



Midpeninsula Regional
Open Space District

LEGISLATIVE, FUNDING, AND PUBLIC AFFAIRS COMMITTEE

R-19-73

June 11, 2019

AGENDA ITEM 3

AGENDA ITEM

2019 State of California Legislative Session – Briefing on Matters of Interest to Midpeninsula Regional Open Space District

GENERAL MANAGER'S RECOMMENDATION *den*

Receive and discuss updates on the 2019 State of California Legislative Session from legislative consultants, Public Policy Advocates LLC., and Environmental and Energy Consulting.

SUMMARY

Representatives from the Midpeninsula Regional Open Space District's (District) two legislative consultants in Sacramento, Public Policy Advocates, LLC (PPA) and Environmental and Energy Consulting (EEC), will call in to provide a legislative briefing on matters of interest to the District. Specifically, they will provide updates on three legislative bills to which the District has either expressed opposition or concern to the bill author. They will also be available to answer questions the Committee has on any other legislative matter.

DISCUSSION

At its March 27, 2019, meeting the Board adopted positions on several bills under consideration by the state legislature. Included in this were two bills for which staff recommended an "oppose" position. An oppose position was adopted by the Board.

- **AB 1190 (Irwin): Unmanned aircraft: state and local regulation: limitations.**
 - The bill, as it is currently drafted, would prohibit the state or local agencies from adopting any law or regulation that bans the operation of an unmanned aircraft system.
- **AB 1486 (Ting): Local agencies: surplus land.**
 - The bill, as it is currently drafted, would expand the Surplus Land Act to include regional parks districts.

Recently, another bill was brought to the attention of staff that raises District concerns. It was not included in the original legislative tracking matrix considered on March 27 since it was a spot bill at the time.

- **AB 1516 (Friedman): Fire prevention: defensible space and fuels reduction management.**

- The bill, as it is currently drafted, would put the responsibility for vegetation management around power lines onto landowners.

The District's Legislative Consultants, EEC and PPA, will provide updates on each of these bills.

FISCAL IMPACT

There is no fiscal impact associated with this briefing.

BOARD COMMITTEE REVIEW

Legislative updates are periodically brought to the Legislative, Funding, and Public Affairs Committee throughout each year. This is the second update of the 2019-20 legislative session.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. No additional notice is required.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

The Governmental Affairs Specialist will bring legislative updates and proposals to LFPAC and the Board throughout the 2019 state legislative session.

ATTACHMENTS

1. Current bill language for AB 1190 (Irwin)
2. Current bill language for AB 1486 (Ting)
3. Current bill language for AB 1516 (Friedman)

Responsible Department Head:
Korrine Skinner, Public Affairs Manager

Prepared by:
Joshua Hugg, Governmental Affairs Specialist

AMENDED IN ASSEMBLY MAY 1, 2019

AMENDED IN ASSEMBLY APRIL 25, 2019

AMENDED IN ASSEMBLY APRIL 12, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1190

Introduced by Assembly Member Irwin

February 21, 2019

An act to amend ~~Sections 831.7 and~~ *Section 853.5* of, to add *Section 831.7.2* to, and to add *Chapter 12.97* (commencing with *Section 7105*) to *Division 7* of *Title 1* of, the *Government Code*, relating to unmanned aircraft.

LEGISLATIVE COUNSEL'S DIGEST

AB 1190, as amended, Irwin. Unmanned aircraft: state and local regulation: limitations.

Existing law prohibits a person from knowingly and intentionally operating an unmanned aircraft system on or above the grounds of a state prison, a jail, or a juvenile hall, camp, or ranch. Existing law provides a state or local public entity or employee with immunity as to any person engaging in hazardous recreational activity, as defined, and for damage to an unmanned aircraft while the local entity or employee is providing emergency services. Existing law defines “unmanned aircraft” and other terms for purposes of these provisions.

Existing federal regulations, adopted and administered by the Federal Aviation Administration (FAA), regulate the operation of unmanned aircraft and unmanned aircraft systems. Existing federal regulations generally preclude enforcement of these regulations by state or local

entities, except in certain areas such as police use, and prohibiting use for voyeurism, following consultation with the FAA.

This bill would, among other things, prohibit a state or local agency from adopting any law or regulation that bans the operation of an unmanned aircraft system. The bill would also authorize a local agency to adopt regulations to enforce FAA regulations regarding the operation of unmanned aircraft systems and would authorize local agencies to regulate the operation of unmanned aircraft and unmanned aircraft systems within their jurisdictions, as specified. The bill would also authorize a local agency to require an unmanned aircraft operator to provide proof of federal, state, or local registration to licensing or enforcement officials. ~~The bill would include the operation of small unmanned aircraft systems within the definition of hazardous recreational activity for purposes of public entity liability, and would~~ authorize a local entity to designate a recreational operating area for unmanned aircraft operation. The bill would immunize a local entity that designates such a recreational are from liability for injury or damage associated with unmanned aircraft operation, if specified signage is posted. The bill would define terms for purposes of these provisions.

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

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

- 1 SECTION 1. The Legislature finds and declares that the intent
- 2 of this act is to accomplish the following goals:
- 3 (a) To foster and promote public safety in the use of unmanned
- 4 aircraft systems.
- 5 (b) To explore the development of a balanced approach to a
- 6 consistent state regulatory framework for unmanned aircraft
- 7 systems that can work for industry, recreational users, local
- 8 government, and law enforcement.
- 9 (c) To facilitate the use of drones for recreational and hobby,
- 10 commercial, and governmental purposes.
- 11 (d) To protect persons and entities from invasion of their privacy
- 12 and to prevent harassment of persons and entities in their public
- 13 activities.
- 14 (e) To protect sensitive governmental and private facilities and
- 15 operations from interference or unauthorized surveillance, including

1 facilities and operations addressing emergency events, such as
2 earthquakes, fires, and flooding.

3 ~~SEC. 2.~~ Section 831.7 of the Government Code is amended to
4 read:

5 ~~831.7. (a) Neither a public entity nor a public employee is~~
6 ~~liable to any person who participates in a hazardous recreational~~
7 ~~activity, including any person who assists the participant, or to any~~
8 ~~spectator who knew or reasonably should have known that the~~
9 ~~hazardous recreational activity created a substantial risk of injury~~
10 ~~to themselves and was voluntarily in the place of risk, or having~~
11 ~~the ability to do so failed to leave, for any damage or injury to~~
12 ~~property or persons arising out of that hazardous recreational~~
13 ~~activity.~~

14 ~~(b) As used in this section, “hazardous recreational activity”~~
15 ~~means a recreational activity conducted on property of a public~~
16 ~~entity that creates a substantial, as distinguished from a minor,~~
17 ~~trivial, or insignificant, risk of injury to a participant or a spectator.~~

18 ~~“Hazardous recreational activity” also means:~~

19 ~~(1) Water contact activities, except diving, in places where, or~~
20 ~~at a time when, lifeguards are not provided and reasonable warning~~
21 ~~thereof has been given, or the injured party should reasonably have~~
22 ~~known that there was no lifeguard provided at the time.~~

23 ~~(2) Any form of diving into water from other than a diving board~~
24 ~~or diving platform, or at any place or from any structure where~~
25 ~~diving is prohibited and reasonable warning thereof has been given.~~

26 ~~(3) Animal riding, including equestrian competition, archery,~~
27 ~~bicycle racing or jumping, bicycle motocross, mountain bicycling,~~
28 ~~boating, cross-country and downhill skiing, hang gliding, kayaking,~~
29 ~~motorized vehicle racing, off-road motorcycleing or four-wheel~~
30 ~~driving of any kind, orienteering, pistol and rifle shooting, rock~~
31 ~~climbing, rocketeering, rodeo, self-contained underwater breathing~~
32 ~~apparatus (SCUBA) diving, spelunking, skydiving, sport~~
33 ~~parachuting, paragliding, body contact sports, surfing,~~
34 ~~trampolining, tree climbing, tree rope swinging, waterskiing, white~~
35 ~~water rafting, and windsurfing. For the purposes of this subdivision,~~
36 ~~“mountain bicycling” does not include riding a bicycle on paved~~
37 ~~pathways, roadways, or sidewalks. For the purpose of this~~
38 ~~paragraph, “body contact sports” means sports in which it is~~
39 ~~reasonably foreseeable that there will be rough bodily contact with~~
40 ~~one or more participants.~~

1 ~~(4) Operation of small unmanned aircraft systems within an~~
2 ~~recreational area designated by a state or local agency for the~~
3 ~~operation of small unmanned aircraft pursuant to subdivision (c)~~
4 ~~of Section 7105.~~

5 ~~(e) (1) Notwithstanding subdivision (a), this section does not~~
6 ~~limit liability that would otherwise exist for any of the following:~~

7 ~~(A) Failure of the public entity or employee to guard or warn~~
8 ~~of a known dangerous condition or of another hazardous~~
9 ~~recreational activity known to the public entity or employee that~~
10 ~~is not reasonably assumed by the participant as inherently a part~~
11 ~~of the hazardous recreational activity out of which the damage or~~
12 ~~injury arose.~~

13 ~~(B) Damage or injury suffered in any case where permission to~~
14 ~~participate in the hazardous recreational activity was granted for~~
15 ~~a specific fee. For the purpose of this subparagraph, "specific fee"~~
16 ~~does not include a fee or consideration charged for a general~~
17 ~~purpose such as a general park admission charge, a vehicle entry~~
18 ~~or parking fee, or an administrative or group use application or~~
19 ~~permit fee, as distinguished from a specific fee charged for~~
20 ~~participation in the specific hazardous recreational activity out of~~
21 ~~which the damage or injury arose.~~

22 ~~(C) Injury suffered to the extent proximately caused by the~~
23 ~~negligent failure of the public entity or public employee to properly~~
24 ~~construct or maintain in good repair any structure, recreational~~
25 ~~equipment or machinery, or substantial work of improvement~~
26 ~~utilized in the hazardous recreational activity out of which the~~
27 ~~damage or injury arose.~~

28 ~~(D) Damage or injury suffered in any case where the public~~
29 ~~entity or employee recklessly or with gross negligence promoted~~
30 ~~the participation in or observance of a hazardous recreational~~
31 ~~activity. For purposes of this subparagraph, promotional literature~~
32 ~~or a public announcement or advertisement that merely describes~~
33 ~~the available facilities and services on the property does not in~~
34 ~~itself constitute a reckless or grossly negligent promotion.~~

35 ~~(E) An act of gross negligence by a public entity or a public~~
36 ~~employee that is the proximate cause of the injury.~~

37 ~~(2) Nothing in this subdivision creates a duty of care or basis~~
38 ~~of liability for personal injury or damage to personal property.~~

39 ~~(d) Nothing in this section limits the liability of an independent~~
40 ~~concessionaire, or any person or organization other than the public~~

1 entity, whether or not the person or organization has a contractual
2 relationship with the public entity to use the public property, for
3 injuries or damages suffered in any case as a result of the operation
4 of a hazardous recreational activity on public property by the
5 concessionaire, person, or organization.

6 ~~SEC. 3.~~

7 *SEC. 2.* Section 831.7.2 is added to the Government Code,
8 immediately following Section 831.7, to read:

9 831.7.2. (a) A public entity that owns or operates a small
10 unmanned aircraft systems recreational area shall not be held liable
11 for injury or death of any person or property damage resulting
12 solely from the actions of an operator of a small unmanned aircraft
13 system in that recreational area, if the public entity posts signs at
14 each entrance to the recreational area notifying the public that
15 unmanned aircraft may be operating in the area.

16 (b) "Public entity" has the same meaning as in Section 811.2,
17 and includes, but is not limited to, cities, counties, cities and
18 counties, and special districts.

19 ~~SEC. 4.~~

20 *SEC. 3.* Section 853.5 of the Government Code is amended
21 to read:

22 853.5. The following definitions shall apply to this chapter:

23 (a) "Public unmanned aircraft system" means an unmanned
24 aircraft system that is owned or operated by a local or state
25 government entity.

26 (b) "Small unmanned aircraft" means an unmanned aircraft
27 weighing less than 55 pounds.

28 (c) "Unmanned aircraft" means an aircraft that is operated
29 without the possibility of direct human intervention from within
30 or on the aircraft.

31 (d) "Unmanned aircraft system" means an unmanned aircraft
32 and associated elements, including, but not limited to,
33 communication links and the components that control the
34 unmanned aircraft that are required for the pilot in command to
35 operate safely and efficiently in the national airspace system.

36 ~~SEC. 5.~~

37 *SEC. 4.* Chapter 12.97 (commencing with Section 7105) is
38 added to Division 7 of Title 1 of the Government Code, to read:

1 CHAPTER 12.97. UNMANNED AIRCRAFT REGULATION

2

3 7105. (a) No state or local agency shall adopt any law or
4 regulation that bans the operation of an unmanned aircraft system.

5 (b) An operator of a small unmanned aircraft system shall
6 register pursuant to federal regulations and an operator shall not
7 operate an unmanned aircraft system required to be registered by
8 federal law or federal regulations without valid paper or electronic
9 evidence of registration and proof of passage of the Federal
10 Aviation Administration's aeronautical and safety test, if required
11 by the Federal Aviation Administration.

12 (c) A local agency, or its legislative body may adopt regulations
13 to enforce a requirement that a small unmanned aircraft system be
14 properly registered pursuant to federal law and regulations.

15 (d) Any peace officer authorized to enforce local laws is
16 authorized to demand evidence of registration from a person
17 operating an unmanned aircraft system.

18 (e) Failure to show proof of Federal Aviation Administration
19 mandated registration will be a correctable violation for first-time
20 offenders.

21 (f) If an operator fails to correct the violation within the
22 applicable time period, the state or local agency may take additional
23 enforcement actions as provided by law.

24 (g) Notwithstanding any other provision of law, a local agency
25 may require an unmanned aircraft operator to provide proof of
26 federal, state, or local registration to licensing or enforcement
27 officials. An operator who fails to show proof of registration shall
28 correct the violation within the time period as provided by law. If
29 an operator fails to correct the violation within the applicable time
30 period, the local agency may take additional enforcement actions
31 as provided by law.

32 (h) A local agency may designate recreational areas for the
33 operation of small unmanned aircraft. The local agency shall cause
34 signage to be posted at each entrance to the recreational area
35 notifying the public that unmanned aircraft may be operating in
36 the area. If a public entity has designated a recreational area, then
37 the public entity may restrict or prohibit recreational use of small
38 unmanned aircraft system in other recreational areas within its
39 jurisdiction.

1 (i) Every unmanned aircraft shall be operated in strict
2 compliance with federal law and regulations.

3 (j) (1) A local agency or its legislative body may do both of
4 the following:

5 (A) Adopt an ordinance that enforces federal law and
6 regulations.

7 (B) Adopt an ordinance that prohibits the willful launch or
8 landing of an unmanned aircraft system from or on public property
9 that the local agency has deemed off limits for other activities,
10 such as sports and kite flying, for reasonable and demonstrable
11 public safety concerns.

12 (2) Nothing in this section preempts a local public entity from
13 enacting local ordinances pursuant to its police power that relate
14 to the use of unmanned aircraft systems so long as those laws or
15 ordinances are not specifically written to ban the all operation of
16 unmanned aircraft systems in the jurisdiction.

17 ~~(k) A local agency may require the operator of a small unmanned
18 aircraft system for commercial purposes to maintain insurance
19 coverage, as specified by the agency.~~

20 ~~(t)~~

21 (k) An operator's compliance with the provisions of this section
22 shall not be a defense to liability for a violation of Section 1708.8
23 of the Civil Code.

