	Margett	McClintock	Vacancy

LRI History LLC

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www.lrihistory.com
(916) 442.7660

Assembly Fiscal Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Gene Mullin, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE: 25-11

SUBJECT: Housing: emergency shelters

SUMMARY: Requires cities and counties to include in the housing element of their general plan an analysis of the need for residential service facilities and emergency shelters and also to identify specific sites with by-right zoning to accommodate such facilities. Specifically, this bill:

1) Requires local governments to include in their housing element an analysis of the need for residential service facilities and emergency shelters.

2) Requires the inventory of sites (a requirement of the housing element) to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3) Requires local governments to identify and rezone sufficient sites to accommodate the need, if the inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4) Allows local governments to comply with the requirements of the bill during the next regular update cycle of their housing element.

5) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is consistent with the existing law definition in the Health and Safety Code.

Provided by LRI History LLC

6) Defines residential service facility as a residential facility that provides social rehabilitation services, regular

individualized case management services, and independent living skills development.

7) Amends the anti-NIMBY law to:

a) Apply the law to emergency shelters.

b) Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving the state housing goal and adequately plan and take steps to meet those goals (Government Code Section 65581).

2) Requires the planning agency of each city and county to adopt a general plan "to guide the future growth of a community" containing various elements including a housing element (Government Code Sections 65300 and 65302).

3) Requires the housing element of a city or county to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, analyze opportunities for energy efficiency, and establish community goals related to housing for all income levels (Government Code Section 65583).

Provided by LRI History LLC

4) Each community's identification of adequate sites must satisfy the housing allocation targets set by the Council of Government (COG) [Government Code Section 65584].

5) Requires, prior to each Housing Element revision, that each COG, in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where COGs do not exist, HCD shall determine the local share of the region's housing need

(Government Code Section 65584).

6) Requires the following income categories (and their definitions) to be provided for under Housing Element Law:

a) Very low income (50% or lower of area median income);
b) Lower income (80% or lower of area median income);
c) Moderate income (between 80% and 120% of area median income); and
d) Above moderate income (exceeding 120% area median income).

(Government Code Section 65584)

7) Prohibits a local agency from disapproving specified affordable housing projects or conditioning its approval of a project in a manner that would render the affordable housing aspect infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason. Permissible reasons include a specific, adverse impact on public health or safety where there is no satisfactory mitigation method, a need to comply with a specific state or federal law, or a project's inconsistency with a zoning ordinance or general plan. Known as anti-NIMBY law (Not In My Back Yard) [Government Code Section 65589.5].

8) Requires cities and counties to allow the development of second housing units in single-family and multifamily

Provided by LRI History LLC

residential zones (Government Code Section 65852.2).

FISCAL EFFECT : Unknown.

COMMENTS :

Background

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must

adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

Provided by LRI History LLC

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

3) The denial is required to comply with state or federal law;

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Arguments in Support

According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need.

Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve

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these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

Arguments in Opposition

Opponents argue that SB 1322 would change the housing element law in at least three critical ways. First, SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would apply to nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities (including registered sex offenders). These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an eight bed facility.

Second, this bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the

agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop a land inventory at the outset where all residential care facilities, emergency shelters, and other

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similar housing be approved "by-right."

Third, SB 1322 does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of homeless and other transitional needs, others number are more difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or sex offender parolees that will relocate to the community? There is no source for this information. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

Opponents assert that SB 1322 introduces too vague a standard upon which to judge a general plan document. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code Section 50105(b) clarifies that the term very low income includes extremely low income households.) This is why opponents have worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

Staff Comments

The Committee may wish to consider whether there is any practical way to determine the size of the population and therefore the actual need of those to be served by residential service facilities as provided under SB 1322. It would seem that the homeless are a population that can be reasonably calculated for which emergency shelters may be planned for under the housing element process. However, the committee may wish to consider whether there is any way to calculate the number of heroin addicts in a community and estimate what that figure will be during the next housing element planning cycle (projected growth of that population over 10 years). So too for abused women with children, or emancipated foster youth, or mentally ill. The committee may wish to consider whether amending the

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housing element law is a the appropriate tool to estimate the need for residential service facilities.

Suggested Amendments

Staff suggests retaining the portion of the bill that adds "emergency shelters" to the housing element planning process but deleting references to "residential service facilities" including the requirement that such facilities be zoned as a use by right. Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

Staff further recommends amending planning and zoning law to include a provision, similar to existing law requirements for second units, a provision that will require every city and county to designate areas that allow with conditional use if necessary "residential service facilities".

Staff also suggests adding "residential service facilities" to provisions of Government Code Section 65589.5, anti-NIMBY law.

Double referred: The Assembly Committee on Rules referred SB 1332 to Housing and Community Development and Local Government Committee. If SB 1332 passes this committee, the bill must be referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation (as introduced)
Central City Association of Los Angeles (as introduced)
City of Santa Monica (as amended March 28, 2006, with requested amendment)
Housing California
JERICHO (as amended March 28, 2006)
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc. (as amended March 28, 2006)
San Diego Housing Federation (as amended March 28, 2006)
Shelter Partnership, Inc., Los Angeles (as amended March 28, 2006)
The Midnight Mission, Los Angeles (as introduced)
Union Rescue Mission, Los Angeles (as introduced)
Western Center on Law & Poverty

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Opposition

American Planning Association, California Chapter (as introduced, unless amended)
City of Roseville
City of Torrance (as amended March 28, 2006)
League of California Cities

Analysis Prepared by: Hubert Bower / H. & C.D. / (916) 319-2085

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Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Simón Salinas, Chair
SB 1322 (Cedillo) – As Amended: June 15, 2006

SENATE VOTE: 25-11

SUBJECT: Housing.

SUMMARY: Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and residential service facilities and also to accommodate the need for such facilities on sites that are zoned to allow their use by right. Specifically, this bill:

1) Adds emergency shelters and residential service facilities to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Adds residential service facilities to the list of types of housing that must be included in the housing element's analysis of special housing needs.

3) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities and requires these sites to be zoned to permit shelters or residential service facilities as a use by right.

4) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters and residential service facilities as a use by right.

5) Allows a local government to satisfy the requirement to identify sites for emergency shelters and residential service facilities through a multijurisdictional agreement with adjacent communities.

6) Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing element.

7) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

8) Defines residential service facility as any of the following, consistent with existing law definitions in the Health and Safety Code, that serve seven or more persons: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

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9) Amends the anti-NIMBY law to:

   a) Apply the law to emergency shelters; and

   b) Prohibit a community from using the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW:

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "Anti-NIMBY Law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

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9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT: According to the Senate Committee on Appropriations, SB 1322 would likely result in a general fund cost of over $200,000 annually due to the reimbursable state mandate for cities and counties to include additional information in their housing elements.

COMMENTS:

1) Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

2) Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

3) Current law, commonly referred to as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

   a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

   b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

   c) The denial is required to comply with state or federal law;

   d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

   e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

   Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

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4) According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles. SB 1322 seeks to require every city and county to identify sufficient sites where emergency shelters and residential service facilities can locate by right to address each community's own need.

5) Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 1322 seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

6) The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

7) Opponents argue that SB 1322 sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. SB 1322 creates a different process for emergency shelters and residential service facilities by taking away a community's initial opportunity to develop a workable plan for accommodating these uses and instead requires that the local agencies develop a land inventory at the outset where emergency shelters and residential service facilities are allowed by right. In other words, communities must be able to accommodate 100% of their need for such facilities on sites that are zoned by right.

8) Under current law, residential service facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, small residential service facilities are a by-right use in residential zones in most communities. SB 1322 would dramatically expand by-right zoning for such facilities by requiring by-right zoning for facilities of any size. A 100-bed facility would have to be treated the same as a 4-bed facility.

9) The category of "residential service facilities" as defined in SB 1322 is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that

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serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

10) The housing element process already requires cities and counties to address the need for emergency shelters in their analysis of special needs housing. As such, cities and counties should already have some idea of how to count their homeless population. The need for residential service facilities, however, is a new addition, and it is unclear how a local agency would determine its fair share of such facilities. As has already been noted, the term "residential service facilities" is defined broadly and such facilities serve a variety of populations. How would a city or county calculate with any accuracy the number of drug addicts that may enter a rehabilitation program during the 10-year planning period, or the number of mentally ill persons who may need treatment, or the number of persons in need of a variety of other residential services? Basing a portion of a local agency's housing element on numbers that are so difficult to estimate would make the element particularly vulnerable to litigation. Indeed, existing law allows a judge to stop all development within a community if a single element of the general plan is out of compliance with the law.

11) PROPOSED AMENDMENTS:

a) Delete the addition of residential service facilities to the housing element process, including the requirement that such facilities be zoned as a use by right;

b) Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

c) Add a new provision to the Planning and Zoning Law that would require every city and county to identify zones that allow, with conditional use if necessary, residential service facilities; and

d) Add residential service facilities to provisions of Government Code Section 65589.5, the anti-NIMBY law.

12) This bill has been double-referred to the Committees on Local Government and Housing and Community Development.

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REGISTERED SUPPORT / OPPOSITION:

Support

CA Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Santa Monica
Housing CA
JERICHO
Midnight Mission, Los Angeles
National Association of Social Workers, CA Chapter
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc., Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law & Poverty

Opposition

American Planning Association, CA Chapter (unless amended)
CA State Association of Counties (unless amended)
Cities of Roseville and Torrance
League of CA Cities

Analysis Prepared by: Anya Lawler / L. GOV. / (916) 319-3958

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REVISED

Date of Hearing: August 16, 2006

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Judy Chu, Chair

SB 1322 (Cedillo) – As Amended: August 7, 2006

Policy Committee:	Housing	Vote:	5-2
	Local Government		5-2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY

This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and to accommodate the need for such facilities on sites zoned to allow this use by right. Specifically, this bill:

1) Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned, with appropriate development and management standards, to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Amends the anti-NIMBY law—which prohibits a local governments from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason—to apply to emergency shelters and "special needs facilities, " as defined.

5) Requires local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and prohibits adoption of any ordinance prohibiting such facilities.

FISCAL EFFECT

Cities and counties will incur the following non-reimbursable cost to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual

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costs over five years about be about $500,000

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS

1) Purpose. According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

2) Background. The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

3) Opposition. The League of California Cities' concerns include the new, mandated activities required in the bill, which the League believes will be very costly. According the League, "This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If the plan fails to meet the need, the agency must then approve housing "by-right" at present densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by right".

Analysis Prepared by: Chuck Nicol / APPR. / (916) 319-2081

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 7, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

According to Department of Housing and Community Development (HCD) staff, this bill would generate one-time costs to the department of $145,000.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the March 28, 2006 version include the following significant amendments which do not change our position:

- The bill requires cities and counties to identify sites or zones for special needs facilities, and includes residential services facilities within the definition of "special needs facilities."
- Changes to a local government's housing element as a result of the bill would only be required when revision of the housing element is otherwise required.
- The bill requires local governments to zone emergency shelter sites with appropriate management standards.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers		Mark Hill	8/10/06
Department Deputy Director			Date
Original Signed by John Lloyd			
Governor's Office: By:		Date: 8/14/06	Position Approved ✓ Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Department of Housing and Community Development (HCD) staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters.

Additionally, HCD staff note concern that provisions in the bill would require local governments to zone management standards for emergency shelters. HCD staff indicate they are unclear what these provisions mean or how the HCD would implement them.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population and the related subpopulation with special needs are notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to

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verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

B. Fiscal Analysis

According to HCD staff, this bill would generate one-time costs of $145,000 to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

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Assembly Republican Caucus Materials

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SB 1322 (CEDILLO)
HOMELESS SHELTERS.

Version: 8/24/06 Last Amended
Vote: Majority
Oppose

Vice-Chair: Bill Emmerson
Tax or Fee Increase: No

Requires local governments to identify specific sites with by-right zoning to accommodate homeless shelters and prohibits a city or county from disapproving these facilities unless specified findings are made.

Policy Question

Shall local governments be required to identify specific sites with by-right zoning to accommodate homeless shelters and be prohibited from disapproving these facilities unless specified findings are made?

Summary

Requires cities and counties to include in the housing element of their general plan an analysis of the need for homeless shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Specifically, this bill:

1. Adds homeless shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.
2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.
3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit homeless shelters as a use by right.
4. Allows a local government to satisfy the requirement to identify sites for homeless shelters through a multi-jurisdictional agreement with adjacent communities.
5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.
6. Defines "emergency shelter" as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.
7. Requires the analysis of special housing needs within the housing element to address transitional housing.
8. Defines "transitional housing" as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.
9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.
10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.
11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.
12. Amends the anti-NIMBY (for "not in my back yard") law to:
    - Apply the law to emergency shelters and special needs facilities; and,
    - Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

Senate Republican Floor Votes (25-11) 5/30/06
Noes: All Republicans Except
Abs. / NV: Margett, Mc Clintock

Assembly Republican Housing Votes (5-2) 6/28/06
Noes: Garcia, La Suer
Abs. / NV: None

Assembly Republican Local Gov Votes (5-2) 6/28/06
Noes: Emmerson, Houston
Abs. / NV: None

Assembly Republican Floor Votes (13-5) 8/16/06
Noes: Runner, Emmerson, Haynes, Nakanishi, Walters
Abs. / NV: None

Assembly Republican Floor Votes (41-34) 8/31/06
Ayes: None
Noes: All Republicans
Abs. / NV: None

Senate Republican Floor Votes (24-14) 8/31/06
Ayes: None
Noes: All Republicans Except
Abs. / NV: Runner

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13. Extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility.
14. Clarify when a housing element would have to conform to the requirements of the bill.
15. Add double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law.
16. Add double-jointing language to prevent chaptering out problems should this bill and AB 2511 (Jones), pending in the Senate, both become law.

Support

Housing California.

Opposition

League of CA Cities; City of Petaluma.

Arguments In Support of the Bill

1. According the author, there are an estimated 360,000 homeless individuals and families in California. Since homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. The disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.
2. Every community should take responsibility for housing its citizens, including the homeless. This bill simply seeks to require every commun[illegible]take that responsibility seriously rather than simply sloughing it off on other communities.

Arguments In Opposition to the Bill

1. First, how are cities and counties supposed to determine the need on which to base the zoning for facilities serving the homeless? This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.
2. Second, how can residential neighborhoods absorb impacts of such large facilities? SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size: a 150 bed facility must be treated the same as an 8 bed facility.
3. Extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility. MORE LITIGATION!
4. There are potentially significant costs, likely less than $500,000 for local governments, to modify their housing element plans to include additional homeless shelters and transitional housing. By expanding the scope of the housing element, this bill would likely result in a reimbursable state mandate.
5. And speaking of mandates, this bill creates an Unfunded Mandate. The cost of SB 1322 would exceed $10,000 per agency—and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. But are local agencies really expected to recapture their costs on the applications of emergency shelters and special needs facilities? The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

Fiscal Effect

NO STATE COST.

Comments

Use by Right:

1. If a community does not have adequate sites within its existing inventory of residentially zoned land, then it is required to rezone land at appropriate densities to accommodate projected housing needs at all income levels.
2. Under this scenario, rezoned sites must allow housing development as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

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3. Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Anti-NIMBY Law:

1. California's anti-NIMBY law limits the ability of local governments to deny housing projects by requiring them to make one of the following findings, based on substantial evidence, in order to disapprove an affordable housing project:
   - The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
   - the denial is required to comply with state or federal law;
   - the project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or
   - the jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
2. Since an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Housing Element Law:

1. Housing element law requires local governments to identify existing and projected housing needs, to provide adequate sites with appropriate zoning to meet the identified housing need at all income segments, and ensure that regulatory systems do not unduly constrain, housing development.
2. Clearly, these responsibilities, although compulsory, are often ignored by local governments and are not enforced by any state or local agency. Housing element law requires communities to plan for the potential of growth, but does not require them to actually meet their housing needs through the actual development of housing.

Policy Consultant: William Weber 8/28/06
Fiscal Consultant: Allan Cooper 08/17/06

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LEAGUE OF CALIFORNIA CITIES

www.cacities.org

August 8, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
Revised NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the League of California Cities remains opposed to SB 1322 (Cedillo) despite the recent amendments made to the bill.

This bill would make the following changes to local planning and approval processes:

- ***Creates an Unfunded Mandate: Estimated at $10,000 per Agency.*** Local agencies will have to revise their local general plans to designate areas where emergency shelters must be approved by-right, thereby creating a new mandate. The total cost to local agencies statewide could easily exceed millions of dollars. A typical process will involve identifying sites or zones for the by-right designation, development a standard set of management conditions, consulting with police officers and other public safety personnel, undergoing CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city attorney. A conservative cost estimate would $10,000 per agency. But its likely to be much higher, particularly in larger cities.

