

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 786 (Arreguín)
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Fiscal: No
Urgency: No
AM

SUBJECT

Planning and zoning: general plan: judicial challenges

DIGEST

This bill makes various changes to existing procedures and remedies for judicial challenges of whether or not a local jurisdiction's general plan, or any element thereof, complies with existing law.

EXECUTIVE SUMMARY

This bill is brought in response to the housing crisis and affordability crisis California is currently facing. According to the author and sponsor, this bill is needed to address ambiguities in existing law to provide clarity for local government, project applicants, and courts to ensure timely enforcement of state housing law. The author agreed to amend the bill in the Senate Local Government Committee, due timing, is taking the amends in this Committee. (*see* Comment 3), below.) This bill is sponsored by the Attorney General, Rob Bonta and supported by various housing advocacy organizations. The Committee received no timely opposition. The bill passed the Senate Local Government Committee on a vote of 5 to 2. Should this bill pass this Committee, it will next be heard in the Senate Appropriations Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Authorizes cities and counties to make and enforce within its limits, all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
(Cal. const. art. XI, § 7.)
- 2) Requires every county and city to adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety.

General plans must also include an eighth element on environmental justice or, in the alternative, incorporate environmental justice concerns throughout the other elements. (Gov. Code §§ 65300 & 65302.)

- a) Provides that the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency. (Gov. Code § 65300.5.)
- 3) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
 - a) an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs;
 - b) a statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and
 - c) a program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element. (Gov. Code § 65583(a)-(c).)
- 4) Requires, generally, the housing element to be updated every eight years, except some local jurisdictions are required to do so every five years. (Gov. Code § 65588(e)(2)(D) & (e)(3)(A).)
- 5) Requires the Housing and Community Development Department (HCD) to review draft housing element revisions that local jurisdictions are required to submit to HCD and requires HCD to make specified written findings. (Gov. Code § 65585(c).)
 - a) HCD is required to determine whether the draft housing element of amendment substantially complies with the housing element law. (Gov. Code § 65585(d) & (h).)
 - b) Requires HCD to notify the local jurisdiction, and authorizes HCD to notify the Attorney General (AG), that the local jurisdiction is in violation of state law if the department finds that the housing element or an amendment to the element, or any action or failure to act, as specified, does not substantially comply with housing element law or other enumerated statutes. (Gov. Code § 65585(j).)
- 6) Authorizes any interested party to bring an action to review the conformity of any housing element or portion thereof or revision thereto with the housing element law.
 - a) If a court finds that an action of a local jurisdiction, which is required to be consistent with its general plan, does not comply with its housing element, the jurisdiction must bring its action into compliance within 60 days.
 - b) Provides the court shall retain jurisdiction throughout the period for compliance to enforce its decision

- c) If the court finds that the 60-day period for compliance places an undue hardship on the local jurisdiction, the court may extend the period for compliance by an additional 60 days. (Gov. Code § 65587(b)&(v).)
- 7) Provides various procedures that must be followed prior to the AG bringing any suit for violation of the housing element law, including that HCD must offer the local jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation. (Gov. Code § 65588(k).)
- 8) Authorizes the AG, if a court finds that the local jurisdiction's housing element does not substantially comply with the requirements under the housing element law, to request the court to issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance.
 - a) The court shall retain jurisdiction to ensure that its order or judgment is carried out.
 - b) Provides for various fines to be assessed if the local jurisdiction does not comply with the court order in specified time frames, and requires the court to conduct status conferences at certain intervals. (Gov. Code § 65588(l).)
- 9) Requires any action to challenge a general plan or any element thereof on the grounds that the plan or element does not substantially comply with the general planning law to be brought as a writ pursuant to Section 1085 of the Code of Civil Procedure. (Gov. Code § 65751.)
 - a) Requires the court to set a date for a hearing or trial on the action within 30 days of the filing of the request for a hearing or trial.
 - b) Requires the hearing to be set and heard at the earliest possible date that the business of the court permits, but not more than 120 days after the filing of a request for a hearing or trial.
 - c) The Court may continue for a reasonable time the date of the hearing or trial. However, if the court grants a continuance to a respondent, the court shall grant the temporary relief, as specified, upon the written motion of the petitioner. (Gov. Code § 65753.)
- 10) Requires a local jurisdiction to bring its general plan into compliance within 120 days if the court finds that the local jurisdiction does not substantially comply with the planning law in a final judgment in favor of the plaintiff. (Gov. Code § 65754.)
- 11) Requires a court, if it finds any portion of a general plan, including a housing element, out of compliance with the law, to include within its order or judgment one or more of the following remedies for any or all types of developments or any or all geographic segments of the city or county until the city or county has complied with the law, including;
 - a) suspension of the city's or county's authority to issue building permits;

- b) suspension of the city's or county's authority to grant zoning changes or variances;
 - c) suspension of the city's or county's authority to grant subdivision map approvals;
 - d) mandating the approval of building permits for residential housing that meet specified criteria;
 - e) mandating the approval of final subdivision maps for housing projects that meet specified criteria; and
 - f) mandating the approval of tentative subdivision maps for residential housing projects that meet specified criteria. (Gov. Code § 65755.)
- 12) Authorizes the court, in any action challenging the validity of a local jurisdiction's general plan or element thereof, to grant the relief described in 11, above, as temporary relief upon a showing of probable success on the merits.
- a) In any order granting temporary relief, the court is not to enjoin during the pendency of the action any housing developments that comply with existing law and which may be developed without having an impact on the ability of the local jurisdiction to properly adopt and implement an adequate housing element. (Gov. Code § 65757.)