24 ~~(m)~~

25 (l) It is unlawful for any person to operate an Unmanned Aircraft
26 System in the air, on the ground, or on the water in any of the
27 following ways:

28 (1) In a careless or reckless manner so as to endanger the life
29 or property of another. In any proceeding charging operation of
30 an Unmanned Aircraft System in violation of this paragraph, the
31 court in determining whether the operation was careless or reckless
32 may consider the standards for safe operation of aircraft prescribed
33 by federal statutes or regulations governing Unmanned Aircraft
34 Systems, including a community-based organization's safety
35 guidelines, as defined in subsection (h) of Section 44809 of Title
36 49 of the United States Code.

37 (2) In violation of any flight restriction, temporary or permanent,
38 issued by the Federal Aviation Administration.

39 (3) In violation of any restriction issued by the Federal Aviation
40 Administration applicable to the unmanned aircraft systems.

- 1 (4) Knowingly or recklessly interfering with law enforcement,
2 firefighting, or any government emergency operations.
- 3 ~~(5) Overflight by an aircraft of any lands for the purpose of~~
4 ~~injuring any property or property rights or with the intention of~~
5 ~~interfering with, obstructing, or injuring any lawful business or~~
6 ~~occupation carried on by the owner of the land, the owner's agent,~~
7 ~~or the person in lawful possession.~~
- 8 ~~(6)~~
- 9 (5) Weaponizing a drone or operating a weaponized drone.
- 10 ~~(n)~~
- 11 (m) For purposes of this section, the terms “public unmanned
12 aircraft system,” “small unmanned aircraft,” “unmanned aircraft,”
13 and “unmanned aircraft system,” have the same meanings as those
14 terms are defined in Section 853.5.

AMENDED IN ASSEMBLY MAY 16, 2019
AMENDED IN ASSEMBLY APRIL 11, 2019
AMENDED IN ASSEMBLY MARCH 28, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1486

**Introduced by Assembly Member Ting
(Coauthor: Assembly Member Wicks)
(Coauthor: Senator Skinner)**

February 22, 2019

An act to amend Sections 11011, ~~11011.1~~, 54220, 54221, 54222, 54222.3, 54223, 54225, 54226, 54227, 54230, 54230.5, 54233, 65400, 65583.2, and 65585 of the Government Code, relating to ~~local government~~. *surplus land*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Ting. ~~Local agencies: surplus~~ *Surplus* land.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "local agency" for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines "surplus land" for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange. Existing law defines "exempt surplus land" to mean land that is less than 5,000 square feet in area, less than the applicable minimum legal residential building lot size, or has no record access and is less than 10,000 square feet in area, and that is not

contiguous to land owned by a state or local agency and used for park, recreational, open-space, or affordable housing.

This bill would expand the definition of “local agency” to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would specify that the term “district” includes all districts within the state, and that this change is declaratory of existing law. The bill would revise the definition of “surplus land” to mean land owned by any local agency that is not necessary for the agency’s governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and would define “governmental operations” to mean land that is being used for the express purpose of agency work or operations, as specified. The bill would provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it. The bill would provide that “surplus land” for these purposes includes land held in the Community Redevelopment Property Trust Fund and land that has been designated in the long-range property management plan, either for sale or for retention, for future development, as specified. The bill would also broaden the definition of “exempt surplus land” to include specified types of lands.

The bill would recast various provisions referring to the sale or lease of surplus land to instead refer to the disposal of surplus land. The bill would also delete certain obsolete references and make related conforming changes.

(2) Existing law requires a local agency disposing of surplus land to send, prior to disposing of that property, a written offer to sell or lease the property to specified entities. Existing law requires that a local agency, upon a written request, send a written offer to sell or lease surplus land to a housing sponsor, as defined, for the purpose of developing low- and moderate-income housing. Existing law also requires the local agency to send a written offer to sell or lease surplus land for the purpose of developing property located within an infill opportunity zone, designated as provided, to, among others, a community redevelopment agency.

This bill would instead require the local agency disposing of surplus land to send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability. The bill would make various related conforming changes. With regards to a housing sponsor, the bill would require that the written notice of availability be sent if the housing sponsor has notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development of its interest in the land, rather than upon written request. With regards to surplus land to be used for the purpose of developing property located within an infill opportunity zone, as described above, the bill would instead require that the written notice of availability be sent to a successor agency to a former redevelopment agency. *The bill would, with regard to disposing of surplus land for the purpose of developing low- and moderate-income housing, only require the local agency disposing of the surplus land to send a specified notice of availability if the land is located in an urbanized area.*

(3) After the disposing agency has received a notice from an entity desiring to purchase or lease the land, existing law requires the disposing agency to enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

This bill would limit negotiations to sales price and lease terms, including the amount and timing of any payments.

(4) Existing law requires a local agency to give priority to the development of affordable housing for lower income elderly or disabled persons or households, and other lower income households when disposing of surplus land.

This bill would remove that priority.

(5) If the local agency receives offers from more than one entity that agrees to meet specified requirements related to the provision of affordable housing on the surplus land, existing law requires the local agency to give priority to the entity that proposes to provide the greatest number of units that meet those requirements. Notwithstanding that requirement, existing law requires the local agency to give first priority to an entity in specified circumstances.

This bill would define “priority” for these purposes as meaning that the local agency negotiates in good faith exclusively with the entity pursuant to specified requirements. In the event that more than one entity proposes the same number of units that meet the above-described

affordable housing requirements, this bill would require that priority be given to the entity that proposes the deepest average level of affordability for the affordable units. The bill would authorize a local agency to negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing.

(6) Under existing law, failure by a local agency to comply with these requirements for the disposal of surplus land does not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer of value.

This bill would invalidate that transfer or conveyance unless the local agency makes an alternative site available that can accommodate an equal or greater number of housing units as the original site whose transfer or conveyance was effected.

(7) If a local agency does not agree to price and terms with an entity to which notice and an opportunity to purchase or lease are given and disposes of the surplus land to an entity that uses the property for the development of 10 or more residential units, existing law requires the purchasing entity or a successor in interest to provide not less than 15% of the total number of units developed on the parcels at an affordable housing cost or affordable rent to lower income households.

This bill would revise this requirement to apply if the local agency does not agree to price and terms with an entity to which notice of availability of land was given, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property.

The bill would permit residential uses on certain types of land that a local agency disposes of as surplus, if 100% of the residential units are sold or rented at an affordable housing cost, as specified.

(8) Existing law requires each state agency to make a review of all proprietary state lands over which it has jurisdiction, except as specified, on or before December 31 of each year to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. Existing law requires the department to annually report to the Legislature the land declared excess and to request authorization to dispose of the land by sale or otherwise, as specified. ~~Existing law requires the department to comply with specified requirements and procedures when disposing of surplus land that the department has received authorization to dispose of by the Legislature, including that the department may dispose of the land upon any terms~~

~~and conditions that the department determines is in the best interest of the state.~~

This bill would, instead, require each state agency to review state lands over which it has jurisdiction to determine if any land is in excess of its foreseeable needs for governmental operations. The bill would require the department to *request authorization* to dispose of at least 10% of the land that the department has determined is not needed by any other state agency, as specified. The bill would require surplus land disposed of by the department to be permitted for a residential use if 100% of the residential units are sold or rented at an affordable housing cost, as defined. ~~The bill would delete the authority of the department to dispose of surplus land upon any terms and conditions that the department determines are in the best interest of the state.~~

(9) Existing law authorizes a board of supervisors of a county to establish a central inventory of all surplus governmental property located in the county.

This bill, instead, would require a local agency to make a central inventory of specified surplus governmental property on or before December 31 of each year, and would require the local agency to make a description of each parcel and its present uses a matter of public record and to report this information to the Department of Housing and Community Development no later than April 1 of each year, beginning April 1, 2021. The bill would require a local agency, upon request, to provide a list of its surplus governmental properties to a citizen, limited dividend corporation, housing corporation, or nonprofit corporation without charge. The bill would require, by September 30, 2021, the Department of Housing and Community Development to create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses.

~~(10) Existing law authorizes the Director of General Services to dispose of surplus state real property if that property is not needed by another state agency and the Legislature has authorized disposal of the property. Existing law also specifies the manner in which the department is to dispose of surplus state real property first to a local agency and then to nonprofit affordable housing sponsors.~~

~~This bill would revise the manner in which the department is to dispose of surplus state real property. The bill would require the department to provide notice of surplus property to specified entities including, among others, public entities and housing sponsors for the purpose of constructing low- and moderate income housing. The bill~~

~~would require the department enter good faith negotiations with any entity that provides written notice of their desire to purchase the property. The bill would require that an entity that proposes to construct affordable housing on the surplus property provide at least 25% of the total number of units developed at affordable housing cost. The bill would provide that if the department does not receive a written notice from any entity to purchase the property or negotiations are unsuccessful, and 10 or more residential units are constructed on the property, at least 15% of the total number of residential units developed on the parcels be sold or rented at affordable housing cost.~~

~~(11)~~

(10) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy thus far in the housing element cycle, as provided.

This bill would require a city or county to include as a part of that report a listing of sites owned or leased by the city or county that have been sold, leased, or otherwise disposed of in the prior year, and sites with leases that expired in the prior year.

The Planning and Zoning Law requires that the housing element include, among other things, an inventory of land suitable for residential development to 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 determined pursuant to specified law.

This bill would require the housing element to provide a description of nonvacant sites owned by the city or county and provide whether there are any plans to dispose of the property during the planning period and how the city or county will comply with specified provisions relating to the disposal of surplus land by a local agency.

~~(12)~~

(11) Existing law requires the Department of Housing and Community Development to notify a city or county and authorize notice to the Attorney General when a city or county has taken an action that

violates the Housing Accountability Act, specified provisions relating to local housing elements, and the Density Bonus Law.

This bill would also require the Department of Housing and Community Development to notify the city or county and authorizes notice to the Attorney General when the city or county has taken an action that violates these provisions relating to surplus property.

(13)

(12) Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose.

This bill would revise these findings.

This bill would express the intent of the Legislature to enact legislation that addresses the need for affordable housing by utilizing surplus land within the state, as specified.

(14)

(13) By adding to the duties of local officials with respect to the disposal of surplus land, and expanding the scope of local agencies subject to the bill's requirements, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 11011 of the Government Code is
2 amended to read:
3 11011. (a) On or before December 31 of each year, each state
4 agency shall make a review of all proprietary state lands, other
5 than tax-deeded land, land held for highway purposes, lands under
6 the jurisdiction of the State Lands Commission, land that has
7 escheated to the state or that has been distributed to the state by
8 court decree in estates of deceased persons, and lands under the
9 jurisdiction of the State Coastal Conservancy, over which it has

1 jurisdiction to determine what, if any, land is in excess of its
2 foreseeable needs for governmental operations and report thereon
3 in writing to the Department of General Services. These lands shall
4 include, but not be limited to, the following:

5 (1) Land not currently being utilized, or currently being
6 underutilized, by the state agency for any existing or ongoing state
7 program.

8 (2) Land for which the state agency has not identified any
9 specific utilization relative to future programmatic needs.

10 (3) Land not identified by the state agency within its master
11 plans for facility development.

12 (b) Jurisdiction of all land reported as excess shall be transferred
13 to the Department of General Services, when requested by the
14 director of that department, for sale or disposition under this section
15 or as may be otherwise authorized by law.

16 (c) The Department of General Services shall report to the
17 Legislature annually, the land declared excess and request
18 authorization to dispose of the land by sale or otherwise.

19 (d) The Department of General Services shall review and
20 consider reports submitted to the Director of General Services
21 pursuant to Section 66907.12 of this code and Section 31104.3 of
22 the Public Resources Code prior to recommending or taking any
23 action on surplus land, and shall also circulate the reports to all
24 agencies that are required to report excess land pursuant to this
25 section. In recommending or determining the disposition of surplus
26 lands, the Director of General Services may give priority to
27 proposals by the state that involve the exchange of surplus lands
28 for lands listed in those reports.

29 (e) Except as otherwise provided by any other law, whenever
30 any land is reported as excess pursuant to this section, the
31 Department of General Services shall determine whether or not
32 the use of the land is needed by any other state agency. If the
33 Department of General Services determines that any land is needed
34 by any other state agency it may transfer the jurisdiction of this
35 land to the other state agency upon the terms and conditions as it
36 may deem to be for the best interests of the state.

37 (f) When authority is granted for the sale or other disposition
38 of lands declared excess, and the Department of General Services
39 has determined that the use of the land is not needed by any other
40 state agency, the Department of General Services shall sell the

1 land or otherwise dispose of the same pursuant to Section 11011.1.
2 The Department of General Services shall report to the Legislature
3 annually, with respect to each parcel of land authorized to be sold
4 under this section, giving the following information:

5 (1) A description or other identification of the property.

6 (2) The date of authorization.

7 (3) With regard to each parcel sold after the next preceding
8 report, the date of sale and price received, or the value of the land
9 received in exchange.

10 (4) The present status of the property, if not sold or otherwise
11 disposed of at the time of the report.

12 (g) (1) Except as otherwise specified by law, the net proceeds
13 received from any real property disposition, including the sale,
14 lease, exchange, or other means, that is received pursuant to this
15 section shall be paid into the Deficit Recovery Bond Retirement
16 Sinking Fund Subaccount, established pursuant to subdivision (f)
17 of Section 20 of Article XVI of the California Constitution, until
18 the time that the bonds issued pursuant to the Economic Recovery
19 Bond Act (Title 18 (commencing with Section 99050)), approved
20 by the voters at the March 2, 2004, statewide primary election, are
21 retired. Thereafter, the net proceeds received pursuant to this
22 section shall be deposited in the Special Fund for Economic
23 Uncertainties.

24 (2) For purposes of this subdivision, net proceeds means
25 proceeds less any outstanding loans from the General Fund, or
26 outstanding reimbursements due to the Property Acquisition Law
27 Money Account for costs incurred prior to June 30, 2005, related
28 to the management of the state's real property assets, including,
29 but not limited to, surplus property identification, legal research,
30 feasibility statistics, activities associated with land use, and due
31 diligence.

32 (h) The Director of Finance may approve loans from the General
33 Fund to the Property Acquisition Law Money Account, which is
34 hereby created in the State Treasury, for the purposes of supporting
35 the management of the state's real property assets.

36 (i) Any rentals or other revenues received by the department
37 from real properties, the jurisdiction of which has been transferred
38 to the Department of General Services under this section, shall be
39 deposited in the Property Acquisition Law Money Account and

1 shall be available for expenditure by the Department of General
2 Services upon appropriation by the Legislature.

3 (j) Nothing contained in this section shall be construed to
4 prohibit the sale, letting, or other disposition of any state lands
5 pursuant to any law now or hereafter enacted authorizing the sale,
6 letting, or disposition.

7 (k) (1) The disposition of a parcel of surplus state real property,
8 pursuant to Section 11011.1, made on an “as is” basis shall be
9 exempt from Chapter 3 (commencing with Section 21100) to
10 Chapter 6 (commencing with Section 21165), inclusive, of Division
11 13 of the Public Resources Code. Upon title to the parcel vesting
12 in the purchaser or transferee of the property, the purchaser or
13 transferee shall be subject to any local governmental land use
14 entitlement approval requirements and to Chapter 3 (commencing
15 with Section 21100) to Chapter 6 (commencing with Section
16 21165), inclusive, of Division 13 of the Public Resources Code,
17 except as provided in Section 11011.1.

18 (2) If the disposition of a parcel of surplus state real property,
19 pursuant to Section 11011.1, is not made on an “as is” basis and
20 close of escrow is contingent on the satisfaction of a local
21 governmental land use entitlement approval requirement or
22 compliance by the local government with Chapter 3 (commencing
23 with Section 21100) to Chapter 6 (commencing with Section
24 21165), inclusive, of Division 13 of the Public Resources Code,
25 the execution of the purchase and sale agreement or of the exchange
26 agreement by all parties to the agreement shall be exempt from
27 Chapter 3 (commencing with Section 21100) to Chapter 6
28 (commencing with Section 21165), inclusive, of Division 13 of
29 the Public Resources Code.