- ***Limited Discretion for Social Rehabilitation and Adult Day Program Facilities Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies to all special needs facilities without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include community care facilities, adult day programs, social rehabilitations facilities, transitional shelter care facilities, among others.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions of Section 65589.5 to allow awards to anyone *who could occupy* a social rehabilitation facility, adult day program facility, community care facility,

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emergency shelter, or transitional housing facility.[1] This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Changed Process, Redundancies in the Housing Element for Emergency Shelters.*** This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by-right" Then, in the amendment to Section 65583(c)(1)(C), the bill redundantly requires those agencies that have not identified adequate sites by-right in 65583(a)(7) to again identify adequate sites to be zoned by-right. In essence, the bill requires zoning by-right on the threat of zoning by-right.

Finally, the proposed amendments in SB 1322 are not the best means to address this issue. Certainly, the needs of very low- and extremely-low income household—which includes emergency shelters and transitional housing—should be included in the planning process. This is why the League has worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans to address local needs.

Accordingly, the League is opposed to SB 1322 (Cedillo). If you have any questions, or if I can be of any assistance, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Michael Prosio, Legislative Deputy Secretary, Governor's Office
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Brian Augusta, Consultant, Assembly Member Lieber

[1] The version of the bill currently in print only extends the attorney fees provision to emergency shelters. However, we understand that the bill will be amended to include all "special needs facilities" as that term would be defined in Section 65589.5.

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CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
Mayor

Keith Canevaro
Mike Harris
Mike Healy
Karen Nau
Mike O'Brien
Pamela Torliatt
Councilmembers

August 18, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing - NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the City of Petaluma opposes SB 1322 (Cedillo). SB 1322 would make the following changes to local planning and approval processes:

- ***Limited Discretion for "Special Needs Facilities" Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size.
- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions to allow awards to anyone *who could occupy* an emergency shelter. Our understanding is that the author intends to extend this provision so that anyone occupying a social rehabilitation facility, adult day program facility, or community care facility may also file suit and seek attorney fees, As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.
- ***Redundant Process in the Housing Element.*** Under the housing element, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead requires cities at the outset to designate where emergency shelters must be approved "by-right." Further, the bill redundantly requires those agencies that have not identified adequate sites by-right to again identify adequate sites to be zoned by-right.

For these reasons, the City of Petaluma is opposed to SB 1322 (Cedillo).

Sincerely,

David A. Glass
Mayor of Petaluma

cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus

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Risk Management
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Petaluma, CA 94952
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E-Mail
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riskmgt@ci.petaluma.ca.us

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916-447-0503 Phone
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www.housingca.org

June 20, 2006

The Honorable Gene Mullin
Chair, Assembly Housing and Community Development Committee
P. O. Box 942849
Sacramento, CA 94249

Dear Chairman Mullin:

Housing California is pleased to support SB 1322 (Cedillo), which would add residential mental health and drug rehabilitation services to the types of housing that must be accommodated under the housing element and ensure that homeless shelters can be built to meet local needs throughout California. We urge your "aye" vote when it heard in the Assembly Housing and Community Development Committee on June 28, 2006.

Currently, shelter and service providers experience years of delays, while prices rise, just to secure a site on which to build shelters and residential facilities—services that are necessary in every locality in California. In Los Angeles, more than 11,000 people sleep on the streets in the Skid Row area, in part because surrounding areas do not allow homeless shelters. According to Jan Perry, Los Angeles City Councilmember , "not-in-my-backyard" perspectives lead to programs being concentrated and inadequate to meet the needs ("ACLU's victory is a loss for skid row", April 18, 2006, Los Angeles Times).

Ending homelessness depends upon each locality meeting its residents' needs, including allowing for homeless shelters and residential facilities. Reducing red tape and community struggle to develop and operate badly-needed facilities is an important step toward ending homelessness in California.

Please support this important measure.

Sincerely,

Narisha Bonakdar
Legislative Assistant

cc: Hubert Bower, Consultant, Assembly Housing and Community Development Committee
William Weber, Consultant, Republican Caucus

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GEORGE A. PLESCIA
ASSEMBLY REPUBLICAN LEADER
SEVENTY-FIFTH DISTRICT

Monday, September 11, 2006

Governor Arnold Schwarzenegger
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 1322 (CEDILLO)

Dear Governor Schwarzenegger:

This letter serves to memorialize a veto request for Senate Bill 1322, which passed the Assembly on August 31, 2006, by a vote of 41 to 34, with 31 members of the Assembly Republican Caucus voting 'No'.

Senate Bill 1322 requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. It also extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility.

First, cities and counties will be unable to determine the need on which to base the zoning for facilities serving the homeless. This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies have an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Second, residential neighborhoods will be unable to absorb the impacts of such large facilities. SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size; indeed, a 150 bed facility must be treated the same as an 8 bed facility.

Third, this bill extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or

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community care facility. This will ultimately increase project costs and delay developments that result from an increase in frivolous and marginal litigation by various entities.

Fourth, there are potentially significant costs of $500,000 for local governments, to modify their housing element plans to include additional homeless shelters and transitional housing.

Finally, his bill creates an unfunded mandate. The cost of SB 1322 would exceed $10,000 per agency—and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. However, local agencies cannot be really expected to recapture their costs on the applications of homeless shelters and special needs facilities. The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

For the reasons stated above, I respectfully request that you veto Senate Bill 1322.

Sincerely,

George Plescia
Assembly Republican Leader

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Wednesday, September 6, 2006

Governor Arnold Schwarzenegger
State Capitol, First Floor
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 1322 (CEDILLO)

Dear Governor Schwarzenegger:

This letter serves to memorialize a veto request for Senate Bill 1322, which passed the Assembly on August 31, 2006, by a vote of 41 to 34, with 31 members of the Assembly Republican Caucus voting 'No'.

Senate Bill 1322 requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. It also extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility.

First, cities and counties will be unable to determine the need on which to base the zoning for facilities serving the homeless. This bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies have an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for homeless shelters by taking away a community's initial opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Second, residential neighborhoods will be unable to absorb the impacts of such large facilities. SB 1322 limits agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation will apply to all special needs facilities regardless of size; indeed, a 150 bed facility must be treated the same as an 8 bed facility.

Third, this bill extends the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or

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community care facility. This will ultimately increase project costs and delay developments that result from an increase in frivolous and marginal litigation by various entities.

Fourth, there are potentially significant costs of $500,000 for local governments, to modify their housing element plans to include additional homeless shelters and transitional housing.

Finally, his bill creates an unfunded mandate. The cost of SB 1322 would exceed $10,000 per agency—and be much more in larger cities. Section 7 of the bill purportedly avoids the mandate issue on the ground that local agencies can impose fees. However, local agencies cannot be really expected to recapture their costs on the applications of homeless shelters and special needs facilities. The operating margins of such facilities and shelters make the imposition of such fees practically infeasible. Moreover, the authority of local agencies to impose such fees is questionable under the bill's proposed amendment to the anti-NIMBY law, which prohibits local agencies from imposing conditions that would make projects infeasible unless certain conditions are met.

For the reasons stated above, I respectfully request that you veto Senate Bill 1322.

Sincerely,

George Plescia
Assembly Republican Leader

GP: ww

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Department of Finance Materials

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Senate Appropriations Committee Fiscal Summary
Senator Kevin Murray, Chairman

1322 (Cedillo)

Hearing Date: 5/25/06 Amended: 3/28/06
Consultant: Mark McKenzie Policy Vote: T&H (9-1)

BILL SUMMARY: SB 1322 would require the housing element of a general plan to include an inventory of specific sites with by-right zoning to accommodate the need for homeless shelters, and would prohibit a local agency from disapproving an emergency shelter project unless it makes specified findings.

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	Fund
Reimbursable mandate	unknown, likely over $200	annually		GF
	-----see staff comments-----			

STAFF COMMENTS: SUSPENSE FILE. AS PROPOSED TO BE AMENDED.

The Planning and Zoning Law requires every city and county to adopt a general plan with seven specified elements, including a housing element. In that document, local officials must identify their community's share of regional housing needs and then identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes. If the housing element does not identify adequate sites, the housing element must provide that local zoning ordinances allow residential "use by right" for very low and low-income households. "Use by right" means that a local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Housing element law also requires communities to include an analysis of any special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require the identification of specific sites for special housing needs.

This bill amends housing element law to:

Require local governments, in their analysis of special

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housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.

Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

Require the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities, to the extent that the inventory of sites for these purposes is inadequate. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

-continued-

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of a number of specified findings, based on substantial evidence in the record, in order to disapprove an affordable housing project. This bill would require a city or county to make the same findings in order to disapprove an emergency shelter.

This bill would also allow a local government to satisfy the housing element law requirements to identify sites suitable for the development of emergency shelters and residential service facilities by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating local agencies to identify sites suitable to meet the collective needs of the participating communities.

STAFF NOTES that general plans are expensive for local governments to update, sometimes costing over $200,000. Any increased information requirements mandated by the State since 1975 must be reimbursed. AB 2853 (Roos), Chapter 1143, Statutes of 1980, which significantly expanded the requirements of local housing elements, resulted in mandate costs of $3.4 million in 2002-03, $2.2 million in 2003-04, and $581,000 for 2004-05. A total of 478 cities and 58 counties must submit housing elements to the state once every 5 years, or an average of 107 per year. By expanding the scope of a housing element, this bill would likely result in a reimbursable state mandate. The reimbursable mandate costs are unknown. However, if the requirements of this bill added $2,000 to the cost of each housing element, average annual costs would be $214,000.

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STAFF RECOMMENDS a clarifying amendment that would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle.

AS PROPOSED TO BE AMENDED this bill would allow a city or county to comply with the requirement to include additional information in the housing element during the next regular update cycle. The amendments would also add a co-author.

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 28, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for residential service facilities and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or residential service facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

The Department of Housing and Community Development (HCD) staff indicate that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant, costs.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs
- Given that the homeless population is notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for the homeless population. If the requirement to provide sites for shelters was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal (0741) B. Ehlers	Date	Program Budget Manager Mark Hill	Date
Bryan Ehlers	4/18/06	Mark Hill	4/18/06
Department Deputy Director John Lloyd			Date

Governor's Office: By: MT Date: 4/20/06 Position Approved ✓
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand state housing element law to require cities and counties to identify housing sites to accommodate residential service facilities and emergency shelters in order to address the city or county's share of the state's homeless population. If the city or county could not identify these sites, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the bill's author, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including residential service facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include residential service facilities and emergency shelters in their housing element.

HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as residential service facilities and emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters. The author's staff acknowledges that this problem has already been raised to the attention of their office.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population is notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

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B. Fiscal Analysis

HCD staff indicates that this measure could create potentially significant costs due to the need for local governments to submit revised housing element data outside of the regular cycle. Significant expense would be incurred in conducting a census of homeless persons in each jurisdiction. HCD is currently staffed to review housing element submittals, which arrive on a flow basis over a six-year cycle.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2005-2006	FC	2006-2007	FC	2007-2008	Fund Code
2240/HCD	SO	No		---------- See Fiscal Analysis ----------					0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Gene Mullin, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE : 25-11

SUBJECT : Housing: emergency shelters

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for residential service facilities and emergency shelters and also to identify specific sites with by-right zoning to accommodate such facilities. Specifically, this bill :

1) Requires local governments to include in their housing element an analysis of the need for residential service facilities and emergency shelters.

2) Requires the inventory of sites (a requirement of the housing element) to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.

3) Requires local governments to identify and rezone sufficient sites to accommodate the need, if the inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.

4) Allows local governments to comply with the requirements of the bill during the next regular update cycle of their housing element.

5) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is consistent with the existing law definition in the Health and Safety Code.

6) Defines residential service facility as a residential facility that provides social rehabilitation services, regular

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individualized case management services, and independent living skills development.

7) Amends the anti-NIMBY law to:

a) Apply the law to emergency shelters.

b) Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving the state housing goal and adequately plan and take steps to meet those goals (Government Code Section 65581).

2) Requires the planning agency of each city and county to adopt a general plan "to guide the future growth of a community" containing various elements including a housing element (Government Code Sections 65300 and 65302).

3) Requires the housing element of a city or county to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, analyze opportunities for energy efficiency, and establish community goals related to housing for all income levels (Government Code Section 65583).

4) Each community's identification of adequate sites must satisfy the housing allocation targets set by the Council of Government (COG) [Government Code Section 65584].

5) Requires, prior to each Housing Element revision, that each COG, in conjunction with HCD, prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where COGs do not exist, HCD shall determine the local share of the region's housing need

(Government Code Section 65584).

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6) Requires the following income categories (and their definitions) to be provided for under Housing Element Law:

   a) Very low income (50% or lower of area median income);
   b) Lower income (80% or lower of area median income);
   c) Moderate income (between 80% and 120% of area median income); and
   d) Above moderate income (exceeding 120% area median income).

(Government Code Section 65584)

7) Prohibits a local agency from disapproving specified affordable housing projects or conditioning its approval of a project in a manner that would render the affordable housing aspect infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason. Permissible reasons include a specific, adverse impact on public health or safety where there is no satisfactory mitigation method, a need to comply with a specific state or federal law, or a project's inconsistency with a zoning ordinance or general plan. Known as anti-NIMBY law (Not In My Back Yard) [Government Code Section 65589.5].

8) Requires cities and counties to allow the development of second housing units in single-family and multifamily residential zones (Government Code Section 65852.2).

FISCAL EFFECT : Unknown.

COMMENTS :

Background

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must

adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not

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require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

3) The denial is required to comply with state or federal law;

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

Arguments in Support

According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective

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need.

Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

Arguments in Opposition

Opponents argue that SB 1322 would change the housing element law in at least three critical ways. First, SB 1322 would expand the scope of the "by-right" requirement to facilities that serve seven or more people. Existing law provides "by right" zoning for group homes and other care facilities that have less than six occupants. This extension would apply to nearly all group facilities without limitation, including drug rehabilitation and parolee living facilities (including registered sex offenders). These are the type of developments where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking. Moreover, there is no limit to the size of the facility that must be approved by right. A 100-bed facility is treated as the same as an eight bed facility.

Second, this bill sets the typical planning process on its head. Under the current housing element process, local agencies get the initial opportunity to plan for their share of the regional housing need. If this local process fails to meet the need, the

agency must then approve housing "by-right" at preset densities (depending on the size of the jurisdiction). SB 1322, however, creates a different process for "residential service facilities." It takes away a community's initial opportunity to develop a workable plan, and instead requires that the local agencies develop a land inventory at the outset where all residential care facilities, emergency shelters, and other similar housing be approved "by-right."

Third, SB 1322 does not clarify how local agencies will know what their fair share numbers are for residential care facilities. While it may be possible to estimate the number of homeless and other transitional needs, others number are more

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difficult to obtain. For example, how does a local agency estimate its fair share of rehabilitating drug addicts or sex offender parolees that will relocate to the community? There is no source for this information. Indeed, existing law allows a judge to hold all development within a community if a single element is out of compliance.

Opponents assert that SB 1322 introduces too vague a standard upon which to judge a general plan document. Certainly, the needs of very low- and extremely-low income household should be included in the planning process. (Indeed, Health and Safety Code Section 50105(b) clarifies that the term very low income includes extremely low income households.) This is why opponents have worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans.

Staff Comments

The Committee may wish to consider whether there is any practical way to determine the size of the population and therefore the actual need of those to be served by residential service facilities as provided under SB 1322. It would seem that the homeless are a population that can be reasonably calculated for which emergency shelters may be planned for under the housing element process. However, the committee may wish to consider whether there is any way to calculate the number of heroin addicts in a community and estimate what that figure will be during the next housing element planning cycle (projected growth of that population over 10 years). So too for abused women with children, or emancipated foster youth, or mentally ill. The committee may wish to consider whether amending the

housing element law is a the appropriate tool to estimate the need for residential service facilities.

Suggested Amendments

Staff suggests retaining the portion of the bill that adds "emergency shelters" to the housing element planning process but deleting references to "residential service facilities" including the requirement that such facilities be zoned as a use by right. Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

Staff further recommends amending planning and zoning law to include a provision, similar to existing law requirements for second units, a provision that will require every city and county to designate areas that allow with conditional use if

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necessary "residential service facilities".

Staff also suggests adding "residential service facilities" to provisions of Government Code Section 65589.5, anti-NIMBY law.

Double referred : The Assembly Committee on Rules referred SB 1332 to Housing and Community Development and Local Government Committee. If SB 1332 passes this committee, the bill must be referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION :

Support

California Rural Legal Assistance Foundation (as introduced)
Central City Association of Los Angeles (as introduced)
City of Santa Monica (as amended March 28, 2006, with requested amendment)
Housing California
JERICHO (as amended March 28, 2006)
National Association of Social Workers, California Chapter
Protection and Advocacy, Inc. (as amended March 28, 2006)
San Diego Housing Federation (as amended March 28, 2006)
Shelter Partnership, Inc., Los Angeles (as amended March 28, 2006)
The Midnight Mission, Los Angeles (as introduced)
Union Rescue Mission, Los Angeles (as introduced)
Western Center on Law & Poverty

Opposition

American Planning Association, California Chapter (as introduced, unless amended)
City of Roseville
City of Torrance (as amended March 28, 2006)
League of California Cities

Analysis Prepared by : Hubert Bower / H. & C.D. / (916) 319-2085

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Date of Hearing: June 28, 2006

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Simon Salinas, Chair
SB 1322 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE : 25-11

SUBJECT : Housing.

