



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
April 3, 2007

Honorable Members of the
Law and Legislation Committee

**Title: Legislative Position: Oppose SB 303, Relating to Changes to Local
Government Land Use Practices and Housing**

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt an oppose position on Senate Bill 303 (Ducheny) relating to local government land use practices and housing.

Contact: Greg Sandlund, Assistant Planner, (916) 808-8931

Presenter: Greg Sandlund, Assistant Planner, Desmond Parrington, Infill Coordinator

Department: Planning

Division: Long Range Planning

Organization No: 4912

Description/Analysis

Issue: Senate Bill 303, introduced by Senator Ducheny, would require that each element of the General Plan be updated every 10 years. It would also double the planning period for the Regional Housing Need Allocation (RHNA) from 5 years to 10 years and would require all cities and counties, including charter cities, to pre-zone sufficient sites for their housing need every 10 years.

As a result, every single site designated to meet our housing need would have to be analyzed to ensure that the size, configuration, use, physical and environmental characteristics, adjacent uses, market demand, and infrastructure would "realistically accommodate" the planned density of the parcel.

The new legislation would not provide any financial support for the site analysis or the General Plan Update. Staff recommends that the City adopt an oppose position to this bill because this is an expensive mandate that will discourage infill development, encourage sprawl and undercut local control of residential development. The League of California Cities is also encouraging cities to oppose SB 303.

Policy Considerations: The bill would require that the General Plan, and each of its elements be updated every 10 years, except for the Housing Element, which would be updated every 5 years. The City would be routinely required to pre-zone our State-mandated housing (RHNA) need for a 10 year period. Public comment and review would be limited to the initial planning and zoning designations of each site.

Environmental Considerations: None

Committee/Commission Action: None

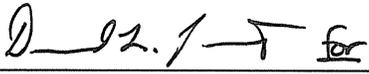
Rationale for Recommendation: Staff recommends opposition of SB 303 for the following reasons:

- While we support the idea of updating a General Plan every ten years, if the State were to mandate such frequent updates for all jurisdictions, it should assist with the funding.
- The State-mandated site inventory and analysis of 10 years of pre-zoned housing development would be a massive and costly undertaking for the City without any financial assistance from the State.
- We do not want to increase development fees to recoup the additional planning costs that the proposed legislation would mandate. Such fees would make housing development more expensive, particularly in infill areas.
- The pre-zoned land would place significant barriers to community participation in the planning process by locking in the planning and zoning of each site for 10 years, allowing only changes consented to by the developer, or through a narrow health and safety finding which may only be adopted by a four-fifths vote.
- SB 303 would create a legal risk to the City by establishing the ability of all developers to collect attorney's fees against the City when they prevail in litigation on these matters, but would provide no compensation to the City if it were to prevail.

Financial Considerations: SB 303 would introduce new State-mandated laws pertaining to land use planning and housing without financial assistance from the State.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Greg Sandlund
Assistant Planner

Approved by: 
Thomas Pace
Long Range Planning Manager

Recommendation Approved:

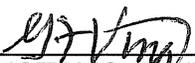

GUSTAVO F. VINA
Assistant City Manager

Table of Contents:

Pg 1 Report

Attachments

- 1 4 Draft Letter of Opposition
- 2 6 California League of Cities Memo on SB 303
- 3 8 Bill Text

Attachment 1- Draft Letter of Opposition

April 3, 2007

Honorable Denise Moreno Ducheny
Member, California State Senate
State Capitol, Room 5035
Sacramento, CA 95814

Subject: Oppose SB 303 (Ducheny) Local Government; Housing.

Dear Senator Ducheny,

I am writing on behalf of the City of Sacramento to inform you that we oppose SB 303. SB 303 doubles the planning period (from 5 to 10 years) for the regional housing needs allocation (RHNA). At the same time, it requires local agencies to pre-zone their housing need for the entire 10 year period. Moreover, it would require that every single site be analyzed to ensure that the size, configuration, use, physical and environmental characteristics, adjacent uses, market demand, and infrastructure will "*realistically accommodate*" the planned density of the parcel.

As a result, each site will have to be visited and surveyed for all of these characteristics. It will be a massive and costly undertaking that results in a lowest-common-denominator focus on housing. Private developers often maintain that in contrast to traditional subdivisions, infill development "does not pencil out." The effect of this bill will be to undercut local and regional efforts to steer housing development to infill areas.

The City of Sacramento is currently updating its General Plan, which will have an emphasis on infill development. As part of the update we will be conducting an infrastructure and finance study to identify ways to pay for the infrastructure needed for future growth within city boundaries. We anticipate the infrastructure improvements to cost more than a billion dollars. If we were mandated to ensure a 10 year housing supply, there would be significant pressure to develop some of our surrounding agricultural lands because improving infrastructure in infill areas is significantly more expensive.

We believe this proposal will trigger significant sprawl, because—unlike the existing housing element process—no time is provided to phase-in the availability of housing sites. Furthermore, no time is provided to address issues related to infill development, to work with LAFCOs on annexation and sphere of influence requirements, infrastructure ability, and other service issues closely related to that development.

While this bill may be well-intended, it applies a flawed approach that fails to appreciate the spectrum of issues that affect land availability. Local governments do not need more

State mandates; they need more funding tools to assist with the development of infrastructure in infill areas and the production of affordable units.