30 (3) For the purposes of this subdivision, “disposition” means
31 the sale, exchange, sale combined with an exchange, or transfer
32 of a parcel of surplus state property.

33 (l) For land that the Department of General Services has
34 determined is not needed by any other state agency pursuant to
35 subdivision (e), the department shall request authorization to
36 dispose of no less than 10 percent of the land on an annual basis
37 pursuant to Section 11011.1.

38 (m) Notwithstanding local zoning designations, surplus land
39 that the department has disposed of shall be permitted for a
40 residential use if 100 percent of the residential units, except for

1 the units occupied by onsite management staff, are sold or rented
2 at an affordable housing cost, as defined in Section 50052.5 of the
3 Health and Safety Code, or affordable rent, as defined in Section
4 50053 of the Health and Safety Code, to lower income households,
5 as defined in Section 50079.5 of the Health and Safety Code.

6 (n) The department shall make every effort to conclude the
7 pending disposition of surplus land that it has received
8 authorization to dispose of within 24 months of the date the sale,
9 exchange, or transfer of land was approved by the department.

10 (o) As used in this section, “governmental operations” means
11 land that is being used for the express purpose of agency work or
12 operations, including utility sites, watershed property, land being
13 used for conservation purposes, and buffer sites near sensitive
14 governmental uses, including, but not limited to, wastewater
15 treatment plants.

16 ~~SEC. 2. Section 11011.1 of the Government Code is amended~~
17 ~~to read:~~

18 ~~11011.1. (a) Notwithstanding any other provision of law,~~
19 ~~except Article 8.5 (commencing with Section 54235) of Chapter~~
20 ~~5 of Part 1 of Division 2 of Title 5, the disposal of surplus state~~
21 ~~real property by the Department of General Services shall be~~
22 ~~subject to the requirements of this section. For purposes of this~~
23 ~~section, “surplus state real property” means real property declared~~
24 ~~surplus by the Legislature and directed to be disposed of by the~~
25 ~~Department of General Services, including any real property~~
26 ~~previously declared surplus by the Legislature but not yet disposed~~
27 ~~of by the Department of General Services prior to the enactment~~
28 ~~of this section.~~

29 ~~(b) (1) The department may dispose of surplus state real~~
30 ~~property by sale, lease, exchange, a sale combined with an~~
31 ~~exchange, or other manner of disposition of property, as authorized~~
32 ~~by the Legislature, subject to this section.~~

33 ~~(2) The Legislature finds and declares that the provision of~~
34 ~~decent housing for all Californians is a state goal of the highest~~
35 ~~priority. The disposal of surplus state real property is a direct and~~
36 ~~substantial public purpose of statewide concern and will serve an~~
37 ~~important public purpose, including mitigating the environmental~~
38 ~~effects of state activities. Therefore, it is the intent of the~~
39 ~~Legislature that priority be given, as specified in this section, to~~
40 ~~the disposal of surplus state real property to housing for persons~~

1 and families of low or moderate income, where land is suitable
2 for housing and there is a need for housing in the community.

3 ~~(3) The department shall send, before disposing of surplus~~
4 ~~property or participating in negotiations to dispose of surplus~~
5 ~~property, a written notice of availability of the property to all of~~
6 ~~the following entities:~~

7 ~~(A) A written notice of availability for the purpose of developing~~
8 ~~low- and moderate-income housing, as defined in Section 50079~~
9 ~~of the Health and Safety Code, to both of the following:~~

10 ~~(i) Any local public entity within whose jurisdiction the surplus~~
11 ~~land is located.~~

12 ~~(ii) A housing sponsor, as defined by Section 50074 of the~~
13 ~~Health and Safety Code, that has notified the department of its~~
14 ~~interest in surplus land for the purpose of developing low- and~~
15 ~~moderate-income housing.~~

16 ~~(B) A written notice of availability for open-space purposes to~~
17 ~~all of the following:~~

18 ~~(i) Any park or recreation department of any city within which~~
19 ~~the land may be situated.~~

20 ~~(ii) Any park or recreation department of the county within~~
21 ~~which the land is situated.~~

22 ~~(iii) Any regional park authority having jurisdiction within the~~
23 ~~area in which the land is situated.~~

24 ~~(iv) The Natural Resources Agency or any agency that may~~
25 ~~succeed to its powers.~~

26 ~~(C) A written notice of availability of land suitable for school~~
27 ~~facilities construction or use by a school district for open-space~~
28 ~~purposes to any school district in whose jurisdiction the land is~~
29 ~~located.~~

30 ~~(D) A written notice of availability for the purpose of developing~~
31 ~~property located within an infill opportunity zone designated~~
32 ~~pursuant to Section 65088.4 or within an area covered by a transit~~
33 ~~village plan adopted pursuant to the Transit Village Development~~
34 ~~Planning Act of 1994 (Article 8.5 (commencing with Section~~
35 ~~65460) of Chapter 3 of Division 1 of Title 7) to any county, city,~~
36 ~~city and county, successor agency to a former redevelopment~~
37 ~~agency, public transportation agency, or housing authority within~~
38 ~~whose jurisdiction the surplus land is located.~~

39 ~~(4) The entity or association desiring to purchase or lease the~~
40 ~~surplus land for any of the purposes authorized by this section~~

1 shall notify the department in writing of its interest in purchasing
2 or leasing the land within 60 days after receipt of the notice of
3 availability of the land pursuant to paragraph (3).

4 (5) The department shall send all notices of availability by
5 first-class mail and, if possible, by electronic mail, and shall include
6 in that notice the location and a description of the property.

7 (6) An entity proposing to use the surplus land for developing
8 low- and moderate-income housing shall agree to make available
9 not less than 25 percent of the total number of units developed on
10 the parcels at an affordable housing cost, as defined in Section
11 50052.5 of the Health and Safety Code, or affordable rent, as
12 defined in Section 50053 of the Health and Safety Code, to lower
13 income households, as defined in Section 50079.5 of the Health
14 and Safety Code. Rental units shall remain affordable to, and
15 occupied by, lower income households for a period of at least 55
16 years. The initial occupants of all ownership units shall be lower
17 income households, and the units shall be subject to an equity
18 sharing agreement consistent with paragraph (2) of subdivision
19 (c) of Section 65915. These requirements shall be contained in a
20 covenant or restriction recorded against the surplus land at the time
21 of sale, which shall run with the land and shall be enforceable,
22 against any owner who violates a covenant or restriction and each
23 successor in interest who continues the violation, by any of the
24 following:

25 (A) The department.

26 (B) A resident of a unit subject to this subdivision.

27 (C) A resident association with members who reside in units
28 subject to this subdivision.

29 (D) A former resident of a unit subject to this section who last
30 resided in that unit.

31 (E) An applicant seeking to enforce the covenants or restrictions
32 for a particular unit that is subject to this subdivision, if the
33 applicant conforms to all of the following:

34 (i) Is of low or moderate income, as defined in Section 50093
35 of the Health and Safety Code.

36 (ii) Is able and willing to occupy that particular unit.

37 (iii) Was denied occupancy of that particular unit due to an
38 alleged breach of a covenant or restriction implementing this
39 subdivision.

1 ~~(F) A person on an affordable housing waiting list who is of~~
2 ~~low or moderate income, as defined in Section 50093 of the Health~~
3 ~~and Safety Code, and who is able and willing to occupy a unit~~
4 ~~subject to this subdivision.~~

5 ~~(7) After the department has received notice from the entity~~
6 ~~desiring to purchase or lease the land on terms that comply with~~
7 ~~this subdivision, the department and the entity shall enter into good~~
8 ~~faith negotiations to determine a mutually satisfactory sales price~~
9 ~~and terms or lease terms. If the price or terms cannot be agreed~~
10 ~~upon after a good faith negotiation period of not less than 90 days,~~
11 ~~the land may be disposed of without further regard to this~~
12 ~~subdivision, except that paragraph (10) shall apply.~~

13 ~~(8) Nothing in this subdivision shall preclude a local agency,~~
14 ~~housing authority, or redevelopment agency that purchases land~~
15 ~~from a disposing agency pursuant to this article from reconveying~~
16 ~~the land to a nonprofit or for-profit housing developer for~~
17 ~~development of low- and moderate-income housing as authorized~~
18 ~~under other provisions of law.~~

19 ~~(9) (A) In the event that the department receives a notice of~~
20 ~~interest to purchase or lease of that land from more than one of~~
21 ~~the entities to which notice of available surplus land was given~~
22 ~~pursuant to this subdivision, the department shall give first priority~~
23 ~~to the entity that agrees to use the site for housing that meets the~~
24 ~~requirements of paragraph (6). If the department receives offers~~
25 ~~from more than one entity that agrees to meet the requirements of~~
26 ~~paragraph (6), then the department shall give priority to the entity~~
27 ~~that proposes to provide the greatest number of units that meet the~~
28 ~~requirements of paragraph (6). In the event that more than one~~
29 ~~entity proposes the same number of units that meet the~~
30 ~~requirements of paragraph (6), priority shall be given to the entity~~
31 ~~that proposes the deepest average level of affordability for the~~
32 ~~affordable units. The department may negotiate concurrently with~~
33 ~~all entities that provide notice of interest to purchase or lease land~~
34 ~~for the purpose of developing affordable housing that meets the~~
35 ~~requirements of paragraph (6).~~

36 ~~(B) Notwithstanding subparagraph (A), the department shall~~
37 ~~give first priority to an entity that agrees to use the site for park or~~
38 ~~recreational purposes if the land being offered is already being~~
39 ~~used and will continue to be used for park or recreational purposes,~~

1 or if the land is designated for park and recreational use in the local
2 general plan and will be developed for that purpose.

3 ~~(C) For purposes of this paragraph, “priority” means that the~~
4 ~~department shall negotiate in good faith exclusively with the entity~~
5 ~~in accordance with paragraph (7).~~

6 ~~(10) If the department does not agree to price and terms with~~
7 ~~an entity to which notice of availability of land was given pursuant~~
8 ~~to this subdivision, or if no entity to which a notice of availability~~
9 ~~was given responds to that notice, and 10 or more residential units~~
10 ~~are developed on the property, not less than 15 percent of the total~~
11 ~~number of residential units developed on the parcels shall be sold~~
12 ~~or rented at an affordable housing cost, as defined in Section~~
13 ~~50052.5 of the Health and Safety Code, or affordable rent, as~~
14 ~~defined in Section 50053 of the Health and Safety Code, to lower~~
15 ~~income households, as defined in Section 50079.5 of the Health~~
16 ~~and Safety Code. Rental units shall remain affordable to, and~~
17 ~~occupied by, lower income households for a period of at least 55~~
18 ~~years. The initial occupants of all ownership units shall be lower~~
19 ~~income households, and the units shall be subject to an equity~~
20 ~~sharing agreement consistent with the provisions of paragraph (2)~~
21 ~~of subdivision (c) of Section 65915. The department shall include~~
22 ~~these requirements in a covenant or restriction recorded against~~
23 ~~the surplus land before land use entitlement of the project, and the~~
24 ~~covenant or restriction shall run with the land and shall be~~
25 ~~enforceable, against any owner who violates a covenant or~~
26 ~~restriction and each successor in interest who continues the~~
27 ~~violation, by any of the entities described in subparagraphs (A) to~~
28 ~~(F), inclusive, of paragraph (4).~~

29 ~~(e) Thirty days prior to executing a transaction for a sale, lease,~~
30 ~~exchange, a sale combined with an exchange, or other manner of~~
31 ~~disposition of the surplus state real property for less than fair~~
32 ~~market value or for affordable housing, or as authorized by the~~
33 ~~Legislature, the Director of General Services shall report to the~~
34 ~~chairpersons of the fiscal committees of the Legislature all of the~~
35 ~~following:~~

36 ~~(1) The financial terms of the transaction.~~

37 ~~(2) A comparison of fair market value for the surplus state real~~
38 ~~property and the terms listed in paragraph (1).~~

39 ~~(3) The basis for agreeing to terms and conditions other than~~
40 ~~fair market value.~~

1 ~~(d) As to surplus state real property sold or exchanged pursuant~~
2 ~~to this section, the director shall except and reserve to the state all~~
3 ~~mineral deposits, as described in Section 6407 of the Public~~
4 ~~Resources Code, together with the right to prospect for, mine, and~~
5 ~~remove the deposits. If, however, the director determines that there~~
6 ~~is little or no potential for mineral deposits, the reservation may~~
7 ~~be without surface right of entry above a depth of 500 feet, or the~~
8 ~~rights to prospect for, mine, and remove the deposits shall be~~
9 ~~limited to those areas of the surplus state real property conveyed~~
10 ~~that the director determines to be reasonably necessary for the~~
11 ~~removal of the deposits.~~

12 ~~(e) The failure to comply with this section, except for~~
13 ~~subdivision (d), shall not invalidate the transfer or conveyance of~~
14 ~~surplus state real property to a purchaser for value.~~

15 ~~(f) For purposes of this section, fair market value is established~~
16 ~~by an appraisal and economic evaluation conducted by the~~
17 ~~department or approved by the department.~~

18 ~~SEC. 3.~~

19 *SEC. 2.* Section 54220 of the Government Code is amended
20 to read:

21 54220. (a) The Legislature reaffirms its declaration that
22 housing is of vital statewide importance to the health, safety, and
23 welfare of the residents of this state and that provision of a decent
24 home and a suitable living environment for every Californian is a
25 priority of the highest order. The Legislature further declares that
26 a shortage of sites available for housing for persons and families
27 of low and moderate income is a barrier to addressing urgent
28 statewide housing needs and that surplus government land, prior
29 to disposition, should be made available for that purpose.

30 (b) The Legislature reaffirms its belief that there is an
31 identifiable deficiency in the amount of land available for
32 recreational purposes and that surplus land, prior to disposition,
33 should be made available for park and recreation purposes or for
34 open-space purposes. This article shall not apply to surplus
35 residential property as defined in Section 54236.

36 (c) The Legislature reaffirms its declaration of the importance
37 of appropriate planning and development near transit stations, to
38 encourage the clustering of housing and commercial development
39 around such stations. Studies of transit ridership in California
40 indicate that a higher percentage of persons who live or work

1 within walking distance of major transit stations utilize the transit
2 system more than those living elsewhere, and that lower income
3 households are more likely to use transit when living near a major
4 transit station than higher income households. The sale or lease of
5 surplus land at less than fair market value to facilitate the creation
6 of affordable housing near transit is consistent with goals and
7 objectives to achieve optimal transportation use. The Legislature
8 also notes that the Federal Transit Administration gives priority
9 for funding of rail transit proposals to areas that are implementing
10 higher density, mixed-use, and affordable development near major
11 transit stations.

12 ~~SEC. 4.~~

13 *SEC. 3.* Section 54221 of the Government Code is amended
14 to read:

15 54221. As used in this article, the following definitions shall
16 apply:

17 (a) (1) “Local agency” means every city, whether organized
18 under general law or by charter, county, city and county, district,
19 including school, sewer, water, utility, and local and regional park
20 districts of any kind or class, joint powers authority, successor
21 agency to a former redevelopment agency, housing authority, or
22 other political subdivision of this state and any instrumentality
23 thereof that is empowered to acquire and hold real property.

24 (2) The Legislature finds and declares that the term “district”
25 as used in paragraph (7) includes all districts within the state,
26 including, but not limited to, all special districts, sewer, water,
27 utility, and local and regional park districts, and any other political
28 subdivision of this state that is a district, and therefore the changes
29 in paragraph (1) made by the act adding this paragraph that specify
30 that the provisions of this article apply to all districts, including
31 school, sewer, water, utility, and local and regional park districts
32 of any kind or class, are declaratory of, and not a change in,
33 existing law.