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and residential service facilities and also to accommodate the need for such facilities on sites that are zoned to allow their use by right. Specifically, this bill :

1) Adds emergency shelters and residential service facilities to the list of types of housing for which a local government must identify adequate sites in its housing element.

2) Adds residential service facilities to the list of types of housing that must be included in the housing element's analysis of special housing needs.

3) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities and requires these sites to be zoned to permit shelters or residential service facilities as a use by right.

4) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters and residential service facilities if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters and residential service facilities as a use by right.

5) Allows a local government to satisfy the requirement to identify sites for emergency shelters and residential service facilities through a multijurisdictional agreement with adjacent communities.

6) Allows a city or county to comply with the requirements of the bill during the next regular update cycle of their housing

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element.

7) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

8) Defines residential service facility as any of the following, consistent with existing law definitions in the Health and Safety Code, that serve seven or more persons: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

9) Amends the anti-NIMBY law to:

   a) Apply the law to emergency shelters; and

   b) Prohibit a community from using the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

EXISTING LAW :

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each

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council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "Anti-NIMBY Law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Senate Committee on Appropriations, SB 1322 would likely result in a general fund cost of over $200,000 annually due to the reimbursable state mandate for cities and counties to include additional information in their housing elements.

COMMENTS :

1) Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and

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do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

2) Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

3) Current law, commonly referred to as the anti-NIMBY (for "not in my back yard") law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

a) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;

b) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;

c) The denial is required to comply with state or federal law;

d) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is

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therefore not protected by the anti-NIMBY law.

4) According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles. SB 1322 seeks to require every city and county to identify sufficient sites where emergency shelters and residential service facilities can locate by right to address each community's own need.

5) Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. SB 1322 seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

6) The author is concerned that providers of emergency shelters and residential service facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such

facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

7) Opponents argue that SB 1322 sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. SB 1322 creates a different process for emergency shelters and residential service facilities by taking away a community's initial

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opportunity to develop a workable plan for accommodating these uses and instead requires that the local agencies develop a land inventory at the outset where emergency shelters and residential service facilities are allowed by right. In other words, communities must be able to accommodate 100% of their need for such facilities on sites that are zoned by right.

8) Under current law, residential service facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat residential uses as a by-right use in residential zones. Thus, small residential service facilities are a by-right use in residential zones in most communities. SB 1322 would dramatically expand by-right zoning for such facilities by requiring by-right zoning for facilities of any size. A 100-bed facility would have to be treated the same as a 4-bed facility.

9) The category of "residential service facilities" as defined in SB 1322 is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that

serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

10) The housing element process already requires cities and counties to address the need for emergency shelters in their

analysis of special needs housing. As such, cities and counties should already have some idea of how to count their homeless population. The need for residential service facilities, however, is a new addition, and it is unclear how a local agency would determine its fair share of such facilities. As has already been noted, the term "residential service facilities" is defined broadly and such facilities serve a variety of populations. How would a city or county calculate with any accuracy the number of drug addicts that may enter a rehabilitation program during the 10-year planning period, or the number of mentally ill persons who may need treatment, or the number of persons in need of a variety of other residential services? Basing a portion of a local agency's housing element on numbers that are so difficult to estimate would make the element particularly vulnerable to litigation. Indeed, existing law allows a judge to stop all development within a community if a single element of the

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general plan is out of compliance with the law.

11) PROPOSED AMENDMENTS :

a) Delete the addition of residential service facilities to the housing element process, including the requirement that such facilities be zoned as a use by right;

b) Require that sites for emergency shelters that are zoned by right be zoned with appropriate development and management standards;

c) Add a new provision to the Planning and Zoning Law that would require every city and county to identify zones that allow, with conditional use if necessary, residential service facilities; and

d) Add residential service facilities to provisions of Government Code Section 65589.5, the anti-NIMBY law.

12) This bill has been double-referred to the Committees on Local Government and Housing and Community Development.

REGISTERED SUPPORT / OPPOSITION :

Support

CA Rural Legal Assistance Foundation
Central City Association of Los Angeles
City of Santa Monica
Housing CA
JERICHO
Midnight Mission, Los Angeles
National Association of Social Workers, CA Chapter
Protection and Advocacy, Inc.
San Diego Housing Federation

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Shelter Partnership, Inc., Los Angeles
Union Rescue Mission, Los Angeles
Western Center on Law & Poverty

Opposition

American Planning Association, CA Chapter (unless amended)
CA State Association of Counties (unless amended)
Cities of Roseville and Torrance
League of CA Cities

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 7, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

According to Department of Housing and Community Development (HCD) staff, this bill would generate one-time costs to the department of $145,000.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the March 28, 2006 version include the following significant amendments which do not change our position:

- The bill requires cities and counties to identify sites or zones for special needs facilities, and includes residential services facilities within the definition of "special needs facilities."
- Changes to a local government's housing element as a result of the bill would only be required when revision of the housing element is otherwise required.
- The bill requires local governments to zone emergency shelter sites with appropriate management standards.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers		Mark Hill	8/10/06

Department Deputy Director — Date

Governor's Office: By: Date: Position Approved / Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the bill's author, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Department of Housing and Community Development (HCD) staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters.

Additionally, HCD staff note concern that provisions in the bill would require local governments to zone management standards for emergency shelters. HCD staff indicate they are unclear what these provisions mean or how the HCD would implement them.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population and the related subpopulation with special needs are notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to

verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

B. Fiscal Analysis

According to HCD staff, this bill would generate one-time costs of $145,000 to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

bth

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 7, 2006
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

According to Department of Housing and Community Development (HCD) staff, this bill would generate one-time costs to the department of $145,000.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the March 28, 2006 version include the following significant amendments which do not change our position:

- The bill requires cities and counties to identify sites or zones for special needs facilities, and includes residential services facilities within the definition of "special needs facilities."
- Changes to a local government's housing element as a result of the bill would only be required when revision of the housing element is otherwise required.
- The bill requires local governments to zone emergency shelter sites with appropriate management standards.

COMMENTS

The Department of Finance is opposed to this bill because:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are notoriously difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- HCD staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law.

MOP

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers		Mark Hill	8/10/06

Department Deputy Director — Date

Original signed by Lynn Lloyd

Governor's Office: By: MP Date: 8/14/06 Position Approved ✓ Position Disapproved

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is very difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Department of Housing and Community Development (HCD) staff indicate that, due to technical errors, the requirements of this bill conflict with existing housing element law. For example, under current housing law, a city or county must identify adequate sites to address the need to house each income group within the community. This bill would additionally require cities and counties to identify adequate sites for "group quarters," such as emergency shelters. According to HCD staff, this bill is unworkable because adequate sites are generally measured in terms of "units" of housing, which is incompatible with the concept of group quarters.

Additionally, HCD staff note concern that provisions in the bill would require local governments to zone management standards for emergency shelters. HCD staff indicate they are unclear what these provisions mean or how the HCD would implement them.

Finance notes concern that it would be infeasible for many cities and counties to accurately identify their housing "need" under this bill. Cities and counties require accurate population data in order to identify their housing need, and the homeless population and the related subpopulation with special needs are notoriously difficult to count. Additionally, we note that there may be little incentive for cities and counties to accurately identify their need. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to

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verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

B. Fiscal Analysis

According to HCD staff, this bill would generate one-time costs of $145,000 to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SENATE THIRD READING
SB 1322 (Cedillo)
As Amended August 24, 2006
Majority vote

SENATE VOTE :25-11

LOCAL GOVERNMENT 5-2 HOUSING 5-2

Ayes:	Salinas, De La Torre, Lieber, Berg, Jones	Ayes:	Mullin, Baca, Hancock, Salinas, De La Torre
Nays:	Emmerson, Houston	Nays:	Garcia, La Suer

APPROPRIATIONS 13-5

Ayes:	Chu, Bass, Berg, Calderon, De La Torre, Mullin, Klehs, Leno, Nation, Oropeza, Ridley-Thomas, Saldana, Yee		
Nays:	Sharon Runner, Emmerson, Haynes, Nakanishi, Walters		

SUMMARY : Requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right. Specifically, this bill :

1) Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

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2) Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3) Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

4) Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5) Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6) Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7) Requires the analysis of special housing needs within the housing element to address transitional housing.

8) Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9) Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10) Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11) Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for

the elderly.

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12) Amends the anti-NIMBY (for "not in my back yard") law to:

a) Apply the law to emergency shelters and special needs facilities; and,

b) Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

13) Includes double-jointing language to prevent chaptering out problems should this bill and AB 2634 (Lieber), pending in the Senate, both become law; and should this bill and AB 2511 (Jones), pending in the Senate, both become law.

EXISTING LAW :

1) States the intent of the Legislature to ensure that local governments recognize their responsibility in achieving state housing goals and adequately plan and take steps to meet those goals.

2) Requires each city and county to adopt a general plan that includes seven elements, including a housing element.

3) Requires the housing element of the general plan to identify and analyze current and projected housing needs, make demographic projections, assess housing inventories, identify housing constraints, and establish community goals related to housing for all income levels.

4) Requires the analysis of special housing needs within the housing element to address persons and families in need of emergency shelter.

5) Requires, prior to each housing element revision, that each council of government (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment and allocate to each jurisdiction in the region its fair share of the housing need for each of the defined income categories. Where a COG does not exist, HCD determines the local share of the region's

housing need.

6) Requires each housing element's identification of adequate sites to satisfy the community's share of the regional housing need.

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7) Requires the housing element to provide for the following income categories:

   a) Very low-income (50% or lower of area median income);

   b) Lower-income (80% or lower of area median income);

   c) Moderate-income (between 80% and 120% of area median income); and,

   d) Above moderate-income (exceeding 120% area median income).

8) Prohibits, under the so-called "anti-NIMBY law," a local agency from disapproving specified affordable housing projects or conditioning their approval in a manner that would render them infeasible unless the agency makes written findings based on substantial evidence that the denial or condition is for a specified, statutorily approved reason.

9) Requires cities and counties to treat residential facilities serving six or fewer persons the same as any other residential use for the purposes of permitting.

FISCAL EFFECT : According to the Assembly Appropriations Committee, cities and counties would incur the following non-reimbursable costs to comply with the bill's requirements:

1) For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2) Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

COMMENTS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all economic segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must

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adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a use by right, which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelters, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3) The denial is required to comply with state or federal law.

4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities, or

5) The jurisdiction has identified sufficient and adequate sites

to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because emergency shelters and special needs facilities do not contain housing "units," they are not considered housing development projects and are therefore not currently protected by the anti-NIMBY law.

According to the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, and ages, and all

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geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its need for such facilities. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of special needs facilities to serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

Recent press accounts in the Los Angeles and Sacramento regions have described cases in which law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. According to the author, this bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

The author is concerned that providers of emergency shelters and special needs facilities encounter tremendous resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of such facilities. Additionally, service providers have found that there are communities that have no zones in which these types of uses are allowed, even with a conditional use permit.

This bill adds protections in law for emergency shelters, transitional housing, and special needs facilities in three ways. First, it would require every city and county to zone by right enough sites for emergency shelters to accommodate the community's need as identified in the housing element. Second, it would require every city and county to zone for special needs facilities and transitional housing and would prohibit local agencies from banning these types of uses. Third, it would apply the anti-NIMBY law to emergency shelters and special needs facilities to protect these types of projects from being unreasonably denied or conditioned in a manner that renders them infeasible to develop.

Under current law, special needs facilities that serve six or fewer persons must be treated the same as other residential uses in the permitting process. Generally, cities and counties treat

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residential uses as a by-right use in residential zones. Thus, these small special needs facilities are a by-right use in residential zones in most communities. This bill would ensure that communities are planning to accommodate larger special needs facilities that serve seven or more residents by designating zones where such facilities, as well as transitional housing, may locate. Communities may require a conditional use permit for such uses.

The category of "special needs facilities" as defined in this bill is broad. While it includes facilities that provide supportive services to individuals and families transitioning out of homelessness, it is not limited to such facilities. The term encompasses facilities that
serve a wide range of persons in need of residential services, from drug addicts to emancipated foster youth. These are the types of uses where a conditional use permit is typically used to address potential impacts such as security, lighting, entrances, and parking.

Opponents argue that this bill sets the typical housing element planning process on its head. Under the current housing element process, local agencies get an initial opportunity to plan for their share of the regional housing need. If this local process fails to provide adequate sites to meet the need, the agency must accommodate the deficiency on sites that are zoned to allow the housing by right. This bill creates a different process for emergency shelters by taking away a community's initial

opportunity to develop a workable plan for accommodating shelters, and instead, requires that the local agencies develop a land inventory at the outset where shelters are allowed by right. In other words, communities must be able to accommodate 100% of their need for shelters on sites that are zoned by right.

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

FN: 0017068

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916)
327-4478

SB 1322

UNFINISHED BUSINESS

Bill No: SB 1322
Author: Cedillo (D)
Amended: 8/24/06
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE : 9-1, 3/21/06
AYES: Lowenthal, Ashburn, Cedillo, Ducheny, Kehoe, Machado, Simitian, Soto, Torlakson
NOES: Dutton
NO VOTE RECORDED: McClintock, Margett, Runner

SENATE APPROPRIATIONS COMMITTEE : 9-4, 5/25/06
AYES: Murray, Alarcon, Alquist, Ashburn, Escutia, Florez, Ortiz, Romero, Torlakson
NOES: Aanestad, Battin, Dutton, Poochigian

SENATE FLOOR : 25-11, 5/30/06
AYES: Alarcon, Alquist, Ashburn, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Kehoe, Kuehl, Lowenthal, Machado, Migden, Murray, Ortiz, Perata, Romero, Scott, Simitian, Soto, Speier, Torlakson, Vincent
NOES: Aanestad, Ackerman, Battin, Cox, Denham, Dutton, Hollingsworth, Maldonado, Morrow, Poochigian, Runner
NO VOTE RECORDED: Bowen, Margett, McClintock, Vacancy

ASSEMBLY FLOOR : Not available

SUBJECT : Emergency shelters and transitional housing to serve the homeless

CONTINUED

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SOURCE : Author

DIGEST : This bill requires cities and counties to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need for shelters on sites that are zoned to allow their use by right.

Assembly Amendments (1) specify that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first; (2) add "special needs facility" to the list of projects which a city or county cannot disapprove unless it makes required findings; (3) define special needs housing; (4) require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to conditional use permit, and (5) add double jointing language with AB 2634 (Lieber) and AB 2511 (Jones).

ANALYSIS : Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where

such housing is permitted, but does not require that specific sites for special housing needs be identified.

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Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

1. The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.

2. The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.

3. The denial is required to comply with state or federal law.

4. The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

5. The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill:

1. Adds emergency shelters to the list of types of housing for which a local government must identify adequate sites in its housing element.

2. Requires the housing element to include an inventory of sites suitable for the development within the planning period of emergency shelters and requires these sites to be zoned to permit shelters as a use by right.

3. Requires the city or county to identify and rezone sufficient sites to accommodate the need for emergency shelters if the inventory does not identify adequate sites to accommodate the community's need as identified in the analysis and requires rezoned sites to permit emergency shelters as a use by right.

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4. Allows a local government to satisfy the requirement to identify sites for emergency shelters through a multijurisdictional agreement with adjacent communities.

5. Allows a city or county to comply with the requirements of this bill during the next regular update cycle of their housing element.

6. Defines emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, consistent with the existing law definition in the Health and Safety Code.

7. Requires the analysis of special housing needs within the housing element to address transitional housing.

8. Defines transitional housing as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons, consistent with the existing law definition in the Health and Safety Code.

9. Requires cities and counties to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit.

10. Prohibits a local agency from enacting or enforcing an ordinance, regulation, or resolution prohibiting special needs facilities and transitional housing.

11. Defines special needs facility as any of the following that serve seven or more persons, consistent with existing law definitions in the Health and Safety Code: a community care facility, residential facility, social rehabilitation facility, community treatment facility,

transitional shelter care facility, transitional housing placement facility, residential care facility, or residential care facility for the elderly.

12. Amends the anti-NIMBY (for "not in my back yard") law to:

A. Apply the law to emergency shelters and special needs facilities.

B. Prohibit a community from using the "not-needed" defense to disapprove transitional housing unless the

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community has met the need for such facilities identified in its housing element analysis of special housing needs.