Thank you for your attention concerning the City of Sacramento's opposition to SB 303.
Sincerely,

Sandy Sheedy, Chair
Law and Legislation Committee

Cc: Senator Darrell Steinberg
Senator Dave Cox
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Mayor Fargo and Members of the City Council
David Jones, Emanuels, Jones & Associates

Attachment 2 - CA League of Cities Memo on SB 303

League of California Cities

Page 1 of 2

2007-03-20

League Encourages Cities to Oppose SB 303

Spring is in the air in Sacramento, which means the next round of proposed changes to the Housing Element Law are getting their first look in the State Legislature. The bill that is attracting the most attention is SB 303 (Ducheny), a measure that would overhaul the process in which local agencies must plan for and accommodate their Regional Housing Needs Assessment (RHNA) number.

This Building Industry Association (BIA)-sponsored bill is an attempt to create more certainty in the entitlement process for developers, which in itself may be a worthy policy goal. The bill's approach is flawed, however, because like so many state mandates, SB 303 creates a narrow "one-size-fits-all" solution that will be difficult to unworkable in many cities and counties because it takes the seriously broken existing RHNA process and simply makes it much, much worse.

SB 303 would double the planning period (from five to 10 years) for the RHNA. At the same time, the bill would require local agencies to pre-zone their housing need for the entire 10-year period. In addition, SB 303 would require that every single site be analyzed to ensure that the size, configuration, use, physical and environmental characteristics, adjacent uses, market demand, and infrastructure will "realistically accommodate" the planned density of the parcel.

As a result, each site will have to be visited and surveyed for all of these characteristics. It will be a massive and costly mandate that will make infill housing less feasible in the future because of the higher infrastructure and other public and private costs associated with them. The effect of this bill will be to undercut popular local and regional efforts in recent years to steer housing development to infill areas.

League Position

The League opposes SB 303 because it is an expensive mandate that will discourage infill development, encourage sprawl, and penalize all cities-urban, suburban and rural-and dramatically undercut local control of residential development in the future.

Further, the measure fails to balance this emphasis on housing with other important state and local planning priorities, such as protecting open space and farmland, improving air quality, promoting infill-centered development, manufacturing and high-tech job development and maximizing the investment in existing infrastructure.

Potential Impact of SB 303

Below is a technical summary of SB 303's impact on local governments if passed:

- **Analyze and Pre-Zone 10-Year Supply of Land For Residential Development.** Requires every single site identified for a 10-year supply of land for housing to be analyzed by the local government to ensure that the size, configuration, current use, physical and environmental constraints, access, location, adjacent use?planned availability of infrastructure and services will "realistically accommodate" the density zoned for the parcel.

This will be a massive and costly undertaking. Each site in a community would have to be visited and surveyed for all of the above listed issues. Once analyzed, the 10-year supply will have to be zoned properly for that type of housing development.

- **Encourages Sprawl and Discourages Infill and Transit-Oriented Development (TOD).** Requires the local government to attest that for each site there exists "market demand for the density and type of housing." This will not only be costly, it will also create a lowest-common-denominator focus on housing. Private developers often maintain that infill development "does not pencil out" while traditional subdivisions on the edge of cities do.

This will undercut local and regional efforts to steer housing development to infill areas, promote transit oriented development, and develop and incentivize regional blueprints for guiding growth.

- **Discourages Public Involvement.** Removes opportunities for public comment and review by locking in planning and zoning on each site for 10 years, and allowing only changes consented to by the developer, or through a narrow health or safety finding which may only be adopted by a four-fifths vote. This places significant barriers to community participation in the planning process.

For example, a resident would have needed to be present at a hearing on the adoption of a housing element for the

http://www.cacities.org/story_display.jsp?displaytype=pf&zone=locc§ion=&su... 3/20/2007

entire city to have any voice about a development in their neighborhood. A building could be built in 2018, based upon a public discussion that occurred in 2008.

- **Trial Lawyers Win While Taxpayers Lose.** Establishes the ability of all developers to collect attorney's fees against local agencies when they prevail in litigation on these matters, but provides nothing to the local tax payers when the public agency prevails.

This is a bad precedent that provides significant leverage to private interests over the interests of a community and the taxpayers. SB 303 provides incentives to litigate and can have an intimidating effect especially over small communities which may lack the resources to defend themselves.

- **Forces Increases in Local Development Fees For Planning.** Requires all general plans to be updated every 10 years, but provides no funding to pay for it. A comprehensive update of a local general plan for a small community costs approximately \$500,000, and for larger cities and counties the costs can soar to \$5 million.

That figure does not include the costs of the site-by-site analysis and other requirements of this bill. With 478 cities and 58 counties, the costs imposed by this measure will likely exceed \$500 million.

This legislation states that these costs can be recovered by local governments through fees. While greenfield developers may be able to offset these costs, local governments in urban and infill areas will likely face significant cost burdens on their general funds because of a lack of developer interest in building in their communities due to deteriorated infrastructure, concerns about crime and school quality, and other issues.

- **Prevents Safeguards Against Future Sprawl.** Clarifies that even if all the above sites (10 years worth of sites) are identified and verified and supported by market surveys, and local governments have incurred all the costs to make them available, that nothing in the legislation shall be interpreted to affect existing laws with respect to housing development outside of these areas. This is surely sprawl and growth without limits-which many people believe will contribute to further global warming.

Finally, it should also be noted that housing starts have declined in the last year due to market forces, and home builders are not starting new home construction even when they have all local approvals and permits. Would they do any differently with double the land supply available?

The League remains committed to working with the author and sponsor on incentive-based legislation that will increase certainty for home builders while also increasing the supply of affordable housing. That offer is still on the table, and we hope to have the opportunity to work on housing amendments that will work for home builders, cities and our residents.