34 (b) “Surplus land” means land owned by any local agency that
35 is not necessary for the agency’s governmental operations. Land
36 shall be presumed to be “surplus land” when a local agency initiates
37 an action to dispose of it. “Surplus land” includes land held in the
38 Community Redevelopment Property Trust Fund pursuant to
39 Section 34191.4 of the Health and Safety Code and land that has
40 been designated in the long-range property management plan

1 pursuant to Section 34191.5 of the Health and Safety Code, either
2 for sale or for retention, for future development and that was not
3 subject to an exclusive negotiating agreement or legally binding
4 agreement to dispose of the land. Exclusive negotiating agreements
5 or other agreements or contracts for land held in the Community
6 Redevelopment Property Trust Fund shall be subject to this article.

7 (c) “Governmental operations” means land that is being used
8 for the express purpose of agency work or operations, including
9 utility sites, watershed property, land being used for conservation
10 purposes, and buffer sites near sensitive governmental uses,
11 including, but not limited to, waste water treatment plants.

12 (d) “Open-space purposes” means the use of land for public
13 recreation, enjoyment of scenic beauty, or conservation or use of
14 natural resources.

15 (e) “Persons and families of low or moderate income” has the
16 same meaning as provided in Section 50093 of the Health and
17 Safety Code.

18 (f) (1) Except as provided in paragraph (2), “exempt surplus
19 land” means any of the following:

20 (A) Surplus land that is transferred pursuant to Section 25539.4.

21 (B) Surplus land that is (i) less than 5,000 square feet in area,
22 (ii) less than the minimum legal residential building lot size for
23 the jurisdiction in which the parcel is located, or 5,000 square feet
24 in area, whichever is less, or (iii) has no record access and is less
25 than 10,000 square feet in area; and is not contiguous to land owned
26 by a state or local agency that is used for open-space or low- and
27 moderate-income housing purposes. If the surplus land is not sold
28 to an owner of contiguous land, it is not considered exempt surplus
29 land and is subject to this article.

30 (C) Surplus land held by the local agency for the express purpose
31 of exchange for another property necessary for its governmental
32 operations.

33 (D) Surplus land held by the local agency for the express
34 purpose of transfer to another local agency for its governmental
35 operations.

36 (E) Surplus land that is put out to open, competitive bid by a
37 local agency, provided all entities identified in subdivision (a) of
38 Section 54222 will be invited to participate in the competitive bid
39 process, for either of the following purposes:

1 (i) A housing development, which may have ancillary
2 commercial ground floor uses, that restricts 100 percent of the
3 residential units to persons and families of low or moderate income,
4 with at least 75 percent of the residential units restricted to lower
5 income households, as defined in Section 50079.5 of the Health
6 and Safety Code, with an affordable sales price or an affordable
7 rent, as defined in Sections 50052.5 or 50053 of the Health and
8 Safety Code, for a minimum of 55 years, and in no event shall the
9 maximum affordable sales price or rent level be higher than 20
10 percent below the median market rents or sales prices for the
11 neighborhood in which the site is located.

12 (ii) A mixed-use development that is more than one acre in area,
13 that includes not less than 300 housing units, and that restricts at
14 least 25 percent of the residential units to lower income households,
15 as defined in Section 50079.5 of the Health and Safety Code, with
16 an affordable sales price or an affordable rent, as defined in
17 Sections 50052.5 and 50053 of the Health and Safety Code, for a
18 minimum of 55 years.

19 (F) Surplus land that is subject to legal restrictions that would
20 make housing prohibited or incompatible on the site due to state
21 or federal statutes, voter-approved measures, or other legal
22 restrictions that are not imposed by the local agency. Existing
23 zoning alone is not a legal restriction that would make housing
24 prohibited or incompatible. Nothing in this article limits a local
25 agency's jurisdiction or discretion regarding land use, zoning, or
26 entitlement decisions in connection with surplus land.

27 (2) Notwithstanding paragraph (1), a written notice of the
28 availability of surplus land for open-space purposes shall be sent
29 to the entities described in subdivision (b) of Section 54222 prior
30 to disposing of the surplus land if the land is any of the following:

31 (A) Within a coastal zone.

32 (B) Adjacent to a historical unit of the State Parks System.

33 (C) Listed on, or determined by the State Office of Historic
34 Preservation to be eligible for, the National Register of Historic
35 Places.

36 (D) Within the Lake Tahoe region as defined in Section 66905.5.

37 ~~SEC. 5.~~

38 *SEC. 4.* Section 54222 of the Government Code is amended
39 to read:

1 54222. Any local agency disposing of surplus land shall send,
2 prior to disposing of that property or participating in negotiations
3 to dispose of that property, a written notice of availability of the
4 property to all of the following entities:

5 (a) ~~A~~ *If the surplus land is located in an urbanized area, a*
6 *written notice of availability for the purpose of developing low-*
7 *and moderate-income housing shall be sent to any local public*
8 *entity, as defined in Section 50079 of the Health and Safety Code,*
9 *within whose jurisdiction the surplus land is located. Housing*
10 *sponsors, as defined by Section 50074 of the Health and Safety*
11 *Code, that have notified the applicable regional council of*
12 *governments or, in the case of a local agency without a council of*
13 *governments, the Department of Housing and Community*
14 *Development, of their interest in surplus land shall be sent a written*
15 *notice of availability of surplus land for the purpose of developing*
16 *low- and moderate-income housing. All notices shall be sent by*
17 *first-class mail and, if possible, by electronic mail, and shall include*
18 *the location and a description of the property.*

19 (b) A written notice of availability for open-space purposes shall
20 be sent:

21 (1) To any park or recreation department of any city within
22 which the land may be situated.

23 (2) To any park or recreation department of the county within
24 which the land is situated.

25 (3) To any regional park authority having jurisdiction within
26 the area in which the land is situated.

27 (4) To the State Resources Agency or any agency that may
28 succeed to its powers.

29 (c) A written notice of availability of land suitable for school
30 facilities construction or use by a school district for open-space
31 purposes shall be sent to any school district in whose jurisdiction
32 the land is located.

33 (d) A written notice of availability for the purpose of developing
34 property located within an infill opportunity zone designated
35 pursuant to Section 65088.4 or within an area covered by a transit
36 village plan adopted pursuant to the Transit Village Development
37 Planning Act of 1994 (Article 8.5 (commencing with Section
38 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any
39 county, city, city and county, successor agency to a former

1 redevelopment agency, public transportation agency, or housing
2 authority within whose jurisdiction the surplus land is located.

3 (e) The entity or association desiring to purchase or lease the
4 surplus land for any of the purposes authorized by this section
5 shall notify in writing the disposing agency of its interest in
6 purchasing or leasing the land within 60 days after receipt of the
7 agency's notice of availability of the land.

8 ~~SEC. 6.~~

9 *SEC. 5.* Section 54222.3 of the Government Code is amended
10 to read:

11 54222.3. This article shall not apply to the disposal of exempt
12 surplus land as defined in Section 54221 by an agency of the state
13 or any local agency.

14 ~~SEC. 7.~~

15 *SEC. 6.* Section 54223 of the Government Code is amended
16 to read:

17 54223. After the disposing agency has received notice from
18 the entity desiring to purchase or lease the land on terms that
19 comply with this article, the disposing agency and the entity shall
20 enter into good faith negotiations to determine a mutually
21 satisfactory sales price and terms or lease terms. If the price or
22 terms cannot be agreed upon after a good faith negotiation period
23 of not less than 90 days, the land may be disposed of without
24 further regard to this article, except that Section 54233 shall apply.
25 Negotiations shall be limited to sales price and lease terms,
26 including the amount and timing of any payments.

27 ~~SEC. 8.~~

28 *SEC. 7.* Section 54225 of the Government Code is amended
29 to read:

30 54225. (a) Any public agency disposing of surplus land to an
31 entity described in Section 54222 for park or recreation purposes,
32 for open-space purposes, for school purposes, or for low- and
33 moderate-income housing purposes may provide for a payment
34 period of up to 20 years in any contract of sale or sale by trust deed
35 for the land. The payment period for surplus land disposed of for
36 housing for persons and families of low and moderate income may
37 exceed 20 years, but the payment period shall not exceed the term
38 that the land is required to be used for low- or moderate-income
39 housing.

1 (b) Notwithstanding local zoning designations, any surplus land
2 disposed of by a public agency shall be permitted for residential
3 use if 100 percent of the units, except for units occupied by onsite
4 management staff, are sold or rented at an affordable housing cost,
5 as defined in Section 50052.5 of the Health and Safety Code, or
6 affordable rent, as defined in Section 50053 of the Health and
7 Safety Code, to lower income households, as defined in Section
8 50079.5 of the Health and Safety Code. This subdivision shall not
9 apply to exempt surplus land or surplus land that is ineligible for
10 any public financing for affordable housing.

11 ~~SEC. 9.~~

12 *SEC. 8.* Section 54226 of the Government Code is amended
13 to read:

14 54226. This article shall not be interpreted to limit the power
15 of any local agency to dispose of surplus land at fair market value
16 or at less than fair market value, and any disposal at or less than
17 fair market value consistent with this article shall not be construed
18 as inconsistent with an agency's purpose. No provision of this
19 article shall be applied when it conflicts with any other provision
20 of statutory law.

21 ~~SEC. 10.~~

22 *SEC. 9.* Section 54227 of the Government Code is amended
23 to read:

24 54227. (a) In the event that any local agency disposing of
25 surplus land receives a notice of interest to purchase or lease of
26 that land from more than one of the entities to which notice of
27 available surplus land was given pursuant to this article, the local
28 agency shall give first priority to the entity that agrees to use the
29 site for housing that meets the requirements of Section 54222.5.
30 If the local agency receives offers from more than one entity that
31 agrees to meet the requirements of Section 54222.5, then the local
32 agency shall give priority to the entity that proposes to provide the
33 greatest number of units that meet the requirements of Section
34 54222.5. In the event that more than one entity proposes the same
35 number of units that meet the requirements of Section 54222.5,
36 priority shall be given to the entity that proposes the deepest
37 average level of affordability for the affordable units. A local
38 agency may negotiate concurrently with all entities that provide
39 notice of interest to purchase or lease land for the purpose of

1 developing affordable housing that meets the requirements of
2 Section 54222.5.

3 (b) Notwithstanding subdivision (a), first priority shall be given
4 to an entity that agrees to use the site for park or recreational
5 purposes if the land being offered is already being used and will
6 continue to be used for park or recreational purposes, or if the land
7 is designated for park and recreational use in the local general plan
8 and will be developed for that purpose.

9 (c) For purposes of this section, “priority” means that the local
10 agency shall negotiate in good faith exclusively with the entity in
11 accordance with Section 54223.

12 ~~SEC. 11.~~

13 *SEC. 10.* Section 54230 of the Government Code is amended
14 to read:

15 54230. (a) (1) On or before December 31 of each year, each
16 local agency shall make a central inventory of all surplus
17 governmental property located in *all urbanized areas within* the
18 jurisdiction of the local agency that the local agency or any of its
19 departments, agencies, or authorities owns or controls to determine
20 what land, if any, is in excess of its foreseeable needs for its
21 governmental operations.

22 (2) A local agency shall make a description of each parcel found
23 to be in excess of the needs and the present use of the parcel a
24 matter of public record and shall report this information to the
25 Department of Housing and Community Development no later
26 than April 1 of each year, beginning April 1, 2021.

27 (3) A local agency, upon request, shall provide a list of its
28 surplus governmental properties to a citizen, limited dividend
29 corporation, housing corporation, or nonprofit corporation without
30 charge.

31 (b) The Department of Housing and Community Development
32 shall create and maintain a searchable and downloadable public
33 inventory of all publicly owned or controlled lands and their present
34 uses in the state on its internet website, which shall be updated on
35 an annual basis. The inventory shall be available no later than
36 September 30, 2021.

37 ~~SEC. 12.~~

38 *SEC. 11.* Section 54230.5 of the Government Code is amended
39 to read:

1 54230.5. The failure by a local agency to comply with this
2 article shall invalidate the transfer or conveyance of real property
3 to a purchaser or encumbrancer for value, unless the local agency
4 makes an alternative site available subject to Section 54227 that
5 can accommodate an equal or greater number of housing units as
6 the original site whose transfer or conveyance was effected.

7 ~~SEC. 13.~~

8 *SEC. 12.* Section 54233 of the Government Code is amended
9 to read:

10 54233. If the local agency does not agree to price and terms
11 with an entity to which notice of availability of land was given
12 pursuant to this article, or if no entity to which a notice of
13 availability was given pursuant to this article responds to that
14 notice, and 10 or more residential units are developed on the
15 property, not less than 15 percent of the total number of residential
16 units developed on the parcels shall be sold or rented at affordable
17 housing cost, as defined in Section 50052.5 of the Health and
18 Safety Code, or affordable rent, as defined in Section 50053 of the
19 Health and Safety Code, to lower income households, as defined
20 in Section 50079.5 of the Health and Safety Code. Rental units
21 shall remain affordable to, and occupied by, lower income
22 households for a period of at least 55 years. The initial occupants
23 of all ownership units shall be lower income households, and the
24 units shall be subject to an equity sharing agreement consistent
25 with the provisions of paragraph (2) of subdivision (c) of Section
26 65915. These requirements shall be contained in a covenant or
27 restriction recorded against the surplus land prior to land use
28 entitlement of the project, and the covenant or restriction shall run
29 with the land and shall be enforceable, against any owner who
30 violates a covenant or restriction and each successor in interest
31 who continues the violation, by any of the entities described in
32 subdivisions (a) to (f), inclusive, of Section 54222.5.

33 ~~SEC. 14.~~

34 *SEC. 13.* Section 65400 of the Government Code is amended
35 to read:

36 65400. (a) After the legislative body has adopted all or part
37 of a general plan, the planning agency shall do both of the
38 following:

39 (1) Investigate and make recommendations to the legislative
40 body regarding reasonable and practical means for implementing

1 the general plan or element of the general plan, so that it will serve
2 as an effective guide for orderly growth and development,
3 preservation and conservation of open-space land and natural
4 resources, and the efficient expenditure of public funds relating to
5 the subjects addressed in the general plan.

6 (2) Provide by April 1 of each year an annual report to the
7 legislative body, the Office of Planning and Research, and the
8 Department of Housing and Community Development that includes
9 all of the following:

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

11 (B) The progress in meeting its share of regional housing needs
12 determined pursuant to Section 65584 and local efforts to remove
13 governmental constraints to the maintenance, improvement, and
14 development of housing pursuant to paragraph (3) of subdivision
15 (c) of Section 65583.

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

32 The report may include the number of units that have been
33 substantially rehabilitated, converted from nonaffordable to
34 affordable by acquisition, and preserved consistent with the
35 standards set forth in paragraph (2) of subdivision (c) of Section
36 65583.1. The report shall document how the units meet the
37 standards set forth in that subdivision.

38 (C) The number of housing development applications received
39 in the prior year.

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

3 (E) The number of units approved and disapproved in the prior
4 year.

5 (F) The degree to which its approved general plan complies
6 with the guidelines developed and adopted pursuant to Section
7 65040.2 and the date of the last revision to the general plan.

8 (G) A listing of sites rezoned to accommodate that portion of
9 the city's or county's share of the regional housing need for each
10 income level that could not be accommodated on sites identified
11 in the inventory required by paragraph (1) of subdivision (c) of
12 Section 65583 and Section 65584.09. The listing of sites shall also
13 include any additional sites that may have been required to be
14 identified by Section 65863.