13. Includes double-jointing language with AB 2634 (Lieber), and AB 2511 (Jones).

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, cities and counties will incur the following non-reimbursable costs to comply with the bill's requirements:

1. For the additional housing element requirements related to emergency shelters: a total of 478 cities and 58 counties must submit housing elements to the state every five years, or an average of 107 entities each year. Assuming an additional cost averaging $5,000 each, annual costs over five years would be about $500,000.

2. Assuming each city and county spends an average of $5,000 to designate zones for special needs facilities and transitional housing, estimated costs would total about $2.7 million statewide.

SUPPORT : (Verified 8/28/06)

California Mental Health Directors Association
California Rural Legal Assistance Foundation
City of Santa Monica
Housing California

JERICHO
National Association of Social Workers, California Chapter
Progressive
Protection and Advocacy, Inc.
San Diego Housing Federation
Shelter Partnership, Inc.
The Midnight Mission
Western Center on Law and Poverty

OPPOSITION : (Verified 8/28/06)

City of Elk Grove
City of Roseville
City of Torrance
City of Vista
County of San Diego
League of California Cities

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Town of Apple Valley

ARGUMENTS IN SUPPORT : According the author's office, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

JJA:do 8/30/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: August 24, 2006
RECOMMENDATION: Veto

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

ASSEMBLY: 41/34
SENATE: 24/14

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends this bill be vetoed for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers	9/8/06	Mark Hill for	9/8/06
Department Director		Date	

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

This bill is double-joined with AB 2634 (Lieber) and AB 2511 (Jones). AB 2634 would add to housing element law a requirement that local governments must analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites. Finance has an approved oppose position on the May 2, 2006 version of the bill. AB 2511 (Jones) makes various

changes to housing laws. Finance has an approved neutral position on the June 26, 2006 version of the bill. Both bills are to enrollment.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SUGGESTED VETO MESSAGE

SB 1322

(as amended August 24, 2006)

I am returning Senate Bill No. 1322 without my signature. This bill would require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population and authorize development "by right" if the local government fails to identify sufficient sites.

While the intent to hold all local communities accountable for their share of the homeless population is laudable, accurately counting the homeless and other special needs populations is difficult. Additionally, if the requirement for local governments to provide sites for shelters is based on counts of where homeless persons are currently found, this would permanently burden those cities that attract a larger share of homeless persons because they are providing services, and would immunize those cities that limit their homeless populations because they provide no services. Additionally, this bill would increase state costs because increasing the scope of the housing element would require the state to reimburse those costs.

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DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: August 24, 2006
RECOMMENDATION: Veto

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

ASSEMBLY: 41/34
SENATE: 24/14

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development of $145,000.

COMMENTS

Finance recommends this bill be vetoed for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs.
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.
- It may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, the siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers	9/8/06	Mark Hill for	9/8/06
Department Director		Date	
Originally signed by John Lloyd		9/12 2006	

ENROLLED BILL REPORT — Form DF-43 (Rev 03/95 Pink)

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ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The housing element must include an analysis of needs for transitional housing, including developments with on-site services. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent a community has not identified adequate sites, it must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, it may not be feasible to implement approval "by right" of emergency shelters and special needs facilities when local governments fail to identify adequate sites. By right zoning is feasible when local impacts can be addressed through standardized provisions. By contrast, siting of emergency shelters and special needs facilities generally involves complex issues about compatibility with the surrounding area and appropriate special conditions.

This bill is double-joined with AB 2634 (Lieber) and AB 2511 (Jones). AB 2634 would add to housing element law a requirement that local governments must analyze and consider the needs of extremely low-income households, defined as less than or equal to 30 percent of median income, when developing their land inventory and in any program to provide adequate sites. Finance has an approved oppose position on the May 2, 2006 version of the bill. AB 2511 (Jones) makes various

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changes to housing laws. Finance has an approved neutral position on the June 26, 2006 version of the bill. Both bills are to enrollment.

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 for the Department of Housing and Community Development to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SUGGESTED VETO MESSAGE

SB 1322

(as amended August 24, 2006)

I am returning Senate Bill No. 1322 without my signature. This bill would require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population and authorize development "by right" if the local government fails to identify sufficient sites.

While the intent to hold all local communities accountable for their share of the homeless population is laudable, accurately counting the homeless and other special needs populations is difficult. Additionally, if the requirement for local governments to provide sites for shelters is based on counts of where homeless persons are currently found, this would permanently burden those cities that attract a larger share of homeless persons because they are providing services, and would immunize those cities that limit their homeless populations because they provide no services. Additionally, this bill would increase state costs because increasing the scope of the housing element would require the state to reimburse those costs.

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Business Transportation &
Housing/Financial Research/ Local
Government

LEGISLATION ROUTE TAG

Date: 8/22/06 New Bill
Amended? 8/21

Assign: AB/SB 1322 (Bill No.) to: BE (BA) / KA (PPBA) / MP (APBM)

Is this your bill?
Yes: BCE (PPBA/ANA INITIALS)
No: _____ (APBM INITIALS)

Transfer Bill to:

_____ Date: _____
(UNIT)

Acceptance of Bill? YES / NO - APBM _____

Please Respond WITHIN 3 DAYS to:
Shani ext. 2412

Assign: AB/SB _____ TO: _____/_____/_____
(BILL NO.) (BA) (PPBA) (APBM)

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the

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AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 15, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL No. 1322

Introduced by Senator Cedillo
(Coauthor: Senator Kuehl)
(Coauthor: Assembly Member Lieber)

February 16, 2006

An act to amend Sections 65582, 65583, 65583.2, and 65589.5 of, and to add Section 65852.12 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as amended, Cedillo. Housing.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the

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requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

The bill would provide that the changes to these provisions only apply to the adoption or amendment of the housing element on or after the effective date of this bill or when revision is otherwise required, whichever comes first, and would also delete obsolete provisions relating to assisted housing developments.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add emergency shelters and special needs facilities to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define "special needs facility" as including community care facilities, residential facilities, social rehabilitation facilities, community treatment facilities, transitional shelter care facilities, transitional housing placement facilities, residential care facilities, and residential care facilities for the elderly, as those terms are defined in other statutes. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

~~(3) 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 these statutory provisions.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

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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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and ~~residential service providers~~ *special needs facilities*. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency ~~shelter and residential service providers~~ *shelters and special needs facilities* for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify ~~sites~~ *areas* to locate ~~residential service providers~~ *special needs facilities*. Cities and counties should include this as part of their planning process and locate these ~~services~~ *facilities* where most appropriate in their community. The state should not dictate

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where these residential ~~service providers~~ *special needs facilities* should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

SEC. 3. 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income

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levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter and transitional housing.

(7) An inventory of sites suitable for the development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters identified pursuant to paragraph (6).

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(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph,

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including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that

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could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet the need for emergency shelters. The sites shall be zoned to permit the development of shelters as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable

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accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) A local government may satisfy the requirements to identify sites suitable for the development of emergency shelters pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these shelters pursuant to subparagraph (C) of paragraph (1) of subdivision (c) by adopting and implementing a multijurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sufficient sites suitable for development within the planning period of emergency shelters that are zoned to permit the development of these shelters as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the combined

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need for emergency shelters of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

(e) (1) Except as provided in paragraph (2), amendments to this section that add or alter contents of a housing element shall also apply to any draft or adopted housing element or housing element amendment prepared pursuant to Section 65588 and submitted by a city or county to the department for review pursuant to Section 65585, after the effective date of the amendment to this section, or when revision of the element is required pursuant to Section 65588, whichever comes first.

(2) Amendments to this section that add or alter contents of a housing element shall not apply to an adopted element submitted to the department for review within 90 days of the date of the department's written findings regarding the final draft element submitted pursuant to Section 65585, provided that the final draft element was submitted to the department for review prior to the effective date of the amendments.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

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(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and

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site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of

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2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the use for an emergency shelter or an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that

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would constitute a "project" for purposes of Division 13 (commencing with Section ~~21100~~ *21000*) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section ~~21100~~ *21000*) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 5. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing and emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects and emergency shelters, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible emergency shelters and housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

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(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, a special needs facility, or an emergency shelter, or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, a special needs facility, or an emergency shelter unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section

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65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project, special needs facility, or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the *special needs facility or* emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the special needs facility or emergency shelter financially infeasible.

(4) The development project, special needs facility, or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project, special needs facility, or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as

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suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This paragraph cannot be utilized to disapprove or conditionally approve an emergency shelter if the shelter is proposed on a site that is identified as suitable for emergency shelters in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed, in accordance with Section 65583.2, to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the *housing* development project, special

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needs facility, or emergency shelter to comply with objective, quantifiable, written development ~~and management~~ standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. *A local agency may also require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards.* However, the development and management standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by ~~the development project~~ *housing development project, special needs facility, or emergency shelter*. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to ~~the development project~~ *housing development project, special needs facility, or emergency shelter.*

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B)

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100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Special needs facility" includes all of the following if the facility is licensed and serves seven or more persons:

(A) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.

(B) A "residential care facility," as defined in Section 1568.01 of the Health and Safety Code.

(C) A "residential care facility for the elderly," as defined in Section 1569.2 of the Health and Safety Code.

(5) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(6) "Neighborhood" means a planning area commonly identified in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

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(7) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified

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written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development, *special needs facility,* or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of ~~housing or emergency shelter~~ *a special needs facility, emergency shelter, or housing* for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project, *special needs facility,* or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, *special needs facility,* or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

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(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development, *special needs facility,* or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the

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expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

SEC. 6. Section 65852.12 is added to the Government Code, to read:

65852.12. A local agency shall designate zones where special needs facilities, as defined in Section 65589.5, and transitional housing, as defined in Section 50801 of the Health and Safety Code, are a permitted use, either by right or subject to a conditional use permit. A local agency shall not enact or enforce an ordinance, regulation, or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

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

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

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CONFIDENTIAL-Government Code §6254(l)		
Department: Housing and Community Development	Author: Cedillo (D-Los Angeles)	Bill Number: SB 1322
Internal Routing:	Sponsor: Author	Version: August 21, 2006
		Related Bills: SB 1800, AB 2634
Subject: Housing		

SUMMARY

This bill would require a local government to include in its housing element an analysis of the need for emergency shelters and special needs facilities to identify specific sites with by right zoning to accommodate such facilities, and would amend the Anti-NIMBY law to apply to emergency shelters and special needs facilities.

PURPOSE OF THE BILL

According to the author, there exists a disproportionate availability of shelters and service providers in the State, which has lead to the concentration of homeless populations in inner cities and poor communities. Providers of emergency shelters and special care facilities contend that they encounter resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of these types of facilities. These service providers say they have come across communities with no zones that allow these uses, even with a conditional use permit.

This bill addresses these issues by requiring each locality to make sites available for sufficient emergency shelters and special needs facilities to address its own needs and by amending the Ant-NIMBY statutes to apply to special needs facilities.

Departments That May Be Affected		
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment
☒ State Mandate	☐ Urgency Clause	☐ Regulations Required ☐ Legislative Report
Board Position ☐ S ☐ O ☐ Defer to: ☐ SA ☐ OUA ☐ N ☐ NP ☒ NA	Agency Secretary Position ☐ S ☐ O ☐ Defer to: ☐ SA ☐ OUA ☐ N ☐ NP ☐ NA	Governor Office Use Only _____ Position Approved _____ Position Disapproved _____ Position Noted _____ No Position
Director Date	Agency Secretary Date	By Date

RECOMMENDATION AND SUPPORTING ARGUMENTS: VETO

The Department of Housing and Community Development (Department) recommends the Governor **VETO** this bill.

The housing element already requires an analysis of needs for transitional housing, including housing developments with on-site services or access to community services for residents. Therefore, there is no need to add emergency shelters to this section of law.

This bill would also expand the scope of the "by right" requirement to emergency shelters and special needs facilities. There are many variables in siting of emergency shelters. Use of by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. Generally, emergency shelters do not meet these standardized conditions.

The bill does not indicate how local agencies will know what their fair share numbers are for emergency shelters and special needs facilities.

ANALYSIS

Existing law:

- Defines "residential care facility" as including any family home, group care facility, or similar facility determined by the Director of the Department of Social Services that provides 24-hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. These facilities include transitional shelter care facilities, transitional housing placement facilities, residential facilities, adult day care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities.

- Prohibits local governments from requiring a conditional use permit, zoning variance, or other zoning clearance of a residential care facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone (use by right).

- Requires each local government to adopt a long-term general plan. Each general plan must include seven internally consistent elements: land use, circulation, housing, conservation, open space, noise, and safety.

Housing Element

- Requires local governments to update their housing element every five years.
- Requires a housing element to 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.
- Requires a housing element to identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and to make adequate provision for the existing and projected needs of all economic segments of the community.
- Requires a housing element to contain an assessment of housing needs and an inventory of resources and analysis of constraints which must include all of the following:
    - An analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels, including the locality's share of the regional housing need.
    - An analysis and documentation of household characteristics.
    - An inventory of land suitable for residential development.
    - An analysis of potential and actual government constraints upon the maintenance, improvement, or development of housing for all income levels. This analysis shall also demonstrate local efforts to remove governmental constraints.
    - An analysis of potential and actual non-governmental constraints on the maintenance, improvement or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
    - An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.
    - An analysis of opportunities for energy conservation with respect to residential development.
    - An analysis of existing assisted housing developments that are eligible to change from low income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

- Requires the housing element to contain a program that sets forth a five-year schedule of actions the local government is undertaking or plans to undertake to:
    - Make sites available during the planning period of the general plan with appropriate zoning and development standards to accommodate the jurisdiction's regional housing needs assessment (RHNA) for each income level. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.
    - Assist in the development of low and moderate income housing.
    - Remove or mitigate government constraints.
    - Conserve and improve existing affordable housing.
    - Promote equal housing opportunity.
    - Preserve units at risk of conversion from low income use.
- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for groups of all income levels, to identify sites that can be developed for housing within the planning period.
- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for farmworker housing, to provide for sufficient sites to meet the need with zoning that permits use by right.
- Defines "use by right" to mean that a local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by right zoning, projects that meet the jurisdiction's zoning and development standards are approved ministerially at the staff level.
- Establishes the Legislature's findings and declarations as follows:
    - The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.
    - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

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- Declares that it is the policy of the State that a local government not reject or make infeasible housing developments that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

Anti-NIMBY Law

- Prohibits, pursuant to what is commonly referred to as the Anti-NIMBY law, a jurisdiction from disapproving a housing development project, including farmworker housing, for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development of affordable housing, unless it makes written findings as to one of the following:
    - The local government has adopted a housing element in substantial compliance with the law and has met its share of the regional housing need for the income category proposed by the project.
    - The housing project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households.
    - The denial is required to comply with State or federal law and there is no feasible method to comply without rendering the housing development unaffordable to low and moderate income households.
    - The housing project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.
    - The housing project is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households in the jurisdiction's housing element.
- Provides that nothing in the Anti-NIMBY law prohibits a locality from requiring the development project to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.
- Provides that the project applicant or any person who would be eligible to apply for residency in the housing development may bring an action to enforce the Anti-NIMBY law.
- Requires a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low, or moderate income households, without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the development project.

- Requires a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development.

- Authorizes a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the housing development and failed to carry out the court's order within 60 days.

Federal Law

- Federal law requires local governments within a county to develop a Continuum of Care Plan. The U.S. Department of Housing and Urban Development (HUD) defines the Continuum of Care Plan as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

- HUD identifies the fundamental components of a comprehensive Continuum of Care system to be:

    - Outreach, intake, and assessment to identify an individual's or family's service and housing needs and link them to appropriate housing and/or service resource.

    - Emergency shelter and safe, decent alternatives to the streets.

    - Transitional housing with supportive services to help people develop the skills necessary for permanent housing.

    - Permanent housing and permanent supportive housing.

- Federal law also requires larger cities and counties ("entitlement jurisdictions") that receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used, including addressing needs for emergency shelters and transitional housing.

This bill would:

- Establish the Legislature's findings and declarations as follows:

    - Homelessness is a statewide problem, affecting an estimated 360,000 individuals and families throughout California. In Los Angeles County, an estimated 254,000 people experience homelessness over the course of each year.

- Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

- Because homelessness affects people of all races, gender, age, and geographic location, there is a growing need for every local government to plan for the location of emergency shelters and special needs facilities. Many homeless individuals, primarily youth and single individuals, need both shelter and residential substance abuse and mental health services.

- The lack or shortage of emergency shelter and special needs facilities for homeless populations statewide leads to the concentration of services in inner cities and poor communities, like the Skid Row area in downtown Los Angeles.

- In order to ensure access to services in every city and county for homeless individuals and families, it is important for localities to plan for these services.

- Local governments should plan and identify sites to locate special needs facilities as part of their planning process and locate these services where most appropriate in their community. The State should not dictate where these special needs facilities should be located.

- It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

Housing Element

- Incorporate existing statutory definitions of emergency shelter and transitional housing into housing element law.