For more information and a sample opposition letter on SB 303, visit www.cacities.org/billsearch and look up the measure. Further updates on this legislation will appear in future editions of *Priority Focus*. Questions should be directed to League Legislative Representative Bill Higgins at bhiggins@cacities.org or Legislative Director Dan Carrigg at dcarrigg@cacities.org.

last updated : 3/16/2007

SENATE BILL

No. 303

Introduced by Senator Ducheny

February 16, 2007

An act to amend Sections 65301, 65582, 65583, 65583.2, and 65860 of, to add Sections 65300.1, 65583.3, 65588.2, and 65588.3 to, and to repeal and add Section 65588 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as introduced, Ducheny. Local government: housing.

(1) Existing law, the Planning and Zoning Law, governs the authority for and scope of general plans for local governments.

This bill would state the findings of the Legislature regarding the availability and cost of housing throughout the state.

(2) Existing law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city that addresses a number of elements, as specified. Existing law provides that the general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

This bill would require the general plan, and each of its elements to encompass a planning and projection period of at least 20 years, and would require each element, except for the housing element, to be updated at least every 10 years. This bill would require the housing element to be updated as specified.

(3) Existing law, defines various terms in relation to housing elements.

This bill would define "regional housing need" and "existing and projected housing need" to mean the minimum amount of housing needed over the next 10-year period.

SB 303

— 2 —

(4) Existing law requires the housing element of a general plan to identify and analyze various elements, and include a statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

This bill would require the statement be relative to the maintenance, preservation, improvement, and development of housing for very low, low- and moderate-income households, and for any special housing needs, as specified.

Existing law provides that where the total housing needs identified exceed available resources and the community's ability to satisfy the need within the content of the general plan requirements, as specified, the quantified objectives must establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a 5-year period.

This bill would, instead, require the quantified objectives to estimate the maximum number of housing units for specified categories that can be constructed, rehabilitated, and conserved over a 10-year period.

Existing law requires the housing element to include, among other things, a program that sets forth a 5-year schedule for actions the local government is undertaking, or intends to undertake to implement the policies and achieve the goals and objectives of the housing element, as specified. The program adopted must, among other requirements, identify actions that will be taken to make sites available during the planning period of the general plan, as specified.

This bill would, instead, require the program to identify sites to facilitate and encourage the development of a variety of types of housing for all income levels, as specified, and identify policies and incentives to promote infill development and the efficient uses of land, as specified.

(5) Existing law requires the housing element of a general plan to include an inventory of sites that can be developed for housing within the planning period to accommodate that portion of a city's or county's share of the regional housing need for all income levels, as specified, and requires the city or county to provide an analysis demonstrating how the adopted densities accommodate its share of the regional housing need for lower income households or meet specified densities to accommodate housing for lower income households.

This bill would delete the option to provide an analysis demonstrating how the adopted densities accommodate the city's or county's share of the regional housing need for lower income households and would,

instead, require cities and counties to meet the specified densities to accommodate housing for lower income households.

(6) Existing law requires the housing element of a general plan to include an inventory of sites that can be developed for housing within the planning period to accommodate that portion of a city's or county's share of the regional housing need for all income levels, as specified.

This bill would require the city council or county board of supervisors to designate and zone sites for residential use to accommodate the jurisdiction's 10-year housing need and make findings regarding the designation and zoning, as specified. The bill would also require the city or county to approve projects that are consistent with the designation and zoning on these sites, as specified. By imposing additional duties upon local officials, this bill would create a state-mandated local program.

(7) Existing law requires each local government to review its housing elements as frequently as appropriate to evaluate a number of factors, as specified.

This bill would revise the factors that each local government is required to evaluate in its review of the housing element and would require the housing element to be updated every 5 years. The bill would also specify the date, not yet determined, that specific groups of local governments are required to update the housing elements, notwithstanding the 5-year requirement.

The bill would also provide that the deadlines specified for the amendment of the housing element are mandatory and these modifications are not intended to affect existing law with respect to the planning, use, or development of areas outside the sites designated and zoned for residential use to accommodate the jurisdiction's 10-year housing need.

(8) Existing law requires county and city ordinances to be consistent with the general plan. For a zoning ordinance to be considered consistent with a general plan officially adopted by a county or city, the various land uses authorized by the ordinance must be compatible with the objectives, policies, general land uses and programs specified in the general plan. Existing law also authorizes a resident or property owner within a city or county to bring an action or proceeding to enforce compliance with these provisions within 90 days of the enactment of any new zoning ordinance or the amendment of an existing ordinance. Existing law also applies these provisions to specified charter cities.

SB 303

— 4 —

This bill would require the county or city zoning ordinances to be consistent with the general plan of the county or city by the date of the next housing element update, and thereafter. The bill would revise the factors required for a zoning ordinance to be considered consistent with a general plan to include a requirement for residential uses that the zoning ordinance allows development at the density range specified in the general plan without the need for any additional land use approval that is legislative or quasi-legislative in nature.

The bill would authorize a property owner to bring an action to require that the zoning on its property be made consistent with the general plan without regard to when the zoning ordinance was adopted or amended. The bill would also entitle a prevailing petitioner who brought an action to enforce these provisions to reasonable attorney's fees.

This bill would also declare that these provisions have statewide implications and would apply these provisions to a charter city, charter county, and a charter city and county as well as general law cities and counties.

(9) This bill would make certain declarations concerning the Court of Appeal decision in *Mira Development Corporation of San Diego v. City of San Diego* (1988) 205 Cal.App.3d 1201.