15 (H) A listing of sites owned or leased by the city or county that
16 have been sold, leased, or otherwise disposed of in the prior year,
17 and a listing of sites with leases that expired in the prior year. The
18 list shall include the entity to whom each site was transferred and
19 the intended use for the site.

20 (I) The number of net new units of housing, including both
21 rental housing and for-sale housing, that have been issued a
22 completed entitlement, a building permit, or a certificate of
23 occupancy, thus far in the housing element cycle, and the income
24 category, by area median income category, that each unit of
25 housing satisfies. That production report shall, for each income
26 category described in this subparagraph, distinguish between the
27 number of rental housing units and the number of for-sale units
28 that satisfy each income category. The production report shall
29 include, for each entitlement, building permit, or certificate of
30 occupancy, a unique site identifier which must include the
31 assessor's parcel number, but may include street address, or other
32 identifiers.

33 (J) The number of applications submitted pursuant to subdivision
34 (a) of Section 65913.4, the location and the total number of
35 developments approved pursuant to subdivision (b) of Section
36 65913.4, the total number of building permits issued pursuant to
37 subdivision (b) of Section 65913.4, the total number of units
38 including both rental housing and for-sale housing by area median
39 income category constructed using the process provided for in
40 subdivision (b) of Section 65913.4.

1 (K) The Department of Housing and Community Development
2 shall post a report submitted pursuant to this paragraph on its
3 internet website within a reasonable time of receiving the report.

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

24 ~~SEC. 15.~~

25 *SEC. 14.* Section 65583.2 of the Government Code, as amended
26 by Section 3 of Chapter 958 of the Statutes of 2018, is amended
27 to read:

28 65583.2. (a) A city's or county's inventory of land suitable
29 for residential development pursuant to paragraph (3) of
30 subdivision (a) of Section 65583 shall be used to identify sites
31 throughout the community, consistent with paragraph (9) of
32 subdivision (c) of Section 65583, that can be developed for housing
33 within the planning period and that are sufficient to provide for
34 the jurisdiction's share of the regional housing need for all income
35 levels pursuant to Section 65584. As used in this section, "land
36 suitable for residential development" includes all of the sites that
37 meet the standards set forth in subdivisions (c) and (g):

38 (1) Vacant sites zoned for residential use.

39 (2) Vacant sites zoned for nonresidential use that allows
40 residential development.

1 (3) Residentially zoned sites that are capable of being developed
2 at a higher density, including the airspace above sites owned or
3 leased by a city, county, or city and county.

4 (4) Sites zoned for nonresidential use that can be redeveloped
5 for residential use, and for which the housing element includes a
6 program to rezone the site, as necessary, rezoned for, to permit
7 residential use, including sites owned or leased by a city, county,
8 or city and county.

9 (b) The inventory of land shall include all of the following:

10 (1) A listing of properties by assessor parcel number.

11 (2) The size of each property listed pursuant to paragraph (1),
12 and the general plan designation and zoning of each property.

13 (3) For nonvacant sites, a description of the existing use of each
14 property. If a site subject to this paragraph is owned by the city or
15 county, the description shall also include whether there are any
16 plans to dispose of the property during the planning period and
17 how the city or county will comply with Article 8 (commencing
18 with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title
19 5.

20 (4) A general description of any environmental constraints to
21 the development of housing within the jurisdiction, the
22 documentation for which has been made available to the
23 jurisdiction. This information need not be identified on a
24 site-specific basis.

25 (5) (A) A description of existing or planned water, sewer, and
26 other dry utilities supply, including the availability and access to
27 distribution facilities.

28 (B) Parcels included in the inventory must have sufficient water,
29 sewer, and dry utilities supply available and accessible to support
30 housing development or be included in an existing general plan
31 program or other mandatory program or plan, including a program
32 or plan of a public or private entity providing water or sewer
33 service, to secure sufficient water, sewer, and dry utilities supply
34 to support housing development. This paragraph does not impose
35 any additional duty on the city or county to construct, finance, or
36 otherwise provide water, sewer, or dry utilities to parcels included
37 in the inventory.

38 (6) Sites identified as available for housing for above
39 moderate-income households in areas not served by public sewer

1 systems. This information need not be identified on a site-specific
2 basis.

3 (7) A map that shows the location of the sites included in the
4 inventory, such as the land use map from the jurisdiction's general
5 plan, for reference purposes only.

6 (c) Based on the information provided in subdivision (b), a city
7 or county shall determine whether each site in the inventory can
8 accommodate the development of some portion of its share of the
9 regional housing need by income level during the planning period,
10 as determined pursuant to Section 65584. The inventory shall
11 specify for each site the number of units that can realistically be
12 accommodated on that site and whether the site is adequate to
13 accommodate—~~lower-income~~ *lower income* housing,
14 moderate-income housing, or above moderate-income housing. A
15 nonvacant site identified pursuant to paragraph (3) or (4) of
16 subdivision (a) in a prior housing element and a vacant site that
17 has been included in two or more consecutive planning periods
18 that was not approved to develop a portion of the locality's housing
19 need shall not be deemed adequate to accommodate a portion of
20 the housing need for lower income households that must be
21 accommodated in the current housing element planning period
22 unless the site is zoned at residential densities consistent with
23 paragraph (3) of this subdivision and the site is subject to a program
24 in the housing element requiring rezoning within three years of
25 the beginning of the planning period to allow residential use by
26 right for housing developments in which at least 20 percent of the
27 units are affordable to lower income households. A city that is an
28 unincorporated area in a nonmetropolitan county pursuant to clause
29 (ii) of subparagraph (B) of paragraph (3) shall not be subject to
30 the requirements of this subdivision to allow residential use by
31 right. The analysis shall determine whether the inventory can
32 provide for a variety of types of housing, including multifamily
33 rental housing, factory-built housing, mobilehomes, housing for
34 agricultural employees, supportive housing, single-room occupancy
35 units, emergency shelters, and transitional housing. The city or
36 county shall determine the number of housing units that can be
37 accommodated on each site as follows:

38 (1) If local law or regulations require the development of a site
39 at a minimum density, the department shall accept the planning
40 agency's calculation of the total housing unit capacity on that site

1 based on the established minimum density. If the city or county
2 does not adopt a law or regulation requiring the development of a
3 site at a minimum density, then it shall demonstrate how the
4 number of units determined for that site pursuant to this subdivision
5 will be accommodated.

6 (2) The number of units calculated pursuant to paragraph (1)
7 shall be adjusted as necessary, based on the land use controls and
8 site improvements requirement identified in paragraph (5) of
9 subdivision (a) of Section 65583, the realistic development capacity
10 for the site, typical densities of existing or approved residential
11 developments at a similar affordability level in that jurisdiction,
12 and on the current or planned availability and accessibility of
13 sufficient water, sewer, and dry utilities.

14 (A) A site smaller than half an acre shall not be deemed adequate
15 to accommodate lower income housing need unless the locality
16 can demonstrate that sites of equivalent size were successfully
17 developed during the prior planning period for an equivalent
18 number of lower income housing units as projected for the site or
19 unless the locality provides other evidence to the department that
20 the site is adequate to accommodate lower income housing.

21 (B) A site larger than 10 acres shall not be deemed adequate to
22 accommodate lower income housing need unless the locality can
23 demonstrate that sites of equivalent size were successfully
24 developed during the prior planning period for an equivalent
25 number of lower income housing units as projected for the site or
26 unless the locality provides other evidence to the department that
27 the site can be developed as lower income housing. For purposes
28 of this subparagraph, "site" means that portion of a parcel or parcels
29 designated to accommodate lower income housing needs pursuant
30 to this subdivision.

31 (C) A site may be presumed to be realistic for development to
32 accommodate lower income housing need if, at the time of the
33 adoption of the housing element, a development affordable to
34 lower income households has been proposed and approved for
35 development on the site.

36 (3) For the number of units calculated to accommodate its share
37 of the regional housing need for lower income households pursuant
38 to paragraph (2), a city or county shall do either of the following:

39 (A) Provide an analysis demonstrating how the adopted densities
40 accommodate this need. The analysis shall include, but is not

1 limited to, factors such as market demand, financial feasibility, or
2 information based on development project experience within a
3 zone or zones that provide housing for lower income households.

4 (B) The following densities shall be deemed appropriate to
5 accommodate housing for lower income households:

6 (i) For an incorporated city within a nonmetropolitan county
7 and for a nonmetropolitan county that has a micropolitan area:
8 sites allowing at least 15 units per acre.

9 (ii) For an unincorporated area in a nonmetropolitan county not
10 included in clause (i): sites allowing at least 10 units per acre.

11 (iii) For a suburban jurisdiction: sites allowing at least 20 units
12 per acre.

13 (iv) For a jurisdiction in a metropolitan county: sites allowing
14 at least 30 units per acre.

15 (d) For purposes of this section, a metropolitan county,
16 nonmetropolitan county, and nonmetropolitan county with a
17 micropolitan area shall be as determined by the United States
18 Census Bureau. A nonmetropolitan county with a micropolitan
19 area includes the following counties: Del Norte, Humboldt, Lake,
20 Mendocino, Nevada, Tehama, and Tuolumne and other counties
21 as may be determined by the United States Census Bureau to be
22 nonmetropolitan counties with micropolitan areas in the future.

23 (e) (1) Except as provided in paragraph (2), a jurisdiction shall
24 be considered suburban if the jurisdiction does not meet the
25 requirements of clauses (i) and (ii) of subparagraph (B) of
26 paragraph (3) of subdivision (c) and is located in a Metropolitan
27 Statistical Area (MSA) of less than 2,000,000 in population, unless
28 that jurisdiction's population is greater than 100,000, in which
29 case it shall be considered metropolitan. A county, not including
30 the City and County of San Francisco, shall be considered suburban
31 unless the county is in an MSA of 2,000,000 or greater in
32 population in which case the county shall be considered
33 metropolitan.

34 (2) (A) (i) Notwithstanding paragraph (1), if a county that is
35 in the San Francisco-Oakland-Fremont California MSA has a
36 population of less than 400,000, that county shall be considered
37 suburban. If this county includes an incorporated city that has a
38 population of less than 100,000, this city shall also be considered
39 suburban. This paragraph shall apply to a housing element revision
40 cycle, as described in subparagraph (A) of paragraph (3) of

1 subdivision (e) of Section 65588, that is in effect from July 1,
2 2014, to December 31, 2028, inclusive.

3 (ii) A county subject to this subparagraph shall utilize the sum
4 existing in the county's housing trust fund as of June 30, 2013, for
5 the development and preservation of housing affordable to low- and
6 very low income households.

7 (B) A jurisdiction that is classified as suburban pursuant to this
8 paragraph shall report to the Assembly Committee on Housing
9 and Community Development, the Senate Committee on
10 ~~Transportation and~~ Housing, and the Department of Housing and
11 Community Development regarding its progress in developing
12 low- and very low income housing consistent with the requirements
13 of Section 65400. The report shall be provided three times: once,
14 on or before December 31, 2019, which report shall address the
15 initial four years of the housing element cycle, a second time, on
16 or before December 31, 2023, which report shall address the
17 subsequent four years of the housing element cycle, and a third
18 time, on or before December 31, 2027, which report shall address
19 the subsequent four years of the housing element cycle and the
20 cycle as a whole. The reports shall be provided consistent with the
21 requirements of Section 9795.

22 (f) A jurisdiction shall be considered metropolitan if the
23 jurisdiction does not meet the requirements for "suburban area"
24 above and is located in an MSA of 2,000,000 or greater in
25 population, unless that jurisdiction's population is less than 25,000
26 in which case it shall be considered suburban.

27 (g) (1) For sites described in paragraph (3) of subdivision (b),
28 the city or county shall specify the additional development potential
29 for each site within the planning period and shall provide an
30 explanation of the methodology used to determine the development
31 potential. The methodology shall consider factors including the
32 extent to which existing uses may constitute an impediment to
33 additional residential development, the city's or county's past
34 experience with converting existing uses to higher density
35 residential development, the current market demand for the existing
36 use, an analysis of any existing leases or other contracts that would
37 perpetuate the existing use or prevent redevelopment of the site
38 for additional residential development, development trends, market
39 conditions, and regulatory or other incentives or standards to
40 encourage additional residential development on these sites.

1 (2) In addition to the analysis required in paragraph (1), when
2 a city or county is relying on nonvacant sites described in paragraph
3 (3) of subdivision (b) to accommodate 50 percent or more of its
4 housing need for lower income households, the methodology used
5 to determine additional development potential shall demonstrate
6 that the existing use identified pursuant to paragraph (3) of
7 subdivision (b) does not constitute an impediment to additional
8 residential development during the period covered by the housing
9 element. An existing use shall be presumed to impede additional
10 residential development, absent findings based on substantial
11 evidence that the use is likely to be discontinued during the
12 planning period.

13 (3) Notwithstanding any other law, and in addition to the
14 requirements in paragraphs (1) and (2), sites that currently have
15 residential uses, or within the past five years have had residential
16 uses that have been vacated or demolished, that are or were subject
17 to a recorded covenant, ordinance, or law that restricts rents to
18 levels affordable to persons and families of low or very low
19 income, subject to any other form of rent or price control through
20 a public entity's valid exercise of its police power, or occupied by
21 low or very low income households, shall be subject to a policy
22 requiring the replacement of all those units affordable to the same
23 or lower income level as a condition of any development on the
24 site. Replacement requirements shall be consistent with those set
25 forth in paragraph (3) of subdivision (c) of Section 65915.

26 (h) The program required by subparagraph (A) of paragraph (1)
27 of subdivision (c) of Section 65583 shall accommodate 100 percent
28 of the need for housing for very low and low-income households
29 allocated pursuant to Section 65584 for which site capacity has
30 not been identified in the inventory of sites pursuant to paragraph
31 (3) of subdivision (a) on sites that shall be zoned to permit
32 owner-occupied and rental multifamily residential use by right for
33 developments in which at least 20 percent of the units are
34 affordable to lower income households during the planning period.
35 These sites shall be zoned with minimum density and development
36 standards that permit at least 16 units per site at a density of at
37 least 16 units per acre in jurisdictions described in clause (i) of
38 subparagraph (B) of paragraph (3) of subdivision (c), shall be at
39 least 20 units per acre in jurisdictions described in clauses (iii) and
40 (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and

1 shall meet the standards set forth in subparagraph (B) of paragraph
 2 (5) of subdivision (b). At least 50 percent of the very low and
 3 low-income housing need shall be accommodated on sites
 4 designated for residential use and for which nonresidential uses
 5 or mixed uses are not permitted, except that a city or county may
 6 accommodate all of the very low and low-income housing need
 7 on sites designated for mixed uses if those sites allow 100 percent
 8 residential use and require that residential use occupy 50 percent
 9 of the total floor area of a mixed-use project.

10 (i) For purposes of this section and Section 65583, the phrase
 11 “use by right” shall mean that the local government’s review of
 12 the owner-occupied or multifamily residential use may not require
 13 a conditional use permit, planned unit development permit, or other
 14 discretionary local government review or approval that would
 15 constitute a “project” for purposes of Division 13 (commencing
 16 with Section 21000) of the Public Resources Code. Any subdivision
 17 of the sites shall be subject to all laws, including, but not limited
 18 to, the local government ordinance implementing the Subdivision
 19 Map Act. A local ordinance may provide that “use by right” does
 20 not exempt the use from design review. However, that design
 21 review shall not constitute a “project” for purposes of Division 13
 22 (commencing with Section 21000) of the Public Resources Code.
 23 Use by right for all rental multifamily residential housing shall be
 24 provided in accordance with subdivision (f) of Section 65589.5.

25 (j) Notwithstanding any other provision of this section, within
 26 one-half mile of a Sonoma-Marín Area Rail Transit station, housing
 27 density requirements in place on June 30, 2014, shall apply.