- Expand requirements of a housing element to include identification of adequate sites for emergency shelters.

- Require a housing element's analysis of special housing needs to include persons in need of transitional housing.

- Require a housing element's inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters. Such sites must be zoned to permit shelters as a use by right.

- Require the sites to be zoned with appropriate development and management standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

- Require a housing element's program that sets forth a five-year schedule of actions to include a jurisdiction's plan to make sites available and encourage the development of emergency shelters.

- Require the program, where the inventory of sites does not identify adequate sites to accommodate the need for emergency shelters, to identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet this need, with zoning that permits use by right. The sites must also be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters.

- Clarify that a local agency can require special needs facilities and emergency shelters to comply with objective, quantifiable, written management standards.

- Delete obsolete provisions of housing element law regarding the analysis and incorporation of assisted housing developments in jurisdictions' housing elements by 1992.

- Allow a local government to satisfy the requirements to identify sites suitable for the development of emergency shelters and to include a program to identify sufficient sites for these facilities by adopting a multi-jurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sites suitable to meet the collective needs of the participating communities.

- Clarify that the requirements of this bill become effective and would apply to any housing element submitted at least 90 days from the effective date of this bill or for jurisdictions that failed to submit their housing elements or updates prior to the statutorily required deadline.

- Add emergency shelters and special needs facilities to the existing definition of "use by right."

- Add to the Legislature's established findings and declarations:

    - The lack of emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.

    - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of emergency shelters.

- Declare that it is the policy of the State that a local government not reject or make infeasible emergency shelters that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

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Anti-NIMBY Law

- Extend the Anti-NIMBY statute protections to include emergency shelters and special needs facility.

- Provide that nothing in the Anti-NIMBY law prohibits a locality from requiring the emergency shelter and special needs facility to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.

- Provide that the project applicant or any person who would be eligible to apply for residency in the emergency shelter or special needs facilities may bring an action to enforce the Anti-NIMBY law.

- Require a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter or special needs facility without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the emergency shelter.

- Require a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the emergency shelter or special needs facility.

- Authorize a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the emergency shelter or special needs facility and failed to carry out the court's order within 60 days.

- Defines "special needs facility" as a facility licensed and serving seven or more persons to include (1) a community care facility, (2) residential facility, (3) social rehabilitation facility", (4) community treatment facility, (5) transitional shelter care facility, (6) a residential care facility, (7) a residential care facility for the elderly as these facilities are defined in existing law.

- Requires a local agency to designate zone where special needs facilities are a permitted use, either by right or subject to a conditional use permit.

- Prohibits a local agency from enacting or enforcing any ordinance, regulation or resolution that would prohibit special needs facilities and transitional housing from locating within the jurisdiction.

- Contains double-jointing language to AB 2634 (Lieber) which adds the category of extremely low income households to housing element law.

- Contains double-jointing language to AB 2511 (Jones) which makes numerous changes to land use law relating to housing.

Comments:

Development of affordable housing, including housing for homeless or special needs populations, is subject to many constraints, including local resistance during the local permitting process. Consequently, there is far too little development approved which meets the needs of special populations, including the homeless. Permit applications that are required by statute to be "use(s) by right" must be processed ministerially, and thus avoid what are often highly discretionary processes and conditions that can render such development infeasible, both financially and politically. In practice, however, it is difficult to implement such processing, and ministerial processing of housing or shelters for homeless populations is not, generally, currently practiced by local governments.

This bill would also expand the scope of the "by right" requirement to emergency shelters and special needs facilities. It is unlikely, however, that this provision would be workable because of the terminology problems surrounding emergency shelters and the fact that use by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. The siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. As it is, use by right is not readily available in most communities even for more standard housing development applications. It is, therefore, unlikely that by right use would be implemented in practice for these uses. It would be more appropriate and meaningful to require local governments to remove constraints to development.

The use by right provision is not appropriate to apply to emergency shelters or special needs facilities without a clear determination of such need. It would necessitate a "bright line" basis for determination of the adequacy of services to an identified homeless population. Estimates of the number of people who are homeless vary due in part to methodological variables such as differing definitions of homelessness and count time frames, as well as the difficulty of locating homeless people.

This bill does not clarify how local agencies will know what their fair share numbers are for emergency shelters or special needs facilities.

Furthermore, there is no definitive basis for quantifying the need for services relative to an identified homeless population – such assessments would be highly subjective. Estimates of the population within a community that is in need of services are generally not available for most communities at a precise level. Issues regarding the availability and provision of community services are most appropriately addressed in Continuum of Care and Consolidated Plans, which are required by federal law for all large jurisdictions where these needs are the most significant.

This bill includes double-jointing language to AB 2634 and AB 2511, which is objectionable to the Department. The Department is recommending a Veto of SB 1322 and therefore we have not recommended a chaptering order for AB 2634 and AB 2511. However, upon reviewing the chaptering language in both AB 2634 and SB 1322 the language seems to indicate that whatever the chaptering order, the provision of this bill would rule over any changes in AB 2634. The Department prefers the solution in AB 2634 because we believe that this is attainable by local governments whereas the provisions of this bill may be unworkable.

The Department would note that there appears to be drafting errors in SB 1322.

LEGISLATIVE HISTORY

SB 257 (Chesbro, 2006) would provide specific statutory authority for the California Housing Finance Agency (CalHFA) to use funds to fund affordable housing including transitional housing for the mentally ill, residential housing, multifamily rental housing and housing for other special needs populations. In addition, this bill would make changes to the compensation of the employees at CalHFA. Enrolled

SB 1800 (Ducheny, 2006) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by right development opportunities. This bill died.

AB 2634 (Lieber, 2006) would require local governments, in the housing elements of their general plans, to undertake additional analysis and identify actions to address the housing needs of extremely low income households and encourage the development of supportive housing. Enrolled.

AB 1233 (Jones, Ch. 614, 2005) required a locality that failed in the prior housing element planning period to identify or make available adequate sites to accommodate its portion of the regional housing need, to zone or rezone adequate sites to make up for the unaccommodated portion of the regional housing needs assessment.

AB 2348 (Mullin, Ch. 724, 2004) made several revisions to the housing element law with respect to "by right" development and the requirement that localities identify adequate sites for housing construction.

SB 520 (Chesbro, Ch. 671, 2001) required a jurisdiction to include in its housing element an analysis of constraints on the development, maintenance and improvement of housing for persons with disabilities.

PROGRAM BACKGROUND

The Governor's Homeless Initiative

The Governor's Homeless Initiative, a joint project of the Department, the California Housing Finance Agency (CalHFA), and the Department of Mental Health (DMH), using Proposition 46 housing funds and Proposition 63 mental health care funds, assists with the development of permanent supportive housing for persons with severe mental illness who are chronically homeless. These are the types of housing developments that housing elements should demonstrate can be accommodated.

Housing Element Law

The Department is authorized by statute to review the housing element of the general plan for every city and county in California. Local governments must submit their housing elements to the Department for review and comment in order to determine whether the element complies with State law. Housing elements must contain specified items, including plans for meeting the RHNA determined by the Department, in conjunction with regional governments.

Cities and counties must revise their housing elements every five years, following a staggered schedule established in statute. Housing elements must identify and analyze existing and projected housing needs and state the jurisdiction's quantified housing planning goals. Specifically, this analysis must include, among other distinct items:

- An inventory of resources and constraints relevant to meeting housing need.
- Plans for meeting the jurisdiction's allocation of housing for the four income levels established by the RHNA process.
- An inventory of land suitable for residential development.
- An analysis of special housing needs identified by the jurisdiction, including the needs of the elderly, the disabled, large families, farmworkers, female-headed households, and the homeless.

OTHER STATES' INFORMATION

This bill involves issues that are unique to California law.

FISCAL IMPACT

Due to the increased workload associated with reviewing the housing elements with the new requirements the Department would need one additional PY at the cost of $145,000.

ECONOMIC IMPACT

None.

LEGAL IMPACT

None.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: California Rural Legal Assistance Foundation; City of Santa Monica; Housing California; JERICHO; Midnight Mission, Los Angeles; National Association of Social Workers, California Chapter; Protection and Advocacy, Inc.; San Diego Housing Federation; Shelter Partnership, Inc., Los Angeles; Union Rescue Mission, Los Angeles; Western Center on Law and Poverty.

Opposition: League of California Cities; Cities of Elk Grove, Roseville, Torrance; Vista, American Planning Association, CA Chapter; County of San Diego, Town of Apple Valley

ARGUMENTS

Pro:

- This bill appropriately aims to increase the awareness of the needs of, and certainty in addressing, the housing and service-related needs of homeless populations within California communities.

- The bill would address a continuing problem in California that many local zoning and regulatory processes act as a barrier to the development of housing and emergency shelters.

Con:

- The proposed "use by right" requirements are not likely to be workable: Siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. It is therefore unlikely that "by right use" would be implemented in practice for such uses.

- Requiring a local agency to designate zones where special needs facilities are a permitted use, either "by right" or subject to a conditional use permit, given the

incapacity in determining such need accurately, would be overly prescriptive and create confusion.

- This bill does not specify how local agencies will know what their fair share numbers are for special needs facilities.

LEGISLATIVE STAFF CONTACT

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323-0169 EToffoli@hcd.ca.gov

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DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: August 24, 2006
RECOMMENDATION: Veto

BILL NUMBER: SB 1322
AUTHOR: G. Cedillo

ASSEMBLY: 41/34
SENATE: 24/14

BILL SUMMARY: Housing: Use by Right

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

FISCAL SUMMARY

By increasing the scope of the housing element, this bill appears to impose a reimbursable state mandate with unknown, but potentially significant costs to develop technical assistance materials and train all local governments how to adequately update their housing elements.

This bill would generate one-time costs to the Department of Housing and Community Development (HCD) of $145,000.

COMMENTS

Finance recommends this bill be vetoed for the following reasons:

- By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant, costs
- Given that the homeless population and the related subpopulation with special needs are difficult to count, it would be infeasible for many cities and counties to accurately identify their housing need for these groups. If the requirement to provide sites for shelters and facilities was based on counts of where homeless persons currently are found, this would permanently burden those cities that provide services or are otherwise attracting a larger share of homeless persons and would immunize those cities and counties that have few homeless persons because they currently provide no services or otherwise shift their homeless population to neighboring jurisdictions.

Aug 7 - Defines "special needs facility" & takes out duplicate reference.
— Housing element 90 days
— by right

Analyst/Principal	Date	Program Budget Manager	Date
(0741) B. Ehlers		Mark Hill	

Department Director Date

Provided by LRI History LLC

ANALYSIS

A. Programmatic Analysis

Existing law requires each city and county to develop a general plan, which serves as the basis for local zoning and development standards. The general plan includes a housing element, which must include an assessment of housing needs, and an inventory of constraints and resources relevant to housing production. The law requires each city and county to identify adequate sites with appropriate zoning to meet the housing needs of all segments of the community. To the extent that a community has not identified adequate sites, the community must adopt a program to rezone land to accommodate the housing needs of all income groups. Rezoned sites must allow for the development of housing as "use by right," which means that the local government may not require further discretionary review or approval.

This bill would expand provisions of the State Housing Element Law to require cities and counties to identify housing sites for ~~transitional housing,~~ special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population. If the city or county could not identify adequate sites to accommodate persons in need of emergency shelter or special needs facilities, their housing element would be required to identify actions to be taken to make available adequate sites "by right."

Discussion: According to the author's office, there are an estimated 360,000 homeless individuals and families in California. However, by its nature, the homeless population is difficult to count. We recognize the intent of this bill is to hold cities and counties accountable for providing their "share" of the homeless population with access to services, including special needs facilities, emergency shelters, and transitional housing. Currently, the shortage of services in cities and counties across the state has led to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles. In some instances, jurisdictions with inadequate services have been found transporting homeless persons to other jurisdictions. In other instances, homeless persons are forced to leave jurisdictions that lack services in search of those that do. This bill would address both direct and indirect transporting, by requiring all cities and counties to include transitional housing, special needs facilities, and emergency shelters in their housing element.

Even if homeless populations were easy to count, we note concern that there may be little incentive for cities and counties to accurately identify their housing need with regard to these populations. Many localities lack adequate shelter and services for the homeless because they frequently generate community opposition. It seems unlikely that, without a means for accurately measuring homeless and special needs populations, and thereby a means to verify the accuracy of a city or county's housing need, this bill would overcome community opposition and actually spread the costs of sheltering the homeless more widely.

Additionally, we note that the housing element already requires an analysis of needs for transitional housing, including developments with on-site services. Therefore, there is no need to add emergency shelters to this section of law.

[Mention "by right" issues? – see HCD analysis]

This bill is double-joined with AB 2634 (Lieber) and AB 2511 (Jones).

B. Fiscal Analysis

This bill would generate one-time costs of $145,000 to develop technical assistance materials and train all local governments how to adequately update their housing elements.

Section 6 of Article XIII B of the California Constitution provides that the state shall reimburse local governments when it mandates a new program or higher level of service, subject to limited exceptions which would not apply here. By increasing the scope of the housing element, this bill appears to impose a reimbursable state-mandate with unknown, but potentially significant costs.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	Fund Code
2240/HCD	SO	No	C	$73	C	$72		--	0001
2240/HCD	LA	No		Unknown Mandate Costs					0001

SUGGESTED VETO MESSAGE

SB 1322

(as amended August 24, 2006)

I am returning Senate Bill No. 1322 without my signature. This bill would require cities and counties to identify housing sites for transitional housing, special needs facilities, and emergency shelters to accommodate the city or county's share of the state's homeless population.

(Insert veto message starting here)

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Ehlers, Bryan

From: Castaneda, Carla
Sent: Thursday, August 17, 2006 3:07 PM
To: Ehlers, Bryan
Subject: FW: SB 1322(Cedillo)
Attachments: 1322 - 2nd oppose.doc

Hi Bryan,
In case you hadn't received this information, here is a copy of the League's opposition letter. I see we already opposed the bill. Now we have an idea of what locals might claim.

Thanks!

p.s. say hi to Rachel and Dylan for me...

From: Bill Higgins [mailto:higginsb@cacities.org]
Sent: Thursday, August 17, 2006 2:53 PM
To: Castaneda, Carla
Subject: SB 1322(Cedillo)

Carla:

Following up with your exchange with Dan Carrigg earlier this morning, we have a bill that we are opposing that would impose a significant mandate on local agencies. SB 1322 would require local agencies to incur significant costs in designating areas for by-right zoning for homeless shelters. I already had contact with Allan Cooper at DOF on this issue.

SCOPE OF THE MANDATE

The Assembly Appropriations passed this bill on a B roll call without sending it to suspense despite a committee analysis that estimated costs at $5,000 per local agency (city and county). We think that the $5,000 cost is quite low after a local agencies takes an inventory to create a by-right zone, consults with public safety personnel, consults with County Dept. of Human Services, does the environmental review, draft the ordinance that includes standard management conditions, drafts the staff report, and has the city attorney review the ordinance. Our letter (attached) estimates this at $10,000 per agency, a figure I used after talking with practitioners who estimated that the costs could be as much as $20,000 per agency, and much more in larger cities like San Jose, Los Angeles.

Of course, they tried to get around the mandate issue by stating that local agencies could charge fees to offset the costs. But we do not believe that we can really exact fees out of homeless shelters, transitional facilities without violating how the bill amends the anti-NIMBY law, which prevents us from conditioning such projects or imposing requirements that make such projects "infeasible." I am no expert on running such operations, but I guess that they are on pretty tight margins, and that imposing

Finally, given that cities must update their housing element every 5 years, this issue will recur.

CONCLUSION

Thanks for your attention on this matter. Please do not hesitate to call if you have any questions.

Best Regards,
Bill

Bill Higgins
Legislative Representative

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
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August 8, 2006

Senator Gil Cedillo
State Capitol, Room 5100
Sacramento, CA 95814

RE: SB 1322 (Cedillo) Housing
Revised NOTICE OF OPPOSITION

Dear Senator Cedillo:

We regret to inform you that the League of California Cities remains opposed to SB 1322 (Cedillo) despite the recent amendments made to the bill.

This bill would make the following changes to local planning and approval processes:

- ***Creates an Unfunded Mandate: Estimated at $10,000 per Agency.*** Local agencies will have to revise their local general plans to designate areas where emergency shelters must be approved by-right, thereby creating a new mandate. The total cost to local agencies statewide could easily exceed millions of dollars. A typical process will involve identifying sites or zones for the by-right designation, development a standard set of management conditions, consulting with police officers and other public safety personnel, undergoing CEQA review, coordinating efforts with the county department of human services, drafting a zoning ordinance, and review by the city attorney. A conservative cost estimate would $10,000 per agency. But its likely to be much higher, particularly in larger cities.