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

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

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

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

- 1 SECTION 1. Section 65300.1 is added to the Government
- 2 Code, to read:
- 3 65300.1. The Legislature finds and declares all of the following:
- 4 (a) The lack of housing is a critical problem that threatens the
- 5 economic prosperity, environment, and quality of life of California
- 6 families.
- 7 (b) The supply and cost of housing throughout the state is
- 8 inextricably linked to the quantity of suitable and available land
- 9 designation and zoned to allow residential development, and for

1 that reason, designating and zoning land for housing is a matter
2 of statewide concern.

3 (c) Local governments shall utilize their land use authority in
4 a manner that accommodates housing needs while meeting the
5 objectives for comprehensive planning set forth in Section 65300.

6 SEC. 2. Section 65301 of the Government Code is amended
7 to read:

8 65301. (a) The general plan shall be so prepared that all or
9 individual elements of it may be adopted by the legislative body,
10 and so that it may be adopted by the legislative body for all or part
11 of the territory of the county or city and such other territory outside
12 its boundaries which in its judgment bears relation to its planning.
13 The general plan may be adopted in any format deemed appropriate
14 or convenient by the legislative body, including the combining of
15 elements. The legislative body may adopt all or part of a plan of
16 another public agency in satisfaction of all or part of the
17 requirements of Section 65302 if the plan of the other public
18 agency is sufficiently detailed and its contents are appropriate, as
19 determined by the legislative body, for the adopting city or county.

20 (b) The general plan may be adopted as a single document or
21 as a group of documents relating to subjects or geographic
22 segments of the planning area. *The general plan, and each of its*
23 *elements shall encompass a planning and projection period of not*
24 *less than 20 years. Each element shall be updated as necessary*
25 *not less than every 10 years, except for the housing element, which*
26 *shall be updated as provided in Article 10.6 (commencing with*
27 *Section 65580).*

28 (c) The general plan shall address each of the elements specified
29 in Section 65302 to the extent that the subject of the element exists
30 in the planning area. The degree of specificity and level of detail
31 of the discussion of each such element shall reflect local conditions
32 and circumstances. However, this section shall not affect the
33 requirements of subdivision (c) of Section 65302, nor be construed
34 to expand or limit the authority of the Department of Housing and
35 Community Development to review housing elements pursuant to
36 Section 50459 of the Health and Safety Code.

37 The requirements of this section shall apply to charter cities.

38 SEC. 3. Section 65582 of the Government Code is amended
39 to read:

40 65582. As used in this article:

SB 303

— 6 —

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

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

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

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

11 (e) "*Regional housing need*" and "*existing and projected*
12 *housing need*" mean the minimum amount of housing needed over
13 *the next 10-year period*.

14 SEC. 4. Section 65583 of the Government Code is amended
15 to read:

16 65583. The housing element shall consist of an identification
17 and analysis of existing and projected housing needs and a
18 statement of goals, policies, quantified objectives, financial
19 resources, and scheduled programs for the preservation,
20 improvement, and development of housing. The housing element
21 shall identify adequate sites for housing, including rental housing,
22 factory-built housing, and mobilehomes, and shall make adequate
23 provision for the existing and projected needs of all economic
24 segments of the community. The element shall contain all of the
25 following:

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

29 (1) An analysis of population and employment trends and
30 documentation of projections and a quantification of the locality's
31 existing and projected housing needs for all income levels,
32 including extremely low income households, as defined in
33 subdivision (b) of Section 50105 and Section 50106 of the Health
34 and Safety Code. These existing and projected needs shall include
35 the locality's share of the regional housing need in accordance
36 with Section 65584. Local agencies shall calculate the subset of
37 very low income households allotted under Section 65584 that
38 qualify as extremely low income households. The local agency
39 may either use available census data to calculate the percentage
40 of very low income households that qualify as extremely low

1 income households or presume that 50 percent of the very low
2 income households qualify as extremely low income households.
3 The number of extremely low income households and very low
4 income households shall equal the jurisdiction's allocation of very
5 low income households pursuant to Section 65584.

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

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

14 (4) An analysis of potential and actual governmental constraints
15 upon the maintenance, improvement, or development of housing
16 for all income levels, including the types of housing identified in
17 paragraph (1) of subdivision (c), and for persons with disabilities
18 as identified in the analysis pursuant to paragraph (6), including
19 land use controls, building codes and their enforcement, site
20 improvements, fees and other exactions required of developers,
21 and local processing and permit procedures. The analysis shall
22 also demonstrate local efforts to remove governmental constraints
23 that hinder the locality from meeting its share of the regional
24 housing need in accordance with Section 65584 and from meeting
25 the need for housing for persons with disabilities identified
26 pursuant to paragraph (6).

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

31 (6) An analysis of any special housing needs, such as those of
32 the elderly, persons with disabilities, large families, farmworkers,
33 families with female heads of households, and families and persons
34 in need of emergency shelter.

35 (7) An analysis of opportunities for energy conservation with
36 respect to residential development.

37 (8) An analysis of existing assisted housing developments that
38 are eligible to change from low-income housing uses during the
39 next 10 years due to termination of subsidy contracts, mortgage
40 prepayment, or expiration of restrictions on use. "Assisted housing

SB 303

— 8 —

1 developments,” for the purpose of this section, shall mean
2 multifamily rental housing that receives governmental assistance
3 under federal programs listed in subdivision (a) of Section
4 65863.10, state and local multifamily revenue bond programs,
5 local redevelopment programs, the federal Community
6 Development Block Grant Program, or local in-lieu fees. “Assisted
7 housing developments” shall also include multifamily rental units
8 that were developed pursuant to a local inclusionary housing
9 program or used to qualify for a density bonus pursuant to Section
10 65916.