28 (k) For purposes of subdivisions (a) and (b), the department
 29 shall provide guidance to local governments to properly survey,
 30 detail, and account for sites listed pursuant to Section 65585.

31 (l) This section shall remain in effect only until December 31,
 32 2028, and as of that date is repealed.

33 ~~SEC. 16.~~

34 *SEC. 15.* Section 65583.2 of the Government Code, as amended
 35 by Section 4 of Chapter 958 of the Statutes of 2018, is amended
 36 to read:

37 65583.2. (a) A city’s or county’s inventory of land suitable
 38 for residential development pursuant to paragraph (3) of
 39 subdivision (a) of Section 65583 shall be used to identify sites
 40 throughout the community, consistent with paragraph (9) of

1 subdivision (c) of Section 65583, that can be developed for housing
2 within the planning period and that are sufficient to provide for
3 the jurisdiction's share of the regional housing need for all income
4 levels pursuant to Section 65584. As used in this section, "land
5 suitable for residential development" includes all of the sites that
6 meet the standards set forth in subdivisions (c) and (g):

7 (1) Vacant sites zoned for residential use.

8 (2) Vacant sites zoned for nonresidential use that allows
9 residential development.

10 (3) Residentially zoned sites that are capable of being developed
11 at a higher density, and sites owned or leased by a city, county, or
12 city and county.

13 (4) Sites zoned for nonresidential use that can be redeveloped
14 for residential use, and for which the housing element includes a
15 program to rezone the sites, as necessary, to permit residential use,
16 including sites owned or leased by a city, county, or city and
17 county.

18 (b) The inventory of land shall include all of the following:

19 (1) A listing of properties by assessor parcel number.

20 (2) The size of each property listed pursuant to paragraph (1),
21 and the general plan designation and zoning of each property.

22 (3) For nonvacant sites, a description of the existing use of each
23 property. If a site subject to this paragraph is owned by the city or
24 county, the description shall also include whether there are any
25 plans to dispose of the property during the planning period and
26 how the city or county will comply with Article 8 (commencing
27 with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title
28 5.

29 (4) A general description of any environmental constraints to
30 the development of housing within the jurisdiction, the
31 documentation for which has been made available to the
32 jurisdiction. This information need not be identified on a
33 site-specific basis.

34 (5) (A) A description of existing or planned water, sewer, and
35 other dry utilities supply, including the availability and access to
36 distribution facilities.

37 (B) Parcels included in the inventory must have sufficient water,
38 sewer, and dry utilities supply available and accessible to support
39 housing development or be included in an existing general plan
40 program or other mandatory program or plan, including a program

1 or plan of a public or private entity providing water or sewer
2 service, to secure sufficient water, sewer, and dry utilities supply
3 to support housing development. This paragraph does not impose
4 any additional duty on the city or county to construct, finance, or
5 otherwise provide water, sewer, or dry utilities to parcels included
6 in the inventory.

7 (6) Sites identified as available for housing for above
8 moderate-income households in areas not served by public sewer
9 systems. This information need not be identified on a site-specific
10 basis.

11 (7) A map that shows the location of the sites included in the
12 inventory, such as the land use map from the jurisdiction's general
13 plan for reference purposes only.

14 (c) Based on the information provided in subdivision (b), a city
15 or county shall determine whether each site in the inventory can
16 accommodate the development of some portion of its share of the
17 regional housing need by income level during the planning period,
18 as determined pursuant to Section 65584. The inventory shall
19 specify for each site the number of units that can realistically be
20 accommodated on that site and whether the site is adequate to
21 accommodate—~~lower-income~~ *lower income* housing,
22 moderate-income housing, or above moderate-income housing. A
23 nonvacant site identified pursuant to paragraph (3) or (4) of
24 subdivision (a) in a prior housing element and a vacant site that
25 has been included in two or more consecutive planning periods
26 that was not approved to develop a portion of the locality's housing
27 need shall not be deemed adequate to accommodate a portion of
28 the housing need for lower income households that must be
29 accommodated in the current housing element planning period
30 unless the site is zoned at residential densities consistent with
31 paragraph (3) of this subdivision and the site is subject to a program
32 in the housing element requiring rezoning within three years of
33 the beginning of the planning period to allow residential use by
34 right for housing developments in which at least 20 percent of the
35 units are affordable to lower income households. A city that is an
36 unincorporated area in a nonmetropolitan county pursuant to clause
37 (ii) of subparagraph (B) of paragraph (3) shall not be subject to
38 the requirements of this subdivision to allow residential use by
39 right. The analysis shall determine whether the inventory can
40 provide for a variety of types of housing, including multifamily

1 rental housing, factory-built housing, mobilehomes, housing for
2 agricultural employees, supportive housing, single-room occupancy
3 units, emergency shelters, and transitional housing. The city or
4 county shall determine the number of housing units that can be
5 accommodated on each site as follows:

6 (1) If local law or regulations require the development of a site
7 at a minimum density, the department shall accept the planning
8 agency's calculation of the total housing unit capacity on that site
9 based on the established minimum density. If the city or county
10 does not adopt a law or regulation requiring the development of a
11 site at a minimum density, then it shall demonstrate how the
12 number of units determined for that site pursuant to this subdivision
13 will be accommodated.

14 (2) The number of units calculated pursuant to paragraph (1)
15 shall be adjusted as necessary, based on the land use controls and
16 site improvements requirement identified in paragraph (5) of
17 subdivision (a) of Section 65583, the realistic development capacity
18 for the site, typical densities of existing or approved residential
19 developments at a similar affordability level in that jurisdiction,
20 and on the current or planned availability and accessibility of
21 sufficient water, sewer, and dry utilities.

22 (A) A site smaller than half an acre shall not be deemed adequate
23 to accommodate lower income housing need unless the locality
24 can demonstrate that sites of equivalent size were successfully
25 developed during the prior planning period for an equivalent
26 number of lower income housing units as projected for the site or
27 unless the locality provides other evidence to the department that
28 the site is adequate to accommodate lower income housing.

29 (B) A site larger than 10 acres shall not be deemed adequate to
30 accommodate lower income housing need unless the locality can
31 demonstrate that sites of equivalent size were successfully
32 developed during the prior planning period for an equivalent
33 number of lower income housing units as projected for the site or
34 unless the locality provides other evidence to the department that
35 the site can be developed as lower income housing. For purposes
36 of this subparagraph, "site" means that portion of a parcel or parcels
37 designated to accommodate lower income housing needs pursuant
38 to this subdivision.

39 (C) A site may be presumed to be realistic for development to
40 accommodate lower income housing need if, at the time of the

1 adoption of the housing element, a development affordable to
2 lower income households has been proposed and approved for
3 development on the site.

4 (3) For the number of units calculated to accommodate its share
5 of the regional housing need for lower income households pursuant
6 to paragraph (2), a city or county shall do either of the following:

7 (A) Provide an analysis demonstrating how the adopted densities
8 accommodate this need. The analysis shall include, but is not
9 limited to, factors such as market demand, financial feasibility, or
10 information based on development project experience within a
11 zone or zones that provide housing for lower income households.

12 (B) The following densities shall be deemed appropriate to
13 accommodate housing for lower income households:

14 (i) For an incorporated city within a nonmetropolitan county
15 and for a nonmetropolitan county that has a micropolitan area:
16 sites allowing at least 15 units per acre.

17 (ii) For an unincorporated area in a nonmetropolitan county not
18 included in clause (i): sites allowing at least 10 units per acre.

19 (iii) For a suburban jurisdiction: sites allowing at least 20 units
20 per acre.

21 (iv) For a jurisdiction in a metropolitan county: sites allowing
22 at least 30 units per acre.

23 (d) For purposes of this section, a metropolitan county,
24 nonmetropolitan county, and nonmetropolitan county with a
25 micropolitan area shall be as determined by the United States
26 Census Bureau. A nonmetropolitan county with a micropolitan
27 area includes the following counties: Del Norte, Humboldt, Lake,
28 Mendocino, Nevada, Tehama, and Tuolumne and other counties
29 as may be determined by the United States Census Bureau to be
30 nonmetropolitan counties with micropolitan areas in the future.

31 (e) A jurisdiction shall be considered suburban if the jurisdiction
32 does not meet the requirements of clauses (i) and (ii) of
33 subparagraph (B) of paragraph (3) of subdivision (c) and is located
34 in a Metropolitan Statistical Area (MSA) of less than 2,000,000
35 in population, unless that jurisdiction's population is greater than
36 100,000, in which case it shall be considered metropolitan. A
37 county, not including the City and County of San Francisco, shall
38 be considered suburban unless the county is in an MSA of
39 2,000,000 or greater in population in which case the county shall
40 be considered metropolitan.

1 (f) A jurisdiction shall be considered metropolitan if the
2 jurisdiction does not meet the requirements for “suburban area”
3 above and is located in an MSA of 2,000,000 or greater in
4 population, unless that jurisdiction’s population is less than 25,000
5 in which case it shall be considered suburban.

6 (g) (1) For sites described in paragraph (3) of subdivision (b),
7 the city or county shall specify the additional development potential
8 for each site within the planning period and shall provide an
9 explanation of the methodology used to determine the development
10 potential. The methodology shall consider factors including the
11 extent to which existing uses may constitute an impediment to
12 additional residential development, the city’s or county’s past
13 experience with converting existing uses to higher density
14 residential development, the current market demand for the existing
15 use, an analysis of any existing leases or other contracts that would
16 perpetuate the existing use or prevent redevelopment of the site
17 for additional residential development, development trends, market
18 conditions, and regulatory or other incentives or standards to
19 encourage additional residential development on these sites.

20 (2) In addition to the analysis required in paragraph (1), when
21 a city or county is relying on nonvacant sites described in paragraph
22 (3) of subdivision (b) to accommodate 50 percent or more of its
23 housing need for lower income households, the methodology used
24 to determine additional development potential shall demonstrate
25 that the existing use identified pursuant to paragraph (3) of
26 subdivision (b) does not constitute an impediment to additional
27 residential development during the period covered by the housing
28 element. An existing use shall be presumed to impede additional
29 residential development, absent findings based on substantial
30 evidence that the use is likely to be discontinued during the
31 planning period.

32 (3) Notwithstanding any other law, and in addition to the
33 requirements in paragraphs (1) and (2), sites that currently have
34 residential uses, or within the past five years have had residential
35 uses that have been vacated or demolished, that are or were subject
36 to a recorded covenant, ordinance, or law that restricts rents to
37 levels affordable to persons and families of low or very low
38 income, subject to any other form of rent or price control through
39 a public entity’s valid exercise of its police power, or occupied by
40 low or very low income households, shall be subject to a policy

1 requiring the replacement of all those units affordable to the same
2 or lower income level as a condition of any development on the
3 site. Replacement requirements shall be consistent with those set
4 forth in paragraph (3) of subdivision (c) of Section 65915.

5 (h) The program required by subparagraph (A) of paragraph (1)
6 of subdivision (c) of Section 65583 shall accommodate 100 percent
7 of the need for housing for very low and low-income households
8 allocated pursuant to Section 65584 for which site capacity has
9 not been identified in the inventory of sites pursuant to paragraph
10 (3) of subdivision (a) on sites that shall be zoned to permit
11 owner-occupied and rental multifamily residential use by right for
12 developments in which at least 20 percent of the units are
13 affordable to lower income households during the planning period.
14 These sites shall be zoned with minimum density and development
15 standards that permit at least 16 units per site at a density of at
16 least 16 units per acre in jurisdictions described in clause (i) of
17 subparagraph (B) of paragraph (3) of subdivision (c), shall be at
18 least 20 units per acre in jurisdictions described in clauses (iii) and
19 (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and
20 shall meet the standards set forth in subparagraph (B) of paragraph
21 (5) of subdivision (b). At least 50 percent of the very low and
22 low-income housing need shall be accommodated on sites
23 designated for residential use and for which nonresidential uses
24 or mixed uses are not permitted, except that a city or county may
25 accommodate all of the very low and low-income housing need
26 on sites designated for mixed uses if those sites allow 100 percent
27 residential use and require that residential use occupy 50 percent
28 of the total floor area of a mixed uses project.

29 (i) For purposes of this section and Section 65583, the phrase
30 “use by right” shall mean that the local government’s review of
31 the owner-occupied or multifamily residential use may not require
32 a conditional use permit, planned unit development permit, or other
33 discretionary local government review or approval that would
34 constitute a “project” for purposes of Division 13 (commencing
35 with Section 21000) of the Public Resources Code. Any subdivision
36 of the sites shall be subject to all laws, including, but not limited
37 to, the local government ordinance implementing the Subdivision
38 Map Act. A local ordinance may provide that “use by right” does
39 not exempt the use from design review. However, that design
40 review shall not constitute a “project” for purposes of Division 13

1 (commencing with Section 21000) of the Public Resources Code.
2 Use by right for all rental multifamily residential housing shall be
3 provided in accordance with subdivision (f) of Section 65589.5.

4 (j) For purposes of subdivisions (a) and (b), the department shall
5 provide guidance to local governments to properly survey, detail,
6 and account for sites listed pursuant to Section 65585.

7 (k) This section shall become operative on December 31, 2028.

8 ~~SEC. 17.~~

9 *SEC. 16.* Section 65585 of the Government Code is amended
10 to read:

11 65585. (a) In the preparation of its housing element, each city
12 and county shall consider the guidelines adopted by the department
13 pursuant to Section 50459 of the Health and Safety Code. Those
14 guidelines shall be advisory to each city or county in the
15 preparation of its housing element.

16 (b) (1) At least 90 days prior to adoption of its housing element,
17 or at least 60 days prior to the adoption of an amendment to this
18 element, the planning agency shall submit a draft element or draft
19 amendment to the department.

20 (2) The planning agency staff shall collect and compile the
21 public comments regarding the housing element received by the
22 city, county, or city and county, and provide these comments to
23 each member of the legislative body before it adopts the housing
24 element.

25 (3) The department shall review the draft and report its written
26 findings to the planning agency within 90 days of its receipt of the
27 draft in the case of an adoption or within 60 days of its receipt in
28 the case of a draft amendment.

29 (c) In the preparation of its findings, the department may consult
30 with any public agency, group, or person. The department shall
31 receive and consider any written comments from any public
32 agency, group, or person regarding the draft or adopted element
33 or amendment under review.

34 (d) In its written findings, the department shall determine
35 whether the draft element or draft amendment substantially
36 complies with this article.

37 (e) Prior to the adoption of its draft element or draft amendment,
38 the legislative body shall consider the findings made by the
39 department. If the department's findings are not available within

1 the time limits set by this section, the legislative body may act
2 without them.

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

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

8 (2) Adopt the draft element or draft amendment without changes.
9 The legislative body shall include in its resolution of adoption
10 written findings which explain the reasons the legislative body
11 believes that the draft element or draft amendment substantially
12 complies with this article despite the findings of the department.

13 (g) Promptly following the adoption of its element or
14 amendment, the planning agency shall submit a copy to the
15 department.

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

19 (i) (1) (A) The department shall review any action or failure
20 to act by the city, county, or city and county that it determines is
21 inconsistent with an adopted housing element or Section 65583,
22 including any failure to implement any program actions included
23 in the housing element pursuant to Section 65583. The department
24 shall issue written findings to the city, county, or city and county
25 as to whether the action or failure to act substantially complies
26 with this article, and provide a reasonable time no longer than 30
27 days for the city, county, or city and county to respond to the
28 findings before taking any other action authorized by this section,
29 including the action authorized by subparagraph (B).

30 (B) If the department finds that the action or failure to act by
31 the city, county, or city and county does not substantially comply
32 with this article, and if it has issued findings pursuant to this section
33 that an amendment to the housing element substantially complies
34 with this article, the department may revoke its findings until it
35 determines that the city, county, or city and county has come into
36 compliance with this article.