- ***Limited Discretion for Social Rehabilitation and Adult Day Program Facilities Serving Seven or More Persons.*** SB 1322 limits local agency discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on the factors listed in subsection (d) of Section 65589.5. This limitation applies to all special needs facilities without regard to size: a facility serving 150 people would be treated the same as a facility serving 8 persons. "Special needs facilities" are defined to include community care facilities, adult day programs, social rehabilitations facilities, transitional shelter care facilities, among others.

- ***Encourages Litigation By Increasing Scope of Attorney Fee Awards.*** SB 1322 would extend the attorney fee provisions of Section 65589.5 to allow awards to anyone *who could occupy* a social rehabilitation facility, adult day program facility, community care facility,

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emergency shelter, or transitional housing facility.[1] This provision unnecessarily encourages lawsuits and litigation in the land use planning process.

- ***Changed Process, Redundancies in the Housing Element for Emergency Shelters.*** This bill sets the planning process on its head. Currently, local agencies get the initial opportunity to plan for their share of the regional housing need. If plan fails to meet the need, the agency must then approve housing "by-right" at preset densities. SB 1322, however, takes away a community's initial opportunity to develop a workable plan, and instead amends Section 65583(a)(7) to require at the outset that local agencies designate where emergency shelters must be approved "by-right" Then, in the amendment to Section 65583(c)(1)(C), the bill redundantly requires those agencies that have not identified adequate sites by-right in 65583(a)(7) to again identify adequate sites to be zoned by-right. In essence, the bill requires zoning by-right on the threat of zoning by-right.

Finally, the proposed amendments in SB 1322 are not the best means to address this issue. Certainly, the needs of very low- and extremely-low income household—which includes emergency shelters and transitional housing—should be included in the planning process. This is why the League has worked with Assembly Member Lieber on AB 2634, which seeks to achieve similar results while preserving the authority of local agencies to develop reasonable plans to address local needs.

Accordingly, the League is opposed to SB 1322 (Cedillo). If you have any questions, or if I can be of any assistance, please call me at (916) 658-8250.

Sincerely,

Bill Higgins
Legislative Representative

Cc: Chair and Members, Assembly Appropriations Committee
Anya Lawler, Consultant, Assembly Local Government Committee
Hugh Bower, Consultant, Assembly Housing & Community Development Committee
William Weber, Principal Consultant, Assembly Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Michael Prosio, Legislative Deputy Secretary, Governor's Office
Susan Blake, Legislative Director, Governor's Office of Planning and Research
Brian Augusta, Consultant, Assembly Member Lieber

[1] The version of the bill currently in print only extends the attorney fees provision to emergency shelters. However, we understand that the bill will be amended to include all "special needs facilities" as that term would be defined in Section 65589.5.

Provided by LRI History LLC

Ehlers, Bryan

From: Edna Toffoli [etoffoli@hcd.ca.gov]
Sent: Wednesday, August 09, 2006 4:58 PM
To: Ehlers, Bryan
Subject: SB 1322
Attachments: SB 1322 final.doc; SB 1322 Suggested Amendments.doc

Bryan,

Here's our analysis of SB 1322 as of June 15. The 8/07 amendments delete residential care facilities from the housing element section of law but leave in emergency shelters. HCD is asking for amendments to:

1. take out reference to residential care facilities and emergency shelters in housing element law.

2. delete the by-right development for residential care facilities and emergency shelters. The 8/07 amendments in SB 1322 delete residential care facilities but leave in emergency shelters. We want both out.

3. We want the language added by SB 1322 regarding providing adequate sites for residential care facilities and emergency shelters deleted.

Our fiscal is based on June 15 bill. The 8/07 amendments take care of some but not all of our concerns. However, because the Administration is supportive of efforts to reduce homelessness, we are recommending a Neutral, If Amended.

I have to go in and revise the June 15 analysis and the amendments but I thought sending you this info would help you out.

Edna Toffoli
Legislative Coordinator
Department of Housing and Community Development
(916) 324-2006
etoffoli@hcd.ca.gov

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CONFIDENTIAL-Government Code §6254(l)		
Department: Housing and Community Development	Author: Cedillo (D-Los Angeles)	Bill Number: SB 1322
Internal Routing:	Sponsor: Author	Version: June 15, 2006
		Related Bills: SB 1800, AB 2634
Subject: Housing		

SUMMARY

This bill would require a local government to include in its housing element an analysis of the need for residential service facilities and emergency shelters and to identify specific sites with by right zoning to accommodate such facilities, and would amend the Anti-NIMBY law to apply to emergency shelters.

PURPOSE OF THE BILL

According to the author, there exists a disproportionate availability of shelters and service providers in the State, which has lead to the concentration of homeless populations in inner cities and poor communities. Providers of emergency shelters and residential service facilities contend that they encounter resistance at the local level and find it difficult to obtain the conditional use permit that is generally required of these types of facilities. These service providers say they have come across communities with no zones that allow these uses, even with a conditional use permit.

This bill addresses these issues by requiring each locality to make sites available for sufficient emergency shelters and residential service facilities to address its own needs.

Departments That May Be Affected		
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment
☒ State Mandate	☐ Urgency Clause	☐ Regulations Required ☐ Legislative Report
Board Position ☐ S ☐ O ☐ Defer to: ☐ SA ☐ OUA ☐ N ☐ NP ☒ NA	Agency Secretary Position ☐ S ☐ O ☐ Defer to: ☐ SA ☐ OUA ☐ N ☐ NP ☐ NA	Governor Office Use Only _____ Position Approved _____ Position Disapproved _____ Position Noted _____ No Position
Director Date	Agency Secretary Date	By Date

RECOMMENDATION AND SUPPORTING ARGUMENTS: NEUTRAL IF AMENDED

The Department of Housing and Community Development (Department) recommends a position of **NEUTRAL IF AMENDED** on this legislation.

The term "residential service facilities" is not a term of general land use applicability, is too broad in its nature, and would likely create confusion.

The bill's residential service facilities provision related to the housing element is duplicative. The housing element already requires an analysis of needs for transitional housing, including housing developments with on-site services or access to community services for residents.

This bill would also expand the scope of the "by right" requirement to emergency shelters and residential service facilities. It is unlikely, however, that this provision would be workable because of the terminology problems surrounding "residential service facilities" and use of by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category.

The bill does not indicate how local agencies will know what their fair share numbers are for residential care facilities.

SUGGESTED AMENDMENTS

The Department proposes amendments which would:

- Delete the bill's proposed changes specifically referencing "residential service facilities," including the requirement that such facilities be zoned as a use by right.

- Amend the existing requirements for analysis of housing development constraints to include analysis for emergency shelters and require the programs section to mitigate such constraints. This terminology is consistent with existing financing programs.

- Delete the requirement that a local government comply with the requirements of the bill regarding the housing element when the housing element is next due for revision.

ANALYSIS

Existing law:

- Defines "residential care facility" as including any family home, group care facility, or similar facility determined by the Director of the Department of Social Services that provides 24-hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for

the protection of the individual. These facilities include transitional shelter care facilities, transitional housing placement, facilities, residential facilities, adult day care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities.

- Prohibits local governments from requiring a conditional use permit, zoning variance, or other zoning clearance of a residential care facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone (use by right).

- Requires each local government to adopt a long-term general plan. Each general plan must include seven internally consistent elements: land use, circulation, housing, conservation, open space, noise, and safety.

- Requires local governments to update their housing element every five years.

- Requires a housing element to 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.

- Requires a housing element to identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and to make adequate provision for the existing and projected needs of all economic segments of the community.

- Requires a housing element to contain an assessment of housing needs and an inventory of resources and analysis of constraints which must include all of the following:

    - An analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels, including the locality's share of the regional housing need.

    - An analysis and documentation of household characteristics.

    - An inventory of land suitable for residential development.

    - An analysis of potential and actual government constraints upon the maintenance, improvement, or development of housing for all income levels. This analysis shall also demonstrate local efforts to remove governmental constraints.

- An analysis of potential and actual non-governmental constraints on the maintenance, improvement or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

- An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

- An analysis of opportunities for energy conservation with respect to residential development.

- An analysis of existing assisted housing developments that are eligible to change from low income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

- Requires the housing element to contain a program that sets forth a five-year schedule of actions the local government is undertaking or plans to undertake to:

  - Make sites available during the planning period of the general plan with appropriate zoning and development standards to accommodate the jurisdiction's regional housing needs assessment (RHNA) for each income level. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.

  - Assist in the development of low and moderate income housing.

  - Remove or mitigate government constraints.

  - Conserve and improve existing affordable housing.

  - Promote equal housing opportunity.

  - Preserve units at risk of conversion from low income use.

- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for groups of all income levels, to identify sites that can be developed for housing within the planning period.

- Requires the program, where the housing element's inventory of sites does not identify adequate sites to accommodate the need for farmworker housing, to provide for sufficient sites to meet the need with zoning that permits use by right.

- Defines "use by right" to mean that a local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by right zoning, projects that meet the jurisdiction's zoning and development standards are approved ministerially at the staff level.

- Establishes the Legislature's findings and declarations as follows:

  - The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

  - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

- Declares that it is the policy of the State that a local government not reject or make infeasible housing developments that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.

- Prohibits, pursuant to what is commonly referred to as the Anti-NIMBY law, a jurisdiction from disapproving a housing development project, including farmworker housing, for very low, low, or moderate income households, or conditioning approval in a manner that renders the project infeasible for development of affordable housing, unless it makes written findings as to one of the following:

  - The local government has adopted a housing element in substantial compliance with the law and has met its share of the regional housing need for the income category proposed by the project.

  - The housing project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households.

  - The denial is required to comply with State or federal law and there is no feasible method to comply without rendering the housing development unaffordable to low and moderate income households.

  - The housing project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.

  - The housing project is inconsistent with both the general plan land use designation and the zoning ordinance, unless the project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households in the jurisdiction's housing element.

- Provides that nothing in the Anti-NIMBY law prohibits a locality from requiring the development project to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.

- Provides that the project applicant or any person who would be eligible to apply for residency in the housing development may bring an action to enforce the Anti-NIMBY law.

- Requires a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low, or moderate income households, without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the development project.

- Requires a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development.

- Authorizes a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the housing development and failed to carry out the court's order within 60 days.

- Federal law requires local governments within a county to develop a Continuum of Care Plan. The U.S. Department of Housing and Urban Development (HUD) defines the Continuum of Care Plan as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."

- HUD identifies the fundamental components of a comprehensive Continuum of Care system to be:

    - Outreach, intake, and assessment to identify an individual's or family's service and housing needs and link them to appropriate housing and/or service resource.

    - Emergency shelter and safe, decent alternatives to the streets.

    - Transitional housing with supportive services to help people develop the skills necessary for permanent housing.

    - Permanent housing and permanent supportive housing.

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- Federal law also requires larger cities and counties ("entitlement jurisdictions") that receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used, including addressing needs for emergency shelters and transitional housing.

This bill would:

- Establish the Legislature's findings and declarations as follows:
    - Homelessness is a statewide problem, affecting an estimated 360,000 individuals and families throughout California. In Los Angeles County, an estimated 254,000 people experience homelessness over the course of each year.
    - Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.
    - Because homelessness affects people of all races, gender, age, and geographic location, there is a growing need for every local government to plan for the location of emergency shelters and residential service providers. Many homeless individuals, primarily youth and single individuals, need both shelter and residential substance abuse and mental health services.
    - The lack or shortage of emergency shelter and residential service providers for homeless populations statewide leads to the concentration of services in inner cities and poor communities, like the Skid Row area in downtown Los Angeles.
    - In order to ensure access to services in every city and county for homeless individuals and families, it is important for localities to plan for these services.
    - Local governments should plan and identify sites to locate residential service providers as part of their planning process and locate these services where most appropriate in their community. The State should not dictate where these residential service providers should be located.
    - It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.
- Incorporate existing statutory definitions of emergency shelter, residential service facility (including community care facility, residential facility, social rehabilitation facility, community treatment facility, transitional shelter care facility, and transitional housing placement facility), residential care facility, residential care facility for the elderly, and transitional housing into housing element law.
- Expand requirements of a housing element to include identification of adequate sites for residential service facilities and emergency shelters.

- Require a housing element's analysis of special housing needs to include persons in need of transitional housing and persons in need of residential service facilities.

- Require a housing element's inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites must be zoned to permit shelters or residential service facilities as a use by right.

- Require a housing element's program that sets forth a five-year schedule of actions to include a jurisdiction's plan to make sites available and encourage the development of residential service facilities.

- Require the program, where the inventory of sites does not identify adequate sites to accommodate the need for emergency shelters and residential service facilities, to identify actions that will be taken to make available adequate sites that can be developed within the planning period to meet this need, with zoning that permits use by right. The sites must also be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelter and residential service facilities.

- Delete obsolete provisions of housing element law regarding the analysis and incorporation of assisted housing developments in jurisdictions' housing elements by 1992.

- Allow a local government to satisfy the requirements to identify sites suitable for the development of emergency shelters and residential service facilities and to include a program to identify sufficient sites for these facilities by adopting a multi-jurisdictional agreement with adjacent communities that commits the participating jurisdictions to identify sites suitable to meet the collective needs of the participating communities.

- Require a city or county to comply with the requirements of the bill regarding the housing element after the effective date of the bill or when the housing element is next due for revision, whichever occurs first.

- Provide that the requirements of the bill regarding the housing element will not apply to an adopted element submitted to the Department for review within 90 days of the date of the Department's written findings regarding the final draft element submitted, provided that the final draft was submitted to the Department for review prior to the effective date of the bill.

- Add emergency shelters and residential service facilities to the existing definition of "use by right."

- Add to the Legislature's established findings and declarations:
    - The lack of emergency shelters is a critical problem that threatens the economic, environmental, and social quality of life in California.
    - Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of emergency shelters.
- Declare that it is the policy of the State that a local government not reject or make infeasible emergency shelters that contribute to meeting the housing need without a thorough analysis of the economic, social, and environmental effects of the action.
- Extend the Anti-NIMBY statute protections to include emergency shelters.
- Provide that nothing in the Anti-NIMBY law prohibits a locality from requiring the emergency shelter to comply with the development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need.
- Provide that the project applicant or any person who would be eligible to apply for residency in the emergency shelter may bring an action to enforce the Anti-NIMBY law.
- Require a court, if it finds that the jurisdiction disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of emergency shelter, without making sufficient findings, to issue an order compelling compliance within 60 days, including an order that the locality take action on the emergency shelter.
- Require a court to retain jurisdiction to ensure that its order is carried out and to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the emergency shelter.
- Authorize a court to impose fines to be deposited into a housing trust fund if the court finds that the local government acted in bad faith when it disapproved or conditionally approved the emergency shelter and failed to carry out the court's order within 60 days.

Comments:

The provision of this bill that requires a local government to comply with the requirements of the bill regarding the housing element after the effective date of this bill or when the housing element is next due for revision, whichever occurs first, is confusing. Revised, clearer language is needed to convey the intent and applicability of this bill.

Development of affordable housing, including housing for homeless or special needs populations, is subject to many constraints, including local resistance during the local permitting process. Consequently, there is far too little development approved which meets the needs of special populations, including the homeless. Permit applications that are required by statute to be "use(s) by right" must be processed ministerially, and thus avoid what are often highly discretionary processes and conditions that can render such development infeasible, both financially and politically. In practice, however, it is difficult to implement such processing, and ministerial processing of housing or shelters for homeless populations is not, generally, currently practiced by local governments.

The breadth of definitions included in this bill are meant to define the term "residential service facilities" would unnecessarily add to the complexity of the housing element requirements.

The term "residential service facilities" is not a term of general land use applicability, is too broad in its nature, and the mere inclusion of the definition may not suffice in avoiding the expansion of the scope of housing element law to a point where it creates confusion.

The residential service facilities provisions in this bill related to the housing element is duplicative. The housing element already requires an analysis of needs for transitional housing, which includes housing developments with on-site services or access to community services for residents. Transitional housing is often tied to supportive services that assist homeless populations in stabilizing their lives and developing the skills and resources needed to make a successful transition into society.

This bill would also expand the scope of the "by right" requirement to emergency shelters and residential service facilities. It is unlikely, however, that this provision would be workable because of the terminology problems surrounding "residential service facilities" and use by right zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. The siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. As it is, use by right is not readily available in most communities even for more standard housing development applications. It is, therefore, unlikely that by right use would be implemented in practice for these uses. It would be more appropriate and meaningful to require local governments to remove constraints to development, as the Department has proposed in our suggested amendments.

The use by right provision is not appropriate to apply to residential service facilities without a clear determination of such need. It would necessitate a "bright line" basis for determination of the adequacy of services to an identified homeless population. Estimates of the number of people who are homeless vary due in part to methodological variables such as differing definitions of homelessness and count time frames, as well as the difficulty of locating homeless people.

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This bill does not clarify how local agencies will know what their fair share numbers are for residential care facilities.