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

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

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

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

1 not been legally obligated for other purposes and which could be
2 available for use in preserving assisted housing developments.

3 (b) (1) A statement of the community's goals, quantified
4 objectives, and policies relative to the maintenance, preservation,
5 improvement, and development of housing *for very low, low- and*
6 *moderate-income households, and for any special housing needs*
7 *identified in paragraph (6) of subdivision (a).*

8 (2) It is recognized that the total housing needs identified
9 pursuant to subdivision (a) may exceed available resources and
10 the community's ability to satisfy this need within the content of
11 the general plan requirements outlined in Article 5 (commencing
12 with Section 65300). Under these circumstances, the quantified
13 objectives need not be identical to the total housing needs. The
14 quantified objectives shall ~~establish~~ *estimate* the maximum number
15 of housing units ~~by income category, including extremely low~~
16 ~~income for extremely low, very low, low- and moderate-income~~
17 ~~categories,~~ that can be constructed, rehabilitated, and conserved
18 over a ~~five-year~~ *ten-year* time period.

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

33 ~~(1) Identify actions that will be taken to make sites available~~
34 ~~during the planning period of the general plan with appropriate~~
35 ~~zoning and development standards and with services and facilities~~
36 ~~to accommodate that portion of the city's or county's share of the~~
37 ~~regional housing need for each income level that could not be~~
38 ~~accommodated on sites identified in the inventory completed~~
39 ~~pursuant to paragraph (3) of subdivision (a) without rezoning, and~~
40 ~~to comply with the requirements of Section 65584.09. Sites shall~~

SB 303

-- 10 --

1 be identified as needed to facilitate and encourage the development
2 of a variety of types of housing for all income levels, including
3 multifamily rental housing, factory-built housing, mobile homes,
4 housing for agricultural employees, supportive housing single-room
5 occupancy units, emergency shelters, and transitional housing.

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

12 *(1) (A) Identify sites to facilitate and encourage the development*
13 *of a variety of types of housing for all income levels, including*
14 *multifamily rental housing, factory-built housing, manufactured*
15 *homes, housing for agricultural employees, emergency shelters,*
16 *and transitional housing.*

17 *(B) Identify policies and incentives to promote infill development*
18 *and the efficient use of land, including, but not limited to, expedited*
19 *permit processing, modified development standards, and fee*
20 *waivers.*

21 ~~(B)-~~

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

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

33 *(3) Address and, where appropriate and legally possible, remove*
34 *governmental constraints to the maintenance, improvement, and*
35 *development of housing, including housing for all income levels*
36 *and housing for persons with disabilities. The program shall remove*
37 *constraints to, or provide reasonable accommodations for housing*
38 *designed for, intended for occupancy by, or with supportive*
39 *services for, persons with disabilities.*

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

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

8 (6) Preserve for lower income households the assisted housing
9 developments identified pursuant to paragraph (8) of subdivision
10 (a). The program for preservation of the assisted housing
11 developments shall utilize, to the extent necessary, all available
12 federal, state, and local financing and subsidy programs identified
13 in paragraph (8) of subdivision (a), except where a community has
14 other urgent needs for which alternative funding sources are not
15 available. The program may include strategies that involve local
16 regulation and technical assistance.

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

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

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

33 (2) Any housing element or housing element amendment
34 prepared pursuant to subdivision (e) of Section 65588 or Section
35 65584.02, where the city, county, or city and county fails to submit
36 the first draft to the department before the due date specified in
37 Section 65588 or 65584.02.

38 SEC. 5. Section 65583.2 of the Government Code is amended
39 to read:

SB 303

— 12 —

1 65583.2. (a) A city's or county's inventory of land suitable
2 for residential development pursuant to paragraph (3) of
3 subdivision (a) of Section 65583 shall be used to identify sites that
4 can be developed for housing within the planning period and that
5 are sufficient to provide for the jurisdiction's share of the regional
6 housing need for all income levels pursuant to Section 65584. As
7 used in this section, "land suitable for residential development"
8 includes all of the following:

9 (1) Vacant sites zoned for residential use.

10 (2) Vacant sites zoned for nonresidential use that allows
11 residential development.

12 (3) Residentially zoned sites that are capable of being developed
13 at a higher density.

14 (4) Sites zoned for nonresidential use that can be redeveloped
15 for, and as necessary, rezoned for, residential use.

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

17 (1) A listing of properties by parcel number or other unique
18 reference.

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

21 (3) For nonvacant sites, a description of the existing use of each
22 property.

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

28 (5) A general description of existing or planned water, sewer,
29 and other dry utilities supply, including the availability and access
30 to distribution facilities. This information need not be identified
31 on a site-specific basis.

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

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

38 (c) Based on the information provided in subdivision (b), a city
39 or county shall determine whether each site in the inventory can
40 accommodate some portion of its share of the regional housing

1 need by income level during the planning period, as determined
 2 pursuant to Section 65584. The analysis shall determine whether
 3 the inventory can provide for a variety of types of housing,
 4 including multifamily rental housing, factory-built housing,
 5 mobilehomes, housing for agricultural employees, emergency
 6 shelters, and transitional housing. The city or county shall
 7 determine the number of housing units that can be accommodated
 8 on each site as follows:

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

17 (2) The number of units calculated pursuant to paragraph (1)
 18 shall be adjusted as necessary, based on the land use controls and
 19 site improvements requirement identified in paragraph (4) of
 20 subdivision (a) of Section 65583.