37 (2) The department may consult with any local government,
38 public agency, group, or person, and shall receive and consider
39 any written comments from any public agency, group, or person,
40 regarding the action or failure to act by the city, county, or city

1 and county described in paragraph (1), in determining whether the
2 housing element substantially complies with this article.

3 (j) The department shall notify the city, county, or city and
4 county and may notify the Office of the Attorney General that the
5 city, county, or city and county is in violation of state law if the
6 department finds that the housing element or an amendment to this
7 element, or any action or failure to act described in subdivision
8 (i), does not substantially comply with this article or that any local
9 government has taken an action in violation of the following:

10 (1) Housing Accountability Act (Section 65589.5 of the
11 Government Code).

12 (2) Section 65863 of the Government Code.

13 (3) Chapter 4.3 (commencing with Section 65915) of Division
14 1 of Title 7 of the Government Code.

15 (4) Section 65008 of the Government Code.

16 (5) Article 8 (commencing with Section 54220) of Chapter 5
17 of Part 1 of Division 2 of Title 5 of the Government Code.

18 ~~SEC. 18.~~

19 *SEC. 17.* If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

AMENDED IN ASSEMBLY MAY 6, 2019
AMENDED IN ASSEMBLY APRIL 30, 2019
AMENDED IN ASSEMBLY APRIL 11, 2019
AMENDED IN ASSEMBLY MARCH 28, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1516

Introduced by Assembly Member Friedman

February 22, 2019

An act to amend Sections 23010, 51182, and 51186 of the Government Code, and to amend Sections 4291, 4740, and 4741 of, and to add Sections 4291.2 and 4295.6 to, the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 1516, as amended, Friedman. Fire prevention: defensible space and fuels reduction management.

(1) Existing law requires the Director of Forestry and Fire Protection to identify areas in the state as very high fire hazard severity zones based on specified criteria and the severity of the fire hazard. Existing law requires that a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure,

as specified. A repeated violation within a specified timeframe of those requirements is a crime.

This bill would require a person described above to utilize more intense fuel reductions between 5 and 30 feet around the structure, and to create a noncombustible zone within 5 feet of the structure. Because a violation of these provisions would be a crime or expand the scope of an existing crime, the bill would impose a state-mandated local program.

This bill would require each local agency having jurisdiction of property upon which conditions that are regulated by the defensible space provisions described above to annually report to the Department of Forestry and Fire Protection the number of inspections, enforcement actions, and estimated compliance rates with those provisions for the property within its jurisdiction. By imposing additional reporting requirements on local agencies, the bill would impose a state-mandated local program.

This bill would require each local agency having jurisdiction of property upon which conditions that are regulated by the defensible space provisions described above and the Department of Forestry and Fire Protection to make reasonable efforts to provide notice to affected residents of the above requirements before imposing penalties for a violation of those requirements.

This bill would require the Department of Forestry and Fire Protection to ~~(A)~~ (A) *commencing January 1, 2021*, ensure the inspection of each known structure within a state responsibility area at least once every 3 years, (B) periodically review and provide spot checks of *compliance with defensible space requirements* ~~compliance~~ in areas where contract counties enforce those requirements within a state responsibility area or within a very high fire hazard severity zone designated by a local agency, *area*, (C) provide biannual training to applicable local officials on defensible space inspections, and (D) take all feasible steps to improve compliance with defensible space requirements.

This bill, in addition to other penalties in existing law, would subject a person, including a landowner, who is determined by the Department of Forestry and Fire Protection to be in violation of those defensible space requirements within a state responsibility area to an administrative civil penalty in an amount not to exceed the greater of \$500 or the cost to perform or contract for the work necessary to comply with those requirements, as provided. If a person fails to pay a penalty imposed by the department pursuant these provisions, the bill would authorize

the department to record a lien on the property in the amount of the penalty assessed by the department, and would provide that, upon recordation, the lien shall have the force, effect, and priority of a judgment lien. The bill would establish the Defensible Space Penalty Fund in the State Treasury and would require penalties collected pursuant to these provisions to be deposited into that fund and to be expended, upon appropriation by the Legislature, for fire prevention work conducted by the department.

(2) Existing law requires the Department of Forestry and Fire Protection to develop, periodically update, and post on its internet website a guidance document on fuels management for purposes of very high fire hazard severity zones, as designated by a local agency, and requires the guidance document to include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species.

This bill would limit these native species, for purposes of the guidance document, to those that are fire resistant or drought tolerant, or both.

(3) Existing law provides that the Director of Forestry and Fire Protection may authorize the removal of vegetation that is not consistent with specified standards regarding defensible space, as provided.

This bill would require the director to, where necessary and feasible, use members of the California Conservation Corps, a local conservation corps, a resource conservation district, fire safe councils, or other entities deemed appropriate by the director to remove that vegetation.

(4) Existing law requires a person that owns, controls, operates, or maintains an electrical transmission or distribution line upon mountainous land, or in forest-covered land, brush-covered land, or grass-covered land, to maintain certain clearances between all vegetation and all conductors that are carrying electric current during those times and in those areas determined to be necessary by the Director of Forestry and Fire Protection or the agency with primary responsibility for the fire protection of those areas. A violation of this provision and other specified provisions relating to fire prevention requirements is a crime.

This bill would require the Department of Forestry and Fire Protection and the Public Utilities Commission, on or before January 31, 2021, to develop a guidebook of tree and shrub species that, if planted in the vicinity of electrical transmission and distribution lines, cannot encroach within 10 feet of overhead conductors at any time, and would require the guidebook to contain recommended native vegetation to plant in the vicinity of electrical transmission and distribution lines and towers

that provides habitat benefits. The bill would require the department, the Public Utilities Commission, an electrical corporation, and a local publicly owned electric utility to make available on their respective internet websites the above-described guidebook. The bill would prohibit landowners, on or after January 31, 2021, from planting tree species in the vicinity of electrical transmission and distribution lines that have not been identified in, or in a location that would be inconsistent with, the provisions of that guidebook. The bill would prohibit landowners, on or after January 31, 2021, from planting vegetation, or failing to remove volunteer vegetation, near electrical transmission and distribution lines and towers that can encroach within 10 feet of overhead conductors at any time. Because a violation of those prohibitions on landowners would be a crime, the bill would impose a state-mandated local program.

This bill would provide that any person who owns, controls, operates, or maintains any electrical transmission or distribution line, the Public Utilities Commission, or the Department of Forestry and Fire Protection, after providing notice and an opportunity to be heard to the landowner, is authorized to access properties in which vegetation has been planted, or volunteer vegetation has not been removed, in violation of those prohibitions on landowners for purposes of removing that vegetation at the landowner's expense.

This bill would specify that the above provisions apply in both a high fire threat district, as determined by the Public Utilities Commission, and a state responsibility area.

(5) Existing law sets forth findings and declarations of the Legislature relating to the benefits of the state's expertise in wildland fire prevention and vegetation management on forest, range, and watershed lands.

This bill would revise those findings and declarations of the Legislature.

(6) Existing law requires the Department of Forestry and Fire Protection to assist local governments in preventing future wildland fire and vegetation management problems by making its wildland fire prevention and vegetation management expertise available to local governments to the extent possible within the department's budgetary limitations.

This bill instead would require the department to assist local governments in preventing future high intensity wildland fires and instituting appropriate fuels management by making its wildland fire prevention and vegetation management expertise and dedicated fuels

reduction crews available to local governments to the extent possible within the department's budgetary limitations. The bill would explicitly define, for these purposes, "local governments" to include cities, counties, special districts, and water and electrical utilities. The bill would authorize the department to establish a cost-share or in-kind contribution requirement for any fuel reduction work conducted pursuant to these provisions, and would require the department to explore opportunities to use its dedicated fuel reduction crews for areas in proximity to common ignition sources, including, but not limited to, roadways, electrical infrastructure, and campgrounds.

(7) Existing law authorizes a county, by resolution, to loan moneys to certain local and regional districts to enable those districts to perform their functions and meet their obligations.

This bill would include a resource conservation district as a district eligible for a loan from a county.

(8) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 23010 of the Government Code is
2 amended to read:
3 23010. (a) Pursuant to a resolution adopted by its board of
4 supervisors, a county may lend any of its available funds to any
5 community services district, county waterworks district, mosquito
6 abatement district, pest abatement district, fire protection district,
7 flood control and water conservation district, recreation and park
8 district, resource conservation district, regional park district,
9 regional park and open-space district, regional open-space district,
10 resort improvement district, or public cemetery district located
11 wholly within the county, if its funds are or when available will

1 be in the custody of the county or any officer of the county, in
2 order to enable the district to perform its functions and meet its
3 obligations. The loan shall not exceed 85 percent of the district's
4 anticipated revenue for the fiscal year in which it is made or for
5 the next ensuing fiscal year, and shall be repaid out of that revenue
6 before the payment of any other obligation of the district.

7 (b) (1) Pursuant to a resolution adopted by its board of
8 supervisors, a county may loan any of its available funds to a
9 special district, in order to enable the district to perform its
10 functions and meet its obligations. The loan shall not exceed 85
11 percent of the special district's anticipated property tax revenue
12 projected to be generated for the fiscal year in which it is made or
13 for the next ensuing fiscal year within that portion of the district's
14 territory that is located within the county. The loan shall be repaid
15 out of any available revenue of the special district before the
16 payment of any other obligation of the district.

17 (2) For purposes of this subdivision, "special district" means a
18 special district, as defined in Section 54775, that is located in more
19 than one county.

20 (c) (1) The board of supervisors may borrow funds from the
21 county or from other garbage disposal districts, not to exceed 85
22 percent of the district's anticipated revenue for the fiscal year in
23 which they are borrowed or for the next ensuing fiscal year. In
24 levying taxes or prescribing and collecting fees or charges as
25 authorized by this division, the board of supervisors may raise
26 sufficient revenues to repay the loans.

27 (2) The board of supervisors may lend available district funds
28 to another garbage disposal district, subject to the terms and
29 conditions set forth in this section.

30 (3) Nothing contained in this section shall prohibit the board of
31 supervisors from borrowing funds from banks or other financial
32 institutions when the best interests of the district are served thereby.

33 (d) Notwithstanding any other law, funds, when borrowed by
34 a garbage disposal district pursuant to subdivision (c), shall
35 forthwith increase the appropriations of the district for which they
36 are needed. The governing body of the entity from which the funds
37 are borrowed may specify the date and manner in which the funds
38 shall be repaid. The loan shall not exceed 85 percent of the
39 district's anticipated revenue for the fiscal year in which it is made

1 or for the next ensuing fiscal year, and shall be repaid out of that
2 revenue before the payment of any other obligation of the district.

3 (e) The district shall pay interest on all funds borrowed from
4 the county at the same rate that the county applies to funds of the
5 district on deposit with the county.

6 SEC. 2. Section 51182 of the Government Code is amended
7 to read:

8 51182. (a) A person who owns, leases, controls, operates, or
9 maintains an occupied dwelling or occupied structure in, upon, or
10 adjoining a mountainous area, forest-covered land, brush-covered
11 land, grass-covered land, or land that is covered with flammable
12 material, which area or land is within a very high fire hazard
13 severity zone designated by the local agency pursuant to Section
14 51179, shall at all times do all of the following:

15 (1) (A) Maintain defensible space of 100 feet from each side
16 and from the front and rear of the structure, but not beyond the
17 property line except as provided in subparagraph (B). The amount
18 of fuel modification necessary shall take into account the
19 flammability of the structure as affected by building material,
20 building standards, location, and type of vegetation. Fuels shall
21 be maintained in a condition so that a wildfire burning under
22 average weather conditions would be unlikely to ignite the
23 structure. This subparagraph does not apply to single specimens
24 of trees or other vegetation that are well-pruned and maintained
25 so as to effectively manage fuels and not form a means of rapidly
26 transmitting fire from other nearby vegetation to a structure or
27 from a structure to other nearby vegetation. The intensity of fuels
28 management may vary within the 100-foot perimeter of the
29 structure, with more intense fuel reductions being utilized between
30 5 and 30 feet around the structure, and a noncombustible zone
31 being required within 5 feet of the structure. Consistent with fuels
32 management objectives, steps should be taken to minimize erosion.

33 (B) A greater distance than that required under subparagraph
34 (A) may be required by state law, local ordinance, rule, or
35 regulation. Clearance beyond the property line may only be
36 required if the state law, local ordinance, rule, or regulation
37 includes findings that the clearing is necessary to significantly
38 reduce the risk of transmission of flame or heat sufficient to ignite
39 the structure, and there is no other feasible mitigation measure
40 possible to reduce the risk of ignition or spread of wildfire to the

1 structure. Clearance on adjacent property shall only be conducted
2 following written consent by the adjacent landowner.

3 (C) An insurance company that insures an occupied dwelling
4 or occupied structure may require a greater distance than that
5 required under subparagraph (A) if a fire expert, designated by the
6 fire chief or fire official from the authority having jurisdiction,
7 provides findings that the clearing is necessary to significantly
8 reduce the risk of transmission of flame or heat sufficient to ignite
9 the structure, and there is no other feasible mitigation measure
10 possible to reduce the risk of ignition or spread of wildfire to the
11 structure. The greater distance may not be beyond the property
12 line unless allowed by state law, local ordinance, rule, or regulation.

13 (2) Remove that portion of a tree that extends within 10 feet of
14 the outlet of a chimney or stovepipe.

15 (3) Maintain a tree, shrub, or other plant adjacent to or
16 overhanging a building free of dead or dying wood.

17 (4) Maintain the roof of a structure free of leaves, needles, or
18 other vegetative materials.

19 (5) Before constructing a new dwelling or structure that will be
20 occupied or rebuilding an occupied dwelling or occupied structure
21 damaged by a fire in that zone, the construction or rebuilding of
22 which requires a building permit, the owner shall obtain a
23 certification from the local building official that the dwelling or
24 structure, as proposed to be built, complies with all applicable state
25 and local building standards, including those described in
26 subdivision (b) of Section 51189, and shall provide a copy of the
27 certification, upon request, to the insurer providing course of
28 construction insurance coverage for the building or structure. Upon
29 completion of the construction or rebuilding, the owner shall obtain
30 from the local building official, a copy of the final inspection report
31 that demonstrates that the dwelling or structure was constructed
32 in compliance with all applicable state and local building standards,
33 including those described in subdivision (b) of Section 51189, and
34 shall provide a copy of the report, upon request, to the property
35 insurance carrier that insures the dwelling or structure.

36 (b) A person is not required under this section to manage fuels
37 on land if that person does not have the legal right to manage fuels,
38 nor is a person required to enter upon or to alter property that is
39 owned by any other person without the consent of the owner of
40 the property.

1 (c) (1) The Department of Forestry and Fire Protection shall
2 develop, periodically update, and post on its internet website a
3 guidance document on fuels management pursuant to this chapter.
4 The guidance document shall include, but not be limited to,
5 regionally appropriate vegetation management suggestions that
6 preserve and restore native species that are fire resistant or drought
7 tolerant, or both, minimize erosion, minimize water consumption,
8 and permit trees near homes for shade, aesthetics, and habitat; and
9 suggestions to minimize or eliminate the risk of flammability of
10 nonvegetative sources of combustion such as woodpiles, propane
11 tanks, decks, and outdoor lawn furniture.

12 (2) On or before January 1, 2022, the Department of Forestry
13 and Fire Protection shall update the guidance document to include
14 suggestions for creating a noncombustible zone within five feet
15 of a structure.