Furthermore, there is no definitive basis for quantifying the need for services relative to an identified homeless population – such assessments would be highly subjective. Estimates of the population within a community that is in need of services are generally not available for most communities at a precise level. Issues regarding the availability and provision of community services are most appropriately addressed in Continuum of Care and Consolidated Plans, which are required by federal law for all large jurisdictions where these needs are the most significant.

LEGISLATIVE HISTORY

SB 1800 (Ducheny, 2006) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by right development opportunities. This bill is pending in the Senate Committee on Transportation and Housing.

AB 2634 (Lieber, 2006) would require local governments, in the housing elements of their general plans, to undertake additional analysis and identify actions to address the housing needs of extremely low income households and encourage the development of supportive housing. This bill is pending in the Senate Committee on Appropriations.

AB 1233 (Jones, Ch. 614, 2005) required a locality that failed in the prior housing element planning period to identify or make available adequate sites to accommodate its portion of the regional housing need, to zone or rezone adequate sites to make up for the unaccommodated portion of the regional housing needs assessment.

AB 2348 (Mullin, Ch. 724, 2004) made several revisions to the housing element law with respect to "by right" development and the requirement that localities identify adequate sites for housing construction.

SB 520 (Chesbro, Ch. 671, 2001) required a jurisdiction to include in its housing element an analysis of constraints on the development, maintenance and improvement of housing for persons with disabilities.

PROGRAM BACKGROUND

The Governor's Homeless Initiative

The Governor's Homeless Initiative, a joint project of the Department, the California Housing Finance Agency (CalHFA), and the Department of Mental Health (DMH), using Proposition 46 housing funds and Proposition 63 mental health care funds, assists with the development of permanent supportive housing for persons with severe mental illness who are chronically homeless. These are the types of housing developments that housing elements should demonstrate can be accommodated.

Housing Element Law

The Department is authorized by statute to review the housing element of the general plan for every city and county in California. Local governments must submit their housing elements to the Department for review and comment in order to determine whether the element complies with State law. Housing elements must contain specified items, including plans for meeting the RHNA determined by the Department, in conjunction with regional governments.

Cities and counties must revise their housing elements every five years, following a staggered schedule established in statute. Housing elements must identify and analyze existing and projected housing needs and state the jurisdiction's quantified housing planning goals. Specifically, this analysis must include, among other distinct items:

- An inventory of resources and constraints relevant to meeting housing need.
- Plans for meeting the jurisdiction's allocation of housing for the four income levels established by the RHNA process.
- An inventory of land suitable for residential development.
- An analysis of special housing needs identified by the jurisdiction, including the needs of the elderly, the disabled, large families, farmworkers, female-headed households, and the homeless.

OTHER STATES' INFORMATION

This bill involves issues that are unique to California law.

FISCAL IMPACT

The Department would need to hire a limited-term HCD Representative II for one year to implement the bill's requirements, at a cost of $145,000. The HCD Representative II would be needed to develop technical assistance materials and train all local governments how to adequately update their housing elements to comply with SB 1322's requirements. Materials and training would also be required to be prepared and presented to the Department's housing element reviewers to prepare them to adequately review housing elements with the new requirements.

Any increased workload associated with reviewing the housing elements with the new requirements would be minimal and absorbable.

ECONOMIC IMPACT

None.

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LEGAL IMPACT

None.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: California Rural Legal Assistance Foundation; Central City Association of Los Angeles; City of Santa Monica; Housing California; JERICHO; Midnight Mission, Los Angeles; National Association of Social Workers, California Chapter; Protection and Advocacy, Inc.; San Diego Housing Federation; Shelter Partnership, Inc., Los Angeles; Union Rescue Mission, Los Angeles; Western Center on Law and Poverty.

Opposition: League of California Cities; City of Roseville; City of Torrance; American Planning Association, CA Chapter (unless amended); California State Association of Counties (unless amended).

ARGUMENTS

Pro:

- This bill appropriately aims to increase the awareness of the needs of, and certainty in addressing, the housing and service-related needs of homeless populations within California communities.

- The bill would address a continuing problem in California that many local zoning and regulatory processes act as a barrier to the development of housing and emergency shelters.

Con:

- The new provisions of this bill are confusing as to when these new requirements are reportable in the housing element.

- The breadth of definitions included meant to define the term "residential service facilities" would unnecessarily add to the complexity of the housing element requirements.

- The residential service facilities provision related to the housing element is duplicative, as the housing element already requires an analysis of needs for transitional housing, including housing developments with on-site services or access to community services for residents.

- The proposed "use by right" requirements are not likely to be workable: siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standardized conditions. It is therefore unlikely that "by right use" would be implemented in practice for such uses.

- Requiring "use by right" for residential services serving seven or more people, given the incapacity in determining such need accurately, would be overly prescriptive and create confusion.

- This bill does not specify how local agencies will know what their fair share numbers are for residential care facilities.

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Department of Housing and Community Development
Proposed Amendments

SB 1322 (Cedillo)
As Amended June 15, 2006

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like Skid Row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate in their community. The state should not dictate where these residential service providers should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5

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(commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

~~(f) "Residential service facility" includes all of the following that serve seven or more persons:~~

~~(1) A "community care facility," "residential facility," "social rehabilitation facility," "community treatment facility," "transitional shelter care facility," and "transitional housing placement facility," as those terms are defined in Section 1502 of the Health and Safety Code.~~

~~(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.~~

~~(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.~~

~~(g)~~*(f)* "Transitional housing" has the same meaning as defined in Section 50801 of the Health and Safety Code.

(g) "Supportive housing" is housing providing supportive services for homeless individuals that is safe and sanitary and meets applicable state and local housing codes and licensing requirements in the jurisdiction in which the housing is located. Supportive housing includes all of the following:

(1) Transitional housing;

(2) Permanent housing for homeless persons with disabilities; or

(3) Special housing that is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

SEC. 3. 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, ~~residential service facilities,~~ 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's

existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, families and persons in need of emergency shelter, *and* transitional housing~~, and persons in need of residential service facilities.~~

~~(7) An inventory of sites suitable for the development within the planning period of emergency shelters and residential service facilities that are zoned to permit the development of these shelters or facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelters and residential service facilities identified pursuant to paragraph (6).~~

~~(8)~~ *(7)* An analysis of opportunities for energy conservation with respect to residential development.

~~(9)~~ *(8)* An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental

assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by

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income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, ~~residential service facilities,~~ and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

~~(C) Where the inventory of sites pursuant to paragraph (7) of subdivision (a) does not identify adequate sites to accommodate the need for emergency shelters and residential service facilities identified pursuant to paragraph (6) of subdivision (a), the program shall identify actions that will be taken to make available adequate~~

~~sites that can be developed within the planning period to meet the need for emergency shelters and residential service facilities. The sites shall be zoned to permit the development of shelters or residential service facilities as a use by right, as defined in subdivision (i) of Section 65583.2, and shall be zoned with appropriate development standards and served with appropriate infrastructure to accommodate the community's need for emergency shelter and residential service facilities.~~

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, ~~or~~ *and* provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. *The program shall also remove constraints to the development of emergency shelters, transitional housing and supportive housing with access to community services.*

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph ~~(9)~~ *(8)* of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) A local government may satisfy the requirements to ~~identify sites suitable for~~ *remove constraints to* the development of emergency shelters ~~and residential service facilities pursuant to paragraph (7) of subdivision (a) and to include a program to identify sufficient sites for these facilities pursuant to subparagraph (C) of paragraph (1) of subdivision (c)~~ by

adopting and implementing a multijurisdictional agreement with adjacent communities, *within the planning period,* that commits the participating jurisdictions to identify ~~sufficient~~ sites suitable for development ~~within the planning period~~ of emergency shelters ~~and residential service facilities that are zoned to permit the development of these shelters and facilities as a use by right, as defined in subdivision (i) of Section 65583.2. The sites shall be zoned~~ with appropriate development standards and served with appropriate infrastructure to accommodate the combined need for emergency shelters ~~and residential service facilities~~ of all the participating jurisdictions, as identified by each jurisdiction pursuant to paragraph (6) of subdivision (a).

(e)(1) *Except as provided in paragraph (2), amendments to this section that add or alter contents of a housing element shall also apply to any draft or adopted housing element or housing element amendment prepared pursuant to Section 65588 and submitted by a city or county to the department for review pursuant to Section 65585, after the effective date of the amendment to this section ~~or when revision of the element is required pursuant to Section 65588, whichever comes first~~.*

(2) Amendments to this section that add or alter contents of a housing element shall not apply to an adopted element submitted to the department for review within 90 days of the date of the department's written findings regarding the final draft element submitted pursuant to Section 65585, provided that the final draft element was submitted to the department for review prior to the effective date of the amendments.

SEC. 4. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, ~~residential service facilities~~, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

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(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied

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and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of ~~the use for an emergency shelter, a residential service facility, or~~ an owner-occupied or rental multifamily residential development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

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SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 1322
AUTHOR: CEDILLO
VERSION: To be amended
FISCAL: YES

Analysis by: Mark Stivers

SUBJECT:

Emergency shelters and transitional housing to serve the homeless

DESCRIPTION:

This bill requires cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

ANALYSIS:

Current housing element law requires each city and county to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups. Rezoned sites must allow for the development of housing as a "use by right," which means that the local government may not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Under by-right zoning, projects that meet the community's zoning and development standards are approved ministerially at the staff level.

Housing element law also requires communities to include an analysis of special housing needs, including the need for emergency shelter, and an identification of zones where such housing is permitted, but does not require that specific sites for special housing needs be identified.

Current law, commonly referred to as the anti-NIMBY law, also requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category;
- The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact;
- The denial is required to comply with state or federal law;
- The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities; or

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- The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Because an emergency shelter does not contain housing "units," it is not considered a housing development project and is therefore not protected by the anti-NIMBY law.

This bill require cities and counties to identify specific sites with by-right zoning to accommodate the community's need for homeless shelters and prohibits a city or county from disapproving applications for shelter facilities unless specified findings are made.

Specifically, the bill amends housing element law to:

- Require local governments, in their analysis of special housing needs, to additionally analyze the need for transitional housing to serve the homeless and the need for residential facilities that provide rehabilitation services.
- Require the inventory of sites to identify specific sites suitable for the development within the planning period of emergency shelters and residential service facilities. Such sites shall be zoned to permit shelters or residential service facilities as a use by right.
- To the extent that the community's inventory of sites for emergency shelters and residential service facilities is inadequate to accommodate the community's need as identified in the analysis, require the city or county to identify and rezone sufficient sites to accommodate this need. Rezoned sites must permit emergency shelters and residential service facilities as a use by right.
- Define emergency shelter as housing for homeless persons that is limited to occupancy of six months or less, which is identical to the existing definition in the Health and Safety Code.
- Define transitional housing as housing with supportive services that exclusively designated for recently homeless persons and available for occupancy for up to 24 months, which is identical to the existing definition in the Health and Safety Code.
- Define residential service provider as a residential facility that provides social rehabilitation services, regular individualized case management services, and independent living skills development.

The bill also amends the anti-NIMBY law to:

- Apply the law to emergency shelters.
- Provide that a community may not use the "not-needed" defense to disapprove an emergency shelter or transitional housing development unless the community has met the need for such facilities identified in its housing element analysis of special housing needs.

COMMENTS:

1. Purpose of the bill. According the author, there are an estimated 360,000 homeless individuals and families in California. Because homelessness affects all races, genders, age, and geographic areas of the state, the author believes there is a growing need for every city and county to plan for the location of adequate shelters and transitional housing to accommodate its respective need. Because of the high incidence of mental illness and substance abuse among homeless individuals, it is also necessary to ensure the adequate provision of residential facilities that serve these populations. The current

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disproportionate availability of shelters and service providers across regions and the state leads to the concentration of the homeless in inner cities and poor communities like Skid Row in downtown Los Angeles.

This bill seeks to require every city and county to identify sufficient sites where emergency shelters and residential service providers can locate by-right to address each community's own need.

2. Direct and indirect dumping. Recent press accounts in the Los Angeles and Sacramento regions have described cases where law enforcement officials, hospitals, and other institutions have transported homeless individuals to other jurisdictions due to the lack of services in the individuals' own communities. While the direct transportation of homeless individuals may or may not be widespread, the lack of services in many communities has the same effect by forcing people in need of services across jurisdictional lines. This bill seeks to address the direct and indirect dumping that occurs when communities fail to provide services and housing for their own residents.

3. Ensuring local control and accountability. To the extent that this bill leaves it to each community to ascertain its own needs for homeless shelters, transitional housing, and residential service facilities and to find appropriate sites for such facilities, this bill maintains a high level of local control. The bill, however, does increase accountability by requiring each community to help address its own needs by identifying and zoning appropriate sites.

4. Regional approaches. The goal of the bill is to require each and every community to make sites available for sufficient emergency shelters, transitional housing, and residential service facilities to address its own needs. While this ensures equity across all communities, it may not be the most efficient way to provide needed services. Especially in areas with numerous small communities, regional or subregional approaches may be preferred. If adjacent communities can agree on a common strategy for identifying sites, the same objectives would be achieved. **The committee may wish to consider an amendment to allow communities to meet the site identification requirement through a regional agreement signed by all the participating communities.** Allowing this exemption would have the added benefit of encouraging neighboring communities to work collectively on the issue of homelessness.

5. Technical amendments. The committee may wish to consider the following technical amendments to fix drafting errors and ensure consistency across definitions:

   - Definitions for "emergency shelter," "transitional housing," and "residential service provider" in Government Code 65582 should read as follows:

     (d) "Emergency shelter" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.
     (f) "Residential service facility" means any residential facility for seven or more persons that provides social rehabilitation services for adults or children, regular individualized case management services that may include alcohol and drug abuse counseling, self-improvement education, employment and training assistance

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services, and independent living skills development. "Residential service facility" includes, but is not limited to, all of the following that serve seven or more persons:
(1) A "community care facility", a "residential facility", a "social rehabilitation facility", a "community treatment facility", a "transitional shelter care facility", and a "transitional housing placement facility", as those terms are defined in Section 1502 of the Health and Safety Code.
(2) A "residential care facility" as defined in Section 1568.01 of the Health and Safety Code.
(3) A "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.
(g) "Transitional housing" shall have the same meaning as defined in Section 50801 of the Health and Safety Code.

- The new sentence being added to Government Code 65589.5(d)(1) in the proposed amendments should begin, "In the case of transitional housing *or* an emergency shelter..."

RELATED LEGISLATION

SB 1800 (Ducheny) would require local governments to adopt as part of their housing elements a Housing Opportunity Plan that includes a 10-year supply of land for housing and by-right development opportunities.

AB 2634 (Lieber) would require communities to analyze the need for extremely low-income housing in their housing element.

POSITIONS: (Communicated to the Committee before noon on Wednesday, March 15, 2006)

SUPPORT: California Rural Legal Assistance Foundation
Western Center on Law and Poverty

OPPOSED: None received.

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CONFIDENTIAL-Government Code §6254(l)		
Division: ☒ Housing Policy Development Other:_____ ☐ Division of Financial Assistance _____ ☐ Codes and Standards	Author: CEDILLO	Bill Number: SB 1322 Original
	DATE SENT TO DIVISION **February 28, 2006**	
Subject: **Housing: Use By Right**	**DATE DUE FROM DIVISION** **March 8, 2006**	
Legislative Analyst	**Phone #:**	

SUMMARY

This bill would expand provisions of State Housing Element Law to require cities and counties to identify housing sites to accommodate "residential service providers." Further, if the city or county could not identify adequate sites already available to accommodate persons in need of emergency shelter and residential service providers, their housing element would be required to include a program to permit these uses "by right." These provisions are intended to strengthen existing responsibilities of local governments to address needs of homeless populations in their communities.

Departments That May Be Affected			
☐ New / Increased Fee	☐ Governor's Appointment	☐ Legislative Appointment	
☐ State Mandate	☐ Urgency Clause	☐ Regulations Required	☐ Legislative Report
Division Position ☐ Support ☐ Oppose ☐ Support if Amended ☐ Oppose Unless Amended ☐ Neutral ☐ No Position ☐ Neutral if Amended ☐ Defer to:		Program Analyst completing analysis Kevin Wu Date: 3-6-06 Deputy Director's Signature Date:	

PURPOSE OF THE BILL

The bill is intended to strengthen requirements of existing law to result in

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development of housing with services such as mental health services and substance abuse counseling for the homeless.

RECOMMENDATION AND SUPPORTING ARGUMENTS: OPPOSE unless amended

HPD recommends a position of OPPOSE unless amended on this bill because its objectives are not achievable as proposed (see Cons).

Summary of Suggested Amendments

- Attached are possible amendments which would:
  1) Strike all of the bill's proposed changes as introduced; and
  2) Amend the existing requirements for analysis of housing development constraints to include analysis for transitional and supportive housing with access to community services and requires the programs section to mitigate such constraints. This terminology is consistent with existing financing programs and the phrasing would apply to either housing with on-site services, or housing with access to services off-site in the community.