This bill:

- 1) Provides that, to the extent a quantified development standard contained in a general plan element is inconsistent with a quantified development standard contained in another element, the most recently adopted element will supersede inconsistent provisions of the previously adopted element.
 - a) If a local agency has established a specific deadline to amend a local ordinance, development standard, condition, or policy applicable to housing development projects, and the local agency has failed to make that amendment by the specified deadline, HCD must undertake review as provided under existing law.
 - b) Defines "quantified development standard" to mean a site's maximum density or requirements for a height limit, setback, maximum or minimum unit size, lot coverage, or floor area ratio.
- 2) Requires a local jurisdiction to bring any action that was found by a court to not comply with its housing element into compliance within 120 days, instead of 60 days.
 - a) Removes the authority of the court to grant not more than two extensions of time to comply, not to exceed 240 days, for good cause shown.
- 3) Provides that, in order to enforce the general plan law and the housing element law, the statutes governing challenges to general plans apply to charter cities. States that this is declaratory of existing law.

- 4) Authorizes the court to continue a hearing or trial upon its own motion, in addition to upon a finding of good cause, for not more than 60 days, instead of for a reasonable time.
 - a) Provides that if temporary relief has already been granted, the court must consider ordering additional temporary relief in light of the continuance.
- 5) Provides that any order or judgment issued in an action challenging the validity of a general plan or mandatory element thereof that resolves the issue of whether the general plan or element substantially complies with the general plan is immediately appealable, regardless of whether any final judgment has been issued.
 - a) Provides that if the court finds the plan or element does not comply, the local jurisdiction must come into compliance within 120 days, regardless of whether any final judgment has been issued.
- 6) Provides that remedies ordered under 11), above, are not to be stayed during the pendency of an appeal.
 - a) Authorizes the court to stay the remedies ordered upon a showing by the local jurisdiction that the local jurisdiction will suffer irreparable harm.
- 7) Requires, instead of authorizes the court, in any action challenging the validity of a local jurisdiction's general plan or element thereof, to grant the relief described in 11), above, as temporary relief upon a showing of probable success on the merits.
 - a) Requires the court to set a date for a hearing within 15 days of filing a request for temporary relief.
 - b) Requires the court to set the hearing at the earliest possible date that the business of the court permits, but not more than 30 days after the filing of the request for temporary relief.
 - c) Authorizes the court to continue for no more than 30 days the date of the hearing, but prohibits the granting of more than one continuance.
 - d) Specifies that, if the court does not hear the motion by the deadlines provided, the relief in the motion becomes effective by operation of law on the 61st day after the filing of the request for the hearing until the court enters an order ruling on the motion.

COMMENTS

1. Stated need for the bill

The author writes:

Californians need more housing, at more affordable price-points, to be built as soon as possible. The best path to that outcome is for every city and county to plan to meet the community's housing needs by adopting and implementing a valid housing element. In 2017 and 2018, the Legislature strengthened the state's housing

element law to ensure that local governments would each do their part to plan to meet their fair share of their region's housing needs. Implementation and enforcement during this first cycle of housing elements under the revised rules have revealed some ambiguities in the law, which has led to administrative friction, litigation, and, most importantly, delays in realizing the goal of facilitating robust home building at all income levels. SB 786 would resolve several ambiguities in housing element law to provide clarity for local governments, project applicants, and courts to ensure that housing is developed as planned for.

Attorney General Rob Bonta, the sponsor of the bill, writes:

California is facing a severe housing shortage, and millions of California families struggle to afford housing and the high cost of living. Californians are counting on their elected officials to tackle housing affordability. The Legislature has passed a number of important laws in recent years to address this crisis and facilitate housing production, including strengthening the state Housing Element Law in 2017 and 2018 to ensure that local governments would plan to meet their fair share of the region's housing needs.

More than 400 jurisdictions have adopted updated housing elements under the new regulatory regime. But hundreds of local rules that were designed to limit population growth remain on the books. Many of these population control measures are now out of sync with state law and can conflict with important programs in subsequently adopted local housing elements. These conflicts can lead to confusion for project applicants, local governments, and courts. We can't build housing more quickly if project applicants and local governments don't share a common understanding of the blueprint – in this case the locally adopted housing element.

SB 786 would resolve several ambiguities in housing element law with sensible, bright line rules. First, when there are conflicting development standards in the housing element and another general plan element, the most recently adopted element would control. Second, when local governments commit to removing constraints on housing development by a specific deadline, this bill would clarify the consequence for failing to meet that deadline by directing the Department of Housing and Community Development to review the housing element for potential decertification. This will encourage local governments to keep their commitments to remove housing constraints that muddy the rules and development standards for builders. Setting clear rules benefits all parties and will facilitate implementation and avoid litigation and project delays.

The bill will also address procedural shortcomings in existing law and ensure that court orders deliver fair and effective relief. The bill will clarify when compliance with trial court orders is required, reduce delays in the adoption of compliant housing elements, align the procedural statutes with current practice, and

harmonize the timelines in overlapping existing laws. These amendments would address several ambiguities that have complicated housing element litigation and have