16 SEC. 3. Section 51186 of the Government Code is amended
17 to read:

18 51186. (a) The local agency having jurisdiction of property
19 upon which conditions regulated by Section 51182 are being
20 violated shall notify the owner of the property to correct the
21 conditions. If the owner fails to correct the conditions, the local
22 agency may cause the corrections to be made, and the expenses
23 incurred shall become a lien on the property that is the subject of
24 the corrections when recorded in the county recorder's office in
25 the county in which the real property is located. The priority of
26 the lien shall be as of the date of recording. The lien shall contain
27 the legal description of the real property, the assessor's parcel
28 number, and the name of the owner of record as shown on the
29 latest equalized assessment roll.

30 (b) (1) Each local agency having jurisdiction of property upon
31 which conditions that are regulated by Section 51182 shall annually
32 report to the Department of Forestry and Fire Protection the number
33 of inspections, enforcement actions, and estimated compliance
34 rates with Section 51182 for the property within its jurisdiction.

35 (2) The Department of Forestry and Fire Protection shall make
36 the data described in paragraph (1) publicly available on its internet
37 website.

38 (c) (1) Each local agency having jurisdiction of property upon
39 which conditions that are regulated by Section 51182 shall make
40 reasonable efforts to provide notice to affected residents within

1 the jurisdiction of the local agency describing the requirements
2 added by the amendments to paragraph (1) of subdivision (a) of
3 Section 51182 made in Assembly Bill 1516 of the 2019–20 Regular
4 Session before the imposition of penalties for violating those
5 requirements.

6 (2) The requirement for a noncombustible zone pursuant to
7 Section 51182 shall not take effect until the Department of Forestry
8 and Fire Protection updates the guidance document pursuant to
9 paragraph (2) of subdivision (c) of Section 51182.

10 SEC. 4. Section 4291 of the Public Resources Code is amended
11 to read:

12 4291. (a) A person who owns, leases, controls, operates, or
13 maintains a building or structure in, upon, or adjoining a
14 mountainous area, forest-covered lands, brush-covered lands,
15 grass-covered lands, or land that is covered with flammable
16 material, shall at all times do all of the following:

17 (1) (A) Maintain defensible space of 100 feet from each side
18 and from the front and rear of the structure, but not beyond the
19 property line, except as provided in subparagraph (B). The amount
20 of fuel modification necessary shall take into account the
21 flammability of the structure as affected by building material,
22 building standards, location, and type of vegetation. Fuels shall
23 be maintained in a condition so that a wildfire burning under
24 average weather conditions would be unlikely to ignite the
25 structure. This subparagraph does not apply to single specimens
26 of trees or other vegetation that are well-pruned and maintained
27 so as to effectively manage fuels and not form a means of rapidly
28 transmitting fire from other nearby vegetation to a structure or
29 from a structure to other nearby vegetation. The intensity of fuels
30 management may vary within the 100-foot perimeter of the
31 structure, with more intense fuel reductions being utilized between
32 5 and 30 feet around the structure, and a noncombustible zone
33 being required within 5 feet of the structure. Consistent with fuels
34 management objectives, steps should be taken to minimize erosion.
35 For the purposes of this subparagraph, “fuel” means any
36 combustible material, including petroleum-based products and
37 wildland fuels.

38 (B) A greater distance than that required under subparagraph
39 (A) may be required by state law, local ordinance, rule, or
40 regulation. Clearance beyond the property line may only be

1 required if the state law, local ordinance, rule, or regulation
2 includes findings that the clearing is necessary to significantly
3 reduce the risk of transmission of flame or heat sufficient to ignite
4 the structure, and there is no other feasible mitigation measure
5 possible to reduce the risk of ignition or spread of wildfire to the
6 structure. Clearance on adjacent property shall only be conducted
7 following written consent by the adjacent landowner.

8 (C) An insurance company that insures an occupied dwelling
9 or occupied structure may require a greater distance than that
10 required under subparagraph (A) if a fire expert, designated by the
11 director, provides findings that the clearing is necessary to
12 significantly reduce the risk of transmission of flame or heat
13 sufficient to ignite the structure, and there is no other feasible
14 mitigation measure possible to reduce the risk of ignition or spread
15 of wildfire to the structure. The greater distance may not be beyond
16 the property line unless allowed by state law, local ordinance, rule,
17 or regulation.

18 (2) Remove that portion of a tree that extends within 10 feet of
19 the outlet of a chimney or stovepipe.

20 (3) Maintain a tree, shrub, or other plant adjacent to or
21 overhanging a building free of dead or dying wood.

22 (4) Maintain the roof of a structure free of leaves, needles, or
23 other vegetative materials.

24 (5) Before constructing a new building or structure or rebuilding
25 a building or structure damaged by a fire in an area subject to this
26 section, the construction or rebuilding of which requires a building
27 permit, the owner shall obtain a certification from the local building
28 official that the dwelling or structure, as proposed to be built,
29 complies with all applicable state and local building standards,
30 including those described in subdivision (b) of Section 51189 of
31 the Government Code, and shall provide a copy of the certification,
32 upon request, to the insurer providing course of construction
33 insurance coverage for the building or structure. Upon completion
34 of the construction or rebuilding, the owner shall obtain from the
35 local building official, a copy of the final inspection report that
36 demonstrates that the dwelling or structure was constructed in
37 compliance with all applicable state and local building standards,
38 including those described in subdivision (b) of Section 51189 of
39 the Government Code, and shall provide a copy of the report, upon

1 request, to the property insurance carrier that insures the dwelling
2 or structure.

3 (b) A person is not required under this section to manage fuels
4 on land if that person does not have the legal right to manage fuels,
5 nor is a person required to enter upon or to alter property that is
6 owned by any other person without the consent of the owner of
7 the property.

8 (c) (1) Except as provided in Section 18930 of the Health and
9 Safety Code, the director may adopt regulations exempting a
10 structure with an exterior constructed entirely of nonflammable
11 materials, or, conditioned upon the contents and composition of
12 the structure, the director may vary the requirements respecting
13 the removing or clearing away of flammable vegetation or other
14 combustible growth with respect to the area surrounding those
15 structures.

16 (2) An exemption or variance under paragraph (1) shall not
17 apply unless and until the occupant of the structure, or if there is
18 not an occupant, the owner of the structure, files with the
19 department, in a form as the director shall prescribe, a written
20 consent to the inspection of the interior and contents of the structure
21 to ascertain whether this section and the regulations adopted under
22 this section are complied with at all times.

23 (d) (1) The director may authorize the removal of vegetation
24 that is not consistent with the standards of this section. The director
25 may prescribe a procedure for the removal of that vegetation and
26 make the expense a lien upon the building, structure, or grounds,
27 in the same manner that is applicable to a legislative body under
28 Section 51186 of the Government Code.

29 (2) The director shall, where necessary and feasible, use
30 members of the California Conservation Corps, a local conservation
31 corps, a resource conservation district, fire safe councils, or other
32 entities deemed appropriate by the director to remove vegetation
33 that is not consistent with the standards of this section pursuant to
34 paragraph (1).

35 (e) (1) The department shall develop, periodically update, and
36 post on its internet website a guidance document on fuels
37 management pursuant to this chapter. Guidance shall include, but
38 not be limited to, regionally appropriate vegetation management
39 suggestions that preserve and restore native species that are fire
40 resistant or drought tolerant, or both, minimize erosion, minimize

1 water consumption, and permit trees near homes for shade,
2 aesthetics, and habitat; and suggestions to minimize or eliminate
3 the risk of flammability of nonvegetative sources of combustion
4 such as woodpiles, propane tanks, decks, and outdoor lawn
5 furniture.

6 (2) On or before January 1, 2022, the department shall update
7 the guidance document to include suggestions for creating a
8 noncombustible zone within five feet of a structure.

9 (f) The department shall do all of the following:

10 (1) ~~Ensure Commencing January 1, 2021, ensure~~ the inspection
11 of each known structure within a state responsibility area at least
12 once every three years.

13 (2) Periodically review and provide spot checks of *compliance*
14 *with* defensible space requirements ~~compliance~~ in areas where
15 contract counties enforce this section ~~or in a very high fire hazard~~
16 ~~severity zone designated by a local agency pursuant to Section~~
17 ~~51179 of the Government Code.~~ *section.*

18 (3) Provide biennial training at each of the department's units
19 for applicable local officials on defensible space inspections.

20 (4) Take all feasible steps to improve compliance with this
21 section.

22 (5) Identify the types of vegetation or fuel that are to be excluded
23 from a noncombustible zone based on the probability that
24 vegetation and fuel will lead to ignition of a structure as a part of
25 the update to the guidance document pursuant to paragraph (2) of
26 subdivision (e).

27 (6) (A) Make reasonable efforts to provide notice to affected
28 residents describing the requirements added by the amendments
29 to paragraph (1) of subdivision (a) made in Assembly Bill 1516
30 of the 2019–20 Regular Session before the imposition of penalties
31 for violating those requirements.

32 (B) The requirement for a noncombustible zone pursuant to
33 paragraph (1) of subdivision (a) shall not take effect until the
34 department updates the guidance document pursuant to paragraph
35 (2) of subdivision (e).

36 (g) As used in this section, “person” means a private individual,
37 organization, partnership, limited liability company, or corporation.

38 SEC. 5. Section 4291.2 is added to the Public Resources Code,
39 to read:

1 4291.2. (a) In addition to any other penalties imposed pursuant
2 to this chapter or local ordinance, a person, including a landowner,
3 who is determined to be in violation of Section 4291 is subject to
4 an administrative civil penalty that may be imposed by the
5 department in an amount not to exceed five hundred dollars (\$500)
6 or the cost to perform or contract for the work necessary to comply
7 with Section 4291, whichever is greater.

8 (b) In determining the amount of an administrative civil penalty
9 issued pursuant to this section, the department shall take into
10 account mitigating factors, including the violator's ability to pay.

11 (c) A person shall not be subject to both an administrative civil
12 penalty imposed under this section and monetary civil liability
13 imposed by a superior court in an action by the department for the
14 same act or failure to act. If a person who is assessed a penalty
15 under this section continues to fail to comply with Section 4291,
16 the department may perform or contract for the work necessary to
17 comply with Section 4291 and recover the costs through the
18 imposition of an administrative civil penalty pursuant to this
19 section.

20 (d) If a person fails to pay an administrative civil penalty
21 imposed by the department pursuant to this section, the department
22 may record a lien on the property in the amount of the penalty
23 assessed by the department. Upon recordation, the lien shall have
24 the force, effect, and priority of a judgment lien.

25 (e) In enacting this section, it is the intent of the Legislature to
26 ensure that unintentional, minor violations of Section 4291 will
27 not lead to the imposition of administrative civil penalties if the
28 violator has acted expeditiously to correct the violation.

29 (f) (1) There is hereby established in the State Treasury the
30 Defensible Space Penalty Fund.

31 (2) Administrative civil penalties collected pursuant to this
32 section shall be deposited into the Defensible Space Penalty Fund
33 and, upon appropriation by the Legislature, shall be expended on
34 fire prevention work conducted by the department.

35 (g) This section does not preempt any local ordinance.

36 SEC. 6. Section 4295.6 is added to the Public Resources Code,
37 to read:

38 4295.6. (a) On or after January 31, 2021, landowners shall not
39 plant vegetation, or fail to remove volunteer vegetation, near

1 electrical transmission and distribution lines and towers that can
2 encroach within 10 feet of overhead conductors at any time.

3 (b) (1) On or before January 31, 2021, the department and the
4 Public Utilities Commission, in consultation with any person who
5 owns, controls, operates, or maintains any electrical transmission
6 or distribution lines, shall develop a guidebook of tree and shrub
7 species that, if planted in the vicinity of electrical transmission
8 and distribution lines, cannot encroach within 10 feet of overhead
9 conductors at any time. The guidebook shall also contain
10 recommended native vegetation to plant in the vicinity of electrical
11 transmission and distribution lines and towers that provides habitat
12 benefits. *The department and the Public Utilities Commission may*
13 *use outside expertise, including, but not limited to, existing tree*
14 *selection guides, when developing the guidebook.*

15 (2) (A) The department and the Public Utilities Commission
16 shall make available on their respective internet websites the
17 guidebook described in paragraph (1).

18 (B) An electrical corporation, as defined pursuant to Section
19 218 of the Public Utilities Code, and a local publicly owned electric
20 utility, as defined pursuant to Section 224.3 of the Public Utilities
21 Code, shall make available on their respective internet websites
22 the guidebook described in paragraph (1). A violation of this
23 subparagraph by an electrical corporation or a local publicly owned
24 electric utility shall not be subject to Section 4021.

25 (3) On or after January 31, 2021, landowners shall not plant
26 tree species in the vicinity of electrical transmission and
27 distribution lines that have not been identified in, or in a location
28 that would be inconsistent with, the provisions of the guidebook
29 created pursuant to paragraph (1).

30 (c) Any person who owns, controls, operates, or maintains any
31 electrical transmission or distribution line, the Public Utilities
32 Commission, or the department, after providing notice and an
33 opportunity to be heard to the landowner, shall be authorized to
34 access properties in which vegetation has been planted, or volunteer
35 vegetation has not been removed, in violation of this section for
36 purposes of removing that vegetation at the landowner's expense.

37 (d) This section applies in both of the following areas:

38 (1) A high fire threat district, as determined by the Public
39 Utilities Commission.

40 (2) A state responsibility area.

1 SEC. 7. Section 4740 of the Public Resources Code is amended
2 to read:

3 4740. The Legislature hereby finds and declares all of the
4 following:

5 (a) The department has extensive technical expertise in wildland
6 fire prevention and vegetation management on forest, range, and
7 watershed lands. When appropriately applied, this expertise can
8 have significant public resource benefits, including decreasing
9 high intensity wildland fires, improving watershed management,
10 range improvement, improving vegetation management, forest
11 improvement, wildlife habitat improvement, restoring ecological
12 integrity and resilience, improving community wildfire protection,
13 improving carbon resilience, providing enhancement of culturally
14 important resources, and maintenance of air quality.

15 (b) Because of the scope of the problem of high intensity
16 wildland fires and expertise of the department, local governments,
17 including cities, counties, special districts, and water and electrical
18 utilities, need assistance in preventing future problems resulting
19 from inadequate fire prevention planning and vegetation
20 management.

21 (c) California will benefit if existing state expertise is made
22 available to local governments, including cities, counties, special
23 districts, and water and electrical utilities, thereby integrating those
24 efforts.

25 SEC. 8. Section 4741 of the Public Resources Code is amended
26 to read:

27 4741. (a) In accordance with policies established by the board,
28 the department shall assist local governments in preventing future
29 high intensity wildland fires and instituting appropriate fuels
30 management by making its wildland fire prevention and vegetation
31 management expertise and dedicated fuels reduction crews
32 available to local governments to the extent possible within the
33 department's budgetary limitations.

34 (b) Any department recommendations made pursuant to this
35 article shall be advisory in nature and local governments shall not
36 be required to follow those recommendations.

37 (c) This section does not alter the existing obligations of a local
38 government or affect the existing liability of a local government.

1 (d) The department may establish a cost-share or in-kind
2 contribution requirement for any fuel reduction work conducted
3 pursuant to this article.

4 (e) The department shall explore opportunities to use its
5 dedicated fuel reduction crews for areas in proximity to common
6 ignition sources, including, but not limited to, roadways, electrical
7 infrastructure, and campgrounds.

8 (f) For purposes of this section, “local governments” include
9 cities, counties, special districts, and water and electrical utilities.

10 SEC. 9. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution for certain
12 costs that may be incurred by a local agency or school district
13 because, in that regard, this act creates a new crime or infraction,
14 eliminates a crime or infraction, or changes the penalty for a crime
15 or infraction, within the meaning of Section 17556 of the
16 Government Code, or changes the definition of a crime within the
17 meaning of Section 6 of Article XIII B of the California
18 Constitution.

19 However, if the Commission on State Mandates determines that
20 this act contains other costs mandated by the state, reimbursement
21 to local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.