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

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

29 ~~(B)~~

30 (3) The following densities shall be deemed appropriate to
 31 accommodate housing for lower income households:

32 ~~(i)~~

33 (A) For incorporated cities within nonmetropolitan counties and
 34 for nonmetropolitan counties that have micropolitan areas: sites
 35 allowing at least 15 units per acre.

36 ~~(ii)~~

37 (B) For unincorporated areas in all nonmetropolitan counties
 38 not included in ~~clause (i) subparagraph (A)~~: sites allowing at least
 39 10 units per acre.

40 ~~(iii)~~

SB 303

— 14 —

- 1 (C) For suburban jurisdictions: sites allowing at least 20 units
2 per acre.
- 3 ~~(iv)~~
- 4 (D) For jurisdictions in metropolitan counties: sites allowing at
5 least 30 units per acre.
- 6 (d) For purposes of this section, metropolitan counties,
7 nonmetropolitan counties, and nonmetropolitan counties with
8 micropolitan areas are as determined by the United States Census
9 Bureau. Nonmetropolitan counties with micropolitan areas include
10 the following counties: Del Norte, Humboldt, Lake Mendocino,
11 Nevada, Tehama, and Tuolumne and such other counties as may
12 be determined by the United States Census Bureau to be
13 nonmetropolitan counties with micropolitan areas in the future.
- 14 (e) A jurisdiction is considered suburban if the jurisdiction does
15 not meet the requirements of clauses (i) and (ii) of subparagraph
16 ~~(B)~~ subparagraphs (A) and (B) of paragraph (3) of subdivision (c)
17 and is located in a Metropolitan Statistical Area (MSA) of less
18 than 2,000,000 in population, unless that jurisdiction's population
19 is greater than 100,000, in which case it is considered metropolitan.
20 Counties, not including the City and County of San Francisco, will
21 be considered suburban unless they are in a MSA of 2,000,000 or
22 greater in population in which case they are considered
23 metropolitan.
- 24 (f) A jurisdiction is considered metropolitan if the jurisdiction
25 does not meet the requirements for "suburban area" above and is
26 located in a MSA of 2,000,000 or greater in population, unless
27 that jurisdiction's population is less than 25,000 in which case it
28 is considered suburban.
- 29 (g) For sites described in paragraph (3) of subdivision (b), the
30 city or county shall specify the additional development potential
31 for each site within the planning period and shall provide an
32 explanation of the methodology used to determine the development
33 potential. The methodology shall consider factors including the
34 extent to which existing uses may constitute an impediment to
35 additional residential development, development trends, market
36 conditions, and regulatory or other incentives or standards to
37 encourage additional residential development on these sites.
- 38 ~~(h) The program required by subparagraph (A) of paragraph (1)
39 of subdivision (c) of Section 65583 shall accommodate 100 percent
40 of the need for housing for very low and low-income households~~

1 allocated pursuant to Section 65584 for which site capacity has
 2 not been identified in the inventory of sites pursuant to paragraph
 3 (3) of subdivision (a) on sites that shall be zoned to permit
 4 owner-occupied and rental multifamily residential use by right
 5 during the planning period. These sites shall be zoned with
 6 minimum density and development standards that permit at least
 7 16 units per site at a density of at least 16 units per acre in
 8 jurisdictions described in clause (i) of subparagraph (B) of
 9 paragraph (3) of subdivision (c) and at least 20 units per acre in
 10 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
 11 of paragraph (3) of subdivision (c). At least 50 percent of the very
 12 low and low-income housing need shall be accommodated on sites
 13 designated for residential use and for which nonresidential uses
 14 or mixed uses are not permitted.

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

31 SEC. 6. Section 65583.3 is added to the Government Code, to
 32 read:

33 65583.3. (a) The city council or board of supervisors shall
 34 designate and zone sites for residential use to accommodate the
 35 jurisdiction's 10-year housing need from the sites identified
 36 pursuant to subdivision (a) of Section 65583.2. The designation
 37 and zoning shall be adopted and in effect on the same date the
 38 housing element is required to be updated. The local government's
 39 obligation to designate and zone sites to accommodate its share
 40 of the region's 10-year housing need for lower income households

SB 303

— 16 —

1 shall be satisfied by zoning sites to allow the specified minimum
2 number of units per acre, as identified in subparagraphs (A) to (D),
3 inclusive, of paragraph (3) of subdivision (c) of Section 65583.2.
4 The local government shall prepare, or cause to be prepared, an
5 environmental impact report in connection with the designation
6 and zoning required by this subdivision. The environmental impact
7 report shall address potentially significant cumulative impacts,
8 growth inducing impacts, off-site impacts, and alternative sites.

9 (b) The city council or board of supervisors shall make a finding,
10 supported by substantial evidence in the record, that each site
11 designated and zoned pursuant to subdivision (a) will realistically
12 accommodate construction of the maximum number of units
13 allowed by the density range applicable to the site. The finding
14 shall be based on a showing that the site is appropriate in size,
15 configuration, physical characteristics, current use, physical and
16 environmental constraints, access, location, adjacent use, market
17 demand for the density and type of housing, current or planned
18 availability of infrastructure and services, and other relevant
19 planning criteria.