ANALYSIS

Existing Law:

- (GC §§ 65302, 65583 – 65589.8) Each city and county is required to prepare a general plan that must include a housing element. The general plan is the basis for local zoning and development standards which development proposals are subject to. The Housing Element identifies and analyzes housing needs, including an analysis of special housing needs, "such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter." The element requires an inventory of sites designated for residential development of a variety of housing types, including transitional housing, and also requires goals, policies, quantified objectives, and programs for the preservation, improvement, and development of housing. Where adequate existing sites are not available to accommodate the community's regional housing need allocation or the identified need for farmworker housing, the element must include a program to make specified housing uses available "by right."

- (GC § 65583.2 (i)) The phrase "use by right" means that the local government's review of the owner-occupied or multifamily residential use

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may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval.

- (GC § 65585 (c)) requires HCD to consider third party comments during its review and certification of a housing element.

- Federal law requires local governments within a county to develop a "Continuum of Care Plan" (C of C Plan). HUD defines the Continuum of Care as "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness." HUD identifies the fundamental components of a comprehensive Continuum of Care system to be:
    - Outreach, intake, and assessment to (1) identify an individual's or family's service and housing needs, and (2) link them to appropriate housing and/or service resource.
    - Emergency shelter and safe, decent alternatives to the streets.
    - Transitional housing with supportive services to help people develop the skills necessary for permanent housing.
    - Permanent housing and permanent supportive housing.

- Federal law also requires larger cities and counties ("entitlement jurisdictions") who receive specified block grant funds to adopt a Consolidated Plan, describing how the funds will be used; this includes addressing needs for emergency shelters and transitional housing.

- Existing Housing Element law requires analysis of constraints on the development, maintenance and improvement of housing for persons with disabilities (enacted by Chapter 671, Statutes of 2001, Senate Bill 520-Chesbro). Under the California Fair Employment and Housing Act (GC § 12955.3), the definition of 'disability' includes, but is not limited to any physical or mental disability. Therefore, under existing law the housing element addresses the special needs housing for people with disabilities by requiring cities and counties to analyze and plan for reasonable accommodations for individuals with special needs.

- Community Care Facilities Zoning provisions (Health and Safety Code § 1566.3) require residential uses which serve six or fewer persons within a residential use zone as a 'use by right,' (permitted without a conditional use permit). Community care facilities include transitional shelter care facilities, transitional housing placement, facilities, residential facilities, adult day care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities (Health and Safety Code § 1500 *et seq.*).

This bill would:

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Sec. 2: Add the following requirements to Housing Elements (GC § 65583):

- The analysis of special housing needs would be expanded to include persons in need of "residential mental health and drug rehabilitation services or other residential services. [Paragraph (6) of subdivision (a), page 4, lines 12-14]

- Identification of sites available to facilitate and encourage the development of housing for residential service providers. [Paragraph (1) of subdivision (c), page 6, line 23]

- When an inventory of sites doesn't identify adequate sites to accommodate needs to shelter families and persons in need of emergency shelters and residential service providers, the element must include a program(s) to designate zoning for emergency shelters and residential service providers as 'use by right.' [Paragraph (C) under section (1) of subdivision (c), page 6, lines 39-40 and page 7, lines 1-7]

Sec. 3: Add the following requirements to the "adequate sites" section of the Housing Element (GC § 65583.2):

- Cities and counties would have to establish that "residential service providers" will be accommodated on the sites identified in the land inventory [Subdivision (c), page 9, line 25].

- Add additional uses to the existing definition of "use by right:" 1) emergency shelters, and 2) residential service providers. It would also restrict the application of the "use by right" for multifamily use to apply only to *rental* multifamily use [page 11, lines 35-36].

COMMENTS

1. "Residential service provider" terminology and related issues:

- The term "residential service providers" is not a term of general land use applicability, nor is a definition of what actual uses would be included proposed, and this terminology would be subject to a broad range of interpretation. It is important that terminology within statutes which are subject to certification by a State agency and are also subject to third party comments, as is the case with Housing Element law, have clear definitions. When they don't, as is the case with this bill as proposed, third party commenters such as affordable housing advocates could argue for a different and interpretation of the definition than would the local government responsible for implementing the provision. The lack of clear standards and definitions creates unnecessary conflicts which could result in litigation.

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Moreover, some of the possible interpretations would be problematic, and thus the mere inclusion of a definition may not resolve the problem. If, for example, the term "residential service providers" were to be interpreted to require designation in the housing element of sites for the facilities to be occupied by providers of community services, e.g., employment, mental health, or drug abuse counseling or services, for example, this would be problematic since it extends the scope of Housing Element law to account for service providers rather than housing specific issues.

- Another problem is that the requirement for a program with the "use by right" requirement would necessitate a "bright line" basis for determination of the adequacy of the relationship of services to an identified homeless population. However, there is no definitive basis for quantifying the need for services relative to an identified homeless population – such assessments would be highly subjective. Estimates of the homeless population within a community in need of services as specific as "drug rehabilitation services" are generally not available for most communities at a precise level. There would generally not be an estimate, or not a generally accepted estimate, of how many of the homeless individuals in Fresno or Roseville, for example, would be in need of drug abuse counseling services; and if there were one or more such estimates available, it would not alone be an objective basis for indicating how many housing units must be planned for with either on-site or community access to drug counseling services. Quantifying the local homeless population in a community is already very difficult in itself, for a host of reasons, including the transient nature of some of the homeless population. "Use by right" provision is not appropriate to apply to "residential service providers," with or without a clear definition the term. Issues regarding the availability and provision of community services are most appropriately addressed in Continuum of Care and Consolidated Plans, which are in effect required by federal law for all large jurisdictions where these needs are the most significant. See "use-by-right" discussion below.

- The Housing Element already requires analysis of needs for transitional housing. Therefore, the need for "residential service provider" provision is unnecessary since transitional housing includes housing developments with on-site services or access to community services for residents. Transitional housing is often tied to supportive services that assist homeless population in stabilizing their lives and developing the skills and resources needed to make a successful transition into society (GC § 11139.3 (3)).

2. Use-by Right Issues:

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- This bill would add additional uses to the existing definition of 'use by right' including: emergency shelters and residential service providers. This means that when a city or county cannot identify adequate sites to accommodate the need for these additional uses, cities or counties would have to establish programs that will create sufficient sites with zoning that permits such projects use without the need for a conditional use permit, planned unit development permit, or other discretionary local government review or approval.

  It is unlikely, however, that this provision would be workable because of the terminology problems discussed above and:

  - "Use by right" zoning is feasible only where siting impacts or issues can generally be addressed by means of standard conditions applicable to all such uses of the category. The siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standard conditions. As it is, "use by right" is not readily available in most communities even for more standard housing development applications. It is therefore unlikely that "by right use" would be implemented in practice for these uses. It could be more appropriate and meaningful to require local governments to remove constraints to development as we have purposed in amendment.

  - The inclusion of farmworker housing into the "use by right" definition (GC § 65583.2 (i)) essentially directly incorporates the existing requirement of GC § 65583 (c)(1)(B), whereby cities and counties already are already required to establish programs to provide sufficient sites for farmworker housing "use by right."

- The bill would also restrict the application of the existing "use by right" requirement for multifamily use to apply only to *rental* multifamily use. General plans, including the Housing Element, and most local land use permits, do not, however, regulate tenure-based (rental vs. ownership) land use designations. Therefore, the *rental* specification in the "use by right" provision referring to rental multifamily use is not an appropriate by right condition. Moreover, (in cases where a program is needed to make up for a shortfall in capacity of the city's land inventory), the existing requirement for "use by right" designation for all multifamily housing is necessary because of the critical need for increasing the multifamily housing supply; there is no basis for narrowing this provision, nor would doing so support the intent of this bill. Narrowing this applicability would not be necessary to achieve the objective of meeting housing needs.

PROGRAM BACKGROUND

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- Local governments and service providers have increasingly, in local "CofC" or other plans addressing services, been focusing on a "housing first" approach to addressing the needs of homeless populations. This approach is predicted on the belief that housing should be the central goal for people experiencing homelessness, and that providing housing assistance and follow-up case management services after a family or individual is housed can significantly reduce the time people spend in homelessness. The services include connecting them with community-based services.

- Although, homelessness is a statewide problem that affects many cities and counties, SB 1322 was prompted by this focus on these needs of this population. The Los Angeles Times recently published a series of articles documenting issues of the large homeless population in Los Angeles. Roughly 10,000 street dwellers flood the Skid Row area in downtown Los Angeles every night. As illustrated by the series, many street dwellers are often mentally ill, substance abusers, sick and wounded, and need special care attention. The series can be obtained online at (http://www.latimes.com/news/local/la-me-lopez16oct16-series-2,0,7749507.special).

- The Governor's Homeless Initiative, a joint project of HCD, CalHFA and DMH, using both Prop 46 housing funds and Prop 63 mental health funds, assists with the development of permanent supportive housing for persons with severe mental illness who are chronically homeless. These are the types of housing developments that housing elements should demonstrate can be accommodated.

- Development of affordable housing, including housing for homeless or special needs populations, is subject to many constraints, including local resistance during the local permitting process. Consequently, there is far too little development approved meeting the needs of special populations, including the homeless. Permit applications that are required by statute to be "use(s) by right" must be processed ministerially, and thus avoid what are often highly discretionary processes and conditions that can render such development infeasible, both financially and politically. In practice, however, it is difficult to implement such processing, and ministerial processing of housing or shelters for homeless populations is not generally currently practiced by local governments.

FISCAL IMPACT

- Uncertain at this point because of ambiguities.

PRO/CON ARGUMENTS

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Pro:

- This bill appropriately aims to increase the awareness of the needs of, and certainty in addressing, the housing and service-related needs of homeless populations within California communities.

Con:

- The bill introduces the term *"residential service providers"* without providing a definition of what residential service provider entails; if non-residential uses, it would substantially broaden the scope of the housing element.

- The proposed "use by right" requirements are not likely to be workable: 1) siting of emergency shelters (or on-site services in a housing development) generally invokes issues too varied and site-specific for use of such standard conditions. It is therefore unlikely that "by right use" would be implemented in practice for such uses. 2) farmworker housing is already an existing requirement for cities and couties to establish programs to provide sufficient farmerworker housing sites "use by right," and 3) the existing requirement for "use by right designation for all multifamily housing is necessary because of the critical need for increasing the multifamily housing supply; there is no basis for narrowing this provision, nor would doing so support the intent of this bill.

- Small housing developments with residential services located within residential zones and serving six or less people, as required by existing law under "use by right." Therefore, existing laws remove the need for Housing Element law to account for residential service provider as "use by right" provision.

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Department of Housing and Community Development Division of Policy Development:

Proposed Amendments to SB 1322 (Cedillo)

FEBRUARY 16, 2006

An act to amend Sections 65583 and 65583.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1322, as introduced, Cedillo Housing: use by right.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would in addition add emergency shelter and residential service providers to these provisions, as specified. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) 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 these statutory provisions.

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

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters and residential service providers. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) Substance abuse is higher among unaccompanied homeless youth and single individuals. In some areas, like Los Angeles County, substance abuse by single homeless individuals ranges from one-third to two-thirds of the population. The incidence of mental illness is higher among chronically homeless individuals than families. The dual diagnosis rate of substance abuse and mental illness is at 16 percent among homeless individuals.

(d) The lack or shortage of emergency shelter and residential service providers for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like Skid Row area in downtown Los Angeles.

(e) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(f) It is the responsibility of cities and counties to plan and identify sites to locate residential service providers. Cities and counties should include this as part of their planning process and locate these services where most appropriate

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in their community. The state should not dictate where these residential service providers should be located.

(g) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. 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, and mobilehomes, 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:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site

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improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6), and for *and transitional or supportive housing with access to community services.*

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, ~~and~~ families and persons in need of emergency shelter *, ~~and persons in need of residential mental health and drug rehabilitation services or other residential services.~~*

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible

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date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the

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quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, ~~*residential service providers*~~, and transitional housing *and supportive housing with access to community services.*

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify

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sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

~~*(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need to shelter families and persons in need of emergency shelters and residential service providers identified pursuant to paragraph (6) of subdivision (a), the program shall identify sufficient sites that can be developed within the planning period pursuant to paragraph (1) of this subdivision to meet the need with zoning that permits emergency shelters and residential service providers use by right.*~~

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, ~~or~~ *and* provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. *The program shall also remove constraints to the development of emergency shelters, transitional housing, and supportive housing with access to community services.*

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

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(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 3. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional

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housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including

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multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, ~~*residential service providers,*~~ and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

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(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for

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very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses
(iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision
(c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied, ~~*farmworker housing, emergency shelter, residential service provider,*~~ or ~~*rental*~~ multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and

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school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Cod

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Ehlers, Bryan

From: Edna Toffoli [etoffoli@hcd.ca.gov]
Sent: Wednesday, April 12, 2006 4:34 PM
To: Ehlers, Bryan
Subject: FW: 1322 amendment to 65589.5

FYI

From: Kimberly Melzer-Coveyou
Sent: Wednesday, April 12, 2006 4:28 PM
To: Edna Toffoli
Subject: FW: 1322 amendment to 65589.5

From: Mark Lovington
Sent: Wednesday, April 12, 2006 2:10 PM
To: Anda Draghici; Kimberly Melzer-Coveyou
Cc: Linda Wheaton; Cathy Creswell
Subject: RE: 1322 amendment to 65589.5

The 3-28 amendment also amends GC 65598.5 (the anti-nimby statute) to generally include within its protections the approval, or disapproval, of emergency shelters, as defined by H&S Code 50801. Overall this does not seem like such a bad idea and I would recommend support for the concept. However, the amendment also includes this provision with respect to the exception for jurisdictions with compliant housing elements:

> *In the case of transitional housing or an emergency shelter, the jurisdiction shall have met or exceeded the need for transitional housing or emergency shelter, as identified pursuant to paragraph (6) of subdivision (a) of Section 65583.*

As we are objecting to the referenced need determination, we should also oppose this provision.

Mark Lovington
916-323-7288

From: Anda Draghici
Sent: Wednesday, April 12, 2006 1:05 PM
To: Mark Lovington
Cc: Linda Wheaton
Subject: RE:

Hello, Mark:

I apologize for the delay in replying as I was out of the office yesterday. Linda Wheaton is currently reviewing my analysis of the 3-28 amendments.

Thanks,

nda Draghici
ousing Policy Analyst
A Department of Housing and Community Development
el: (916) 323-7271
ax:(916) 327-2643

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rom: Mark Lovington
ent: Tuesday, April 11, 2006 1:25 PM
o: Kimberly Melzer-Coveyou; Dennis Beddard
Cc: Edna Toffoli; Anda Draghici
Subject: RE:

I take it that Anda is handling this for HPD. I will consult with her on the proposed amendments.

Anda, have you looked at 03-28 amendments?

Mark Lovington
916-323-7288

From: Kimberly Melzer-Coveyou
Sent: Tuesday, April 11, 2006 1:20 PM
To: Mark Lovington; Dennis Beddard
Cc: Edna Toffoli
Subject: RE:

No, this is the introduced version.

From: Mark Lovington
Sent: Tuesday, April 11, 2006 12:11 PM
To: Kimberly Melzer-Coveyou; Dennis Beddard
Cc: Edna Toffoli
Subject: RE:

Did this analysis take into consideration 3-28-06 amendments?

Mark Lovington
916-323-7288

From: Kimberly Melzer-Coveyou
Sent: Tuesday, April 11, 2006 10:53 AM
To: Dennis Beddard
Cc: Mark Lovington; Edna Toffoli

Subject: FW:

I know you're very busy, but all suggested amendments are required to be approved by Legal before we can write an analysis and send it on to BT&H and the Governor's Office. Would it be possible to have these amendments reviewed by Friday?

hank you very much for your help,

am

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rom: Kimberly Melzer-Coveyou
ent: Monday, March 20, 2006 11:53 AM
o: Dennis Beddard
c: Edna Toffoli
Subject:

HPD has drafted suggested amendments to SB 1322: http://www.leginfo.ca.gov/pub/bill/sen/sb_1301-1350/sb_1322_bill_20060216_introduced.pdf (they appear at the end of the attached analysis). Please review and comment on these proposed amendments by Thursday, 3/23.

Thank you very much,

Kam Melzer-Coveyou
Legislative Analyst
Department of Housing and Community Development
(916) 323-6174

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Secretary of State
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archivesweb@sos.ca.gov

Under California Government Code section 6254.3, "the home addresses and home telephone numbers of state employees...shall not be deemed to be public records and shall not be open to public inspection."

Pursuant to section 6254.3, home and cellular telephone numbers of state employees have been redacted from records contained in this file. Entire pages containing nothing other than state employee addresses and telephone numbers may have been removed.

Date: 3/2/2020 JL

12/2014jh

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LRI