

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 8, 2019

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1568

Introduced by Assembly Member McCarty
(Coauthor: Senator Wiener)

February 22, 2019

An act to amend Section 65585 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1568, as amended, McCarty. Housing law compliance: prohibition on applying for state grants.

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. Existing law, the Housing Element Law, prescribes requirements for the preparation of the housing element, including a requirement that a planning agency submit a draft of the element or draft amendment to the element to the Department of Housing and Community Development prior to the adoption of the element or amendment to the element. Existing law requires the department to review the draft and report its written findings, as specified. Existing law also requires the department, in its written findings, to determine whether the draft substantially complies with the Housing Element Law.

Existing law also requires the department to review any action or failure to act by the city or county that it determines is inconsistent with

an adopted housing element or a specified provision of the Housing Element Law and to issue written findings, as specified, whether the action or failure to act substantially complies with the Housing Element Law. If the department finds that the action or failure to act by the city or county does not substantially comply with the Housing Element Law, and if it has issued findings as described above that an amendment to the housing element substantially complies with the Housing Element Law, existing law authorizes the department, after allowing no more than 30 days for a local agency response, to revoke its findings until it determines that the city or county has come into compliance with the Housing Element Law. Existing law also requires the department to notify the city or county that the city or county is in violation of state law if the department makes certain findings of noncompliance or a violation of specified provisions related to housing.

This bill would authorize the city or county to submit evidence that the city or county is no longer in violation of state law to the department and to request the department to issue a finding that the city or county is no longer in violation of state law. If the department finds that the city or county is no longer in violation of state law, the bill would require the department to notify the city or county. The bill would, on or before January 1, 2025, prohibit a city or county found to be in violation of state law, as described above, from applying for a state grant, unless ~~the eligibility of the city or county to apply for~~ *fund source of the state grant is constitutionally required protected by a specified provision of the California Constitution relating to state taxes and fees on motor vehicles and motor vehicle fuels* or the state grant funds, if awarded to the city or county, would assist the city or county in complying with the Housing Element Law.

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

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

1 SECTION 1. Section 65585 of the Government Code is
 2 amended to read:
 3 65585. (a) In the preparation of its housing element, each city
 4 and county shall consider the guidelines adopted by the department
 5 pursuant to Section 50459 of the Health and Safety Code. Those
 6 guidelines shall be advisory to each city or county in the
 7 preparation of its housing element.

1 (b) (1) At least 90 days before adoption of its housing element,
2 or at least 60 days before the adoption of an amendment to this
3 element, the planning agency shall submit a draft element or draft
4 amendment to the department.

5 (2) The planning agency staff shall collect and compile the
6 public comments regarding the housing element received by the
7 city, county, or city and county, and provide these comments to
8 each member of the legislative body before it adopts the housing
9 element.

10 (3) The department shall review the draft and report its written
11 findings to the planning agency within 90 days of its receipt of the
12 draft in the case of an adoption or within 60 days of its receipt in
13 the case of a draft amendment.

14 (c) In the preparation of its findings, the department may consult
15 with any public agency, group, or person. The department shall
16 receive and consider any written comments from any public
17 agency, group, or person regarding the draft or adopted element
18 or amendment under review.

19 (d) In its written findings, the department shall determine
20 whether the draft element or draft amendment substantially
21 complies with this article.

22 (e) Prior to the adoption of its draft element or draft amendment,
23 the legislative body shall consider the findings made by the
24 department. If the department's findings are not available within
25 the time limits set by this section, the legislative body may act
26 without them.

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

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

32 (2) Adopt the draft element or draft amendment without changes.
33 The legislative body shall include in its resolution of adoption
34 written findings which explain the reasons the legislative body
35 believes that the draft element or draft amendment substantially
36 complies with this article despite the findings of the department.

37 (g) Promptly following the adoption of its element or
38 amendment, the planning agency shall submit a copy to the
39 department.

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

4 (i) (1) (A) The department shall review any action or failure
5 to act by the city, county, or city and county that it determines is
6 inconsistent with an adopted housing element or Section 65583,
7 including any failure to implement any program actions included
8 in the housing element pursuant to Section 65583. The department
9 shall issue written findings to the city, county, or city and county
10 as to whether the action or failure to act substantially complies
11 with this article, and provide a reasonable time no longer than 30
12 days for the city, county, or city and county to respond to the
13 findings before taking any other action authorized by this section,
14 including the action authorized by subparagraph (B).

15 (B) If the department finds that the action or failure to act by
16 the city, county, or city and county does not substantially comply
17 with this article, and if it has issued findings pursuant to this section
18 that an amendment to the housing element substantially complies
19 with this article, the department may revoke its findings until it
20 determines that the city, county, or city and county has come into
21 compliance with this article.

22 (2) The department may consult with any local government,
23 public agency, group, or person, and shall receive and consider
24 any written comments from any public agency, group, or person,
25 regarding the action or failure to act by the city, county, or city
26 and county described in paragraph (1), in determining whether the
27 housing element substantially complies with this article.

28 (j) The department shall notify the city, county, or city and
29 county and may notify the Office of the Attorney General that the
30 city, county, or city and county is in violation of state law if the
31 department finds that the housing element or an amendment to this
32 element, or any action or failure to act described in subdivision
33 (i), does not substantially comply with this article or that any local
34 government has taken an action in violation of the following:

35 (1) Housing Accountability Act (Section 65589.5 of the
36 Government Code).

37 (2) Section 65863 of the Government Code.

38 (3) Chapter 4.3 (commencing with Section 65915) of Division
39 1 of Title 7 of the Government Code.

40 (4) Section 65008 of the Government Code.

1 (k) (1) A city or county that the department has found to be in
2 violation of state law pursuant to subdivision (j) may, in a form
3 and manner prescribed by the department, submit evidence that
4 the city or county is no longer in violation of state law to the
5 department and may request the department to issue a written
6 finding that the city or county is no longer in violation of state law.

7 (2) If the department finds that the city or county is no longer
8 in violation of state law, the department shall notify the city or
9 county.

10 (l) Notwithstanding any other law, on or before January 1, 2025,
11 a city or county found to be in violation of state law pursuant to
12 this section shall not apply for a state grant unless either of the
13 following conditions is met:

14 (1) ~~The eligibility of the city or county to apply for fund source~~
15 ~~of the state grant is constitutionally required.~~ *protected by Article*
16 *XIX of the California Constitution.*

17 (2) The state grant funds, if awarded to the city or county, would
18 assist the city or county in complying with this article.