20 (c) Any approval sought in connection with a project that is
21 consistent with the designation and zoning on a site designated
22 and zoned pursuant to subdivision (a) shall be subject to the Permit
23 Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

24 (d) Any approval sought in connection with a project that is
25 consistent with the designation and zoning on a site designated
26 and zoned pursuant to subdivision (a) may not be denied or
27 conditioned on reducing the residential project's density below
28 that proposed by the applicant unless by four-fifths vote, the city
29 council or board of supervisors makes written findings pursuant
30 to subdivision (j) of Section 65589.5. For purposes of this section,
31 an abstention shall not count as an affirmative vote for purposes
32 of satisfying the four-fifths vote requirement. This provision shall
33 not create any inference regarding the effect of an abstention under
34 existing law in other situations.

35 (e) When a complete application has been submitted to develop
36 a project on a site designated and zoned pursuant to subdivision
37 (a), and the project is consistent with the designation and zoning,
38 the designation and zoning applicable to the site may not be
39 changed without the consent of the project applicant except by
40 four-fifths vote of the city council or board of supervisors after

1 making written findings pursuant to subdivision (j) of Section
2 65589.5.

3 (f) If a court finds that a local government has failed to comply
4 with the requirements of subdivision (a) or (b), the court shall
5 retain jurisdiction of the action and issue an order to the local
6 government requiring compliance within 120 days or a lesser
7 period if the court determines that a lesser period is appropriate.
8 The order shall also provide that development of affordable housing
9 projects on sites zoned to fulfill the requirement to allow a specified
10 minimum number of units per acre, as specified in subdivision (d)
11 of Section 65583.2, shall be to use by right as defined in
12 subdivision (h) of Section 65583.2. For purposes of this section,
13 “affordable housing project” means housing affordable to persons
14 and families whose income does not exceed the qualifying limits
15 for lower income households as established in Section 50079.5 of
16 the Health and Safety Code.

17 (g) If the plaintiff or petitioner is the prevailing party, that party
18 shall be awarded reasonable attorney’s fees.

19 SEC. 7. Section 65588 of the Government Code is repealed.

20 ~~65588. (a) Each local government shall review its housing~~
21 ~~element as frequently as appropriate to evaluate all of the~~
22 ~~following:~~

23 ~~(1) The appropriateness of the housing goals, objectives, and~~
24 ~~policies in contributing to the attainment of the state housing goal.~~

25 ~~(2) The effectiveness of the housing element in attainment of~~
26 ~~the community’s housing goals and objectives.~~

27 ~~(3) The progress of the city, county, or city and county in~~
28 ~~implementation of the housing element.~~

29 ~~(b) The housing element shall be revised as appropriate, but not~~
30 ~~less than every five years, to reflect the results of this periodic~~
31 ~~review.~~

32 ~~(c) The review and revision of housing elements required by~~
33 ~~this section shall take into account any low or moderate income~~
34 ~~housing provided or required pursuant to Section 65590.~~

35 ~~(d) The review pursuant to subdivision (c) shall include, but~~
36 ~~need not be limited to, the following:~~

37 ~~(1) The number of new housing units approved for construction~~
38 ~~within the coastal zone after January 1, 1982.~~

39 ~~(2) The number of housing units for persons and families of~~
40 ~~low or moderate income, as defined in Section 50093 of the Health~~

SB 303

— 18 —

1 and Safety Code, required to be provided in new housing
2 developments either within the coastal zone or within three miles
3 of the coastal zone pursuant to Section 65590.

4 (3) The number of existing residential dwelling units occupied
5 by persons and families of low or moderate income, as defined in
6 Section 50093 of the Health and Safety Code, that have been
7 authorized to be demolished or converted since January 1, 1982,
8 in the coastal zone.

9 (4) The number of residential dwelling units for persons and
10 families of low or moderate income, as defined in Section 50093
11 of the Health and Safety Code, that have been required for
12 replacement or authorized to be converted or demolished as
13 identified in paragraph (3). The location of the replacement units,
14 either onsite, elsewhere within the locality's jurisdiction within
15 the coastal zone, or within three miles of the coastal zone within
16 the locality's jurisdiction, shall be designated in the review.

17 (e) Notwithstanding subdivision (b) or the date of adoption of
18 the housing elements previously in existence, each city, county,
19 and city and county shall revise its housing element according to
20 the following schedule:

21 (1) Local governments within the regional jurisdiction of the
22 Southern California Association of Governments: December 31,
23 2000, for the third revision, and June 30, 2006, for the fourth
24 revision.

25 (2) Local governments within the regional jurisdiction of the
26 Association of Bay Area Governments: December 31, 2001, for
27 the third revision, and June 30, 2007, for the fourth revision.

28 (3) Local governments within the regional jurisdiction of the
29 Council of Fresno County Governments, the Kern County Council
30 of Governments, and the Sacramento Area Council of
31 Governments: June 30, 2002, for the third revision, and June 30,
32 2008, for the fourth revision.

33 (4) Local governments within the regional jurisdiction of the
34 Association of Monterey Bay Area Governments: December 31,
35 2002, for the third revision, and June 30, 2008, for the fourth
36 revision.

37 (5) Local governments within the regional jurisdiction of the
38 San Diego Association of Governments: December 31, 1999, for
39 the third revision cycle ending June 30, 1999, and June 30, 2005,
40 for the fourth revision.

1 ~~(6) All other local governments: December 31, 2003, for the~~
2 ~~third revision, and June 30, 2009, for the fourth revision.~~

3 ~~(7) Subsequent revisions shall be completed not less often than~~
4 ~~at five-year intervals following the fourth revision.~~

5 SEC. 8. Section 65588 is added to the Government Code, to
6 read:

7 65588. (a) Each local government shall review its housing
8 element as frequently as appropriate to evaluate all of the
9 following:

10 (1) The effectiveness of the element including a review of the
11 results of goals, objectives, policies, and programs from the prior
12 planning period and an analysis of any difference between what
13 was planned from the prior planning period and what was actually
14 achieved.

15 (2) The appropriateness of the goals, objectives, policies, and
16 programs of the updated element based on the analysis of the
17 review of the results of the prior planning period. The goals,
18 objectives, policies, and programs of the element should be revised
19 to reflect the results of this review.

20 (b) The housing element shall be updated every five years. As
21 part of the five-year update, the city council or board of supervisors
22 shall make any necessary amendments to ensure that there are sites
23 designated and zoned pursuant to Section 65583.3 to accommodate
24 the jurisdiction's housing need for the next 10-year period.

25 (c) Notwithstanding subdivision (b) or the date of adoption of
26 the housing element previously in existence, the date of the next
27 update for the housing element shall be modified as follows:

28 (1) Local governments within the regional jurisdiction of the
29 Southern California Association of Governments: ____.

30 (2) Local governments within the regional jurisdiction of the
31 Association of Bay Area Governments: ____.

32 (3) Local governments within the regional jurisdiction of the
33 Council of Fresno County Governments, the Kern County Council
34 of Governments, and the Sacramento Area Council of
35 Governments: ____.

36 (4) Local governments within the regional jurisdiction of the
37 Association of Monterey Bay Area Governments: ____.

38 (5) Local governments within the regional jurisdiction of the
39 San Diego Association of Governments: ____.

40 (6) All other local governments: ____.

SB 303

— 20 —

1 SEC. 9. Section 65588.2 is added to the Government Code, to
2 read:

3 65588.2. All deadlines specified in this article are mandatory,
4 not directory.

5 SEC. 10. Section 65588.3 is added to the Government Code,
6 to read:

7 65588.3. Nothing in this article shall be interpreted to affect
8 existing law with respect to the planning, use, or development of
9 areas outside the sites designated and zoned pursuant to subdivision
10 (a) of Section 65583.3 or to establish any presumption regarding
11 the appropriate designation or use of those areas.

12 SEC. 11. Section 65860 of the Government Code is amended
13 to read:

14 65860. (a) County or city zoning ordinances shall be consistent
15 with the general plan of the county or city by ~~January 1, 1974~~ *the*
16 *date of the next housing element update, and thereafter. This*
17 *deadline is mandatory, not directory.* A zoning ordinance shall be
18 consistent with a city or county general plan only if ~~both~~ *all* of the
19 following conditions are met:

20 (1) The city or county has officially adopted such a plan.

21 (2) The various land uses authorized by the ordinance are
22 compatible with the objectives, policies, general land uses, and
23 programs specified in the plan.

24 (3) *In the case of residential uses, the zoning allows development*
25 *at the density range specified in the general plan without the need*
26 *for any additional land use approval that is legislative or*
27 *quasi-legislative in nature.*

28 (b) Any resident or property owner within a city or a county,
29 as the case may be, may bring an action or proceeding in the
30 superior court to enforce compliance with subdivision (a). Any
31 ~~such~~ *action or proceeding brought pursuant to this section shall*
32 *be governed by Chapter 2 (commencing with Section 1084) of*
33 *Title 1 of Part 3 of the Code of Civil Procedure. No action or*
34 *proceeding shall be maintained pursuant to this section by any*
35 *person unless the action or proceeding is commenced and service*
36 *is made on the legislative body within 90 days of the enactment*
37 *of any new zoning ordinance or the amendment of any existing*
38 *zoning ordinance, except that a property owner may, at any time,*
39 *bring an action to require that the zoning on its property be made*
40 *consistent with the general plan. The petitioner in an action*

1 *brought to enforce compliance with subdivision (a) shall be entitled*
 2 *to reasonable attorney's fees if the petitioner is the prevailing*
 3 *party.*

4 (c) In the event that a zoning ordinance becomes inconsistent
 5 with a general plan by reason of amendment to the plan, or to any
 6 element of the plan, the zoning ordinance shall be amended within
 7 a reasonable time so that it is consistent with the general plan as
 8 amended.

9 (d) Notwithstanding Section 65803, this section *has statewide*
 10 *implications and thereby shall apply in a charter city of 2,000,000*
 11 *or more population to a zoning ordinance adopted prior to January*
 12 *1, 1979, which zoning ordinance shall be consistent with the*
 13 *general plan of the city by July 1, 1982 to a charter city, charter*
 14 *county, and charter city and county as well as general law cities*
 15 *and counties.*

16 SEC. 12. In connection with enacting the health or safety
 17 findings requirements of Article 10.6 (commencing with Section
 18 65580) of Chapter 3 of Division 1 of Title 7 of the Government
 19 Code, the Legislature finds and declares that the Court of Appeal
 20 opinion in *Mira Development Corporation of San Diego v. City*
 21 *of San Diego* (1988) 205 Cal.App.3d 1201, is inconsistent with
 22 the Legislature's intent that (a) the phrase "health or safety" be
 23 construed narrowly and (b) that substantial evidence in support of
 24 a health or safety finding be of ponderable legal significance,
 25 reasonable in nature, credible, and of solid value in light of all of
 26 the evidence in the record.

27 SEC. 13. No reimbursement is required by this act pursuant to
 28 Section 6 of Article XIII B of the California Constitution because
 29 a local agency or school district has the authority to levy service
 30 charges, fees, or assessments sufficient to pay for the program or
 31 level of service mandated by this act, within the meaning of Section
 32 17556 of the Government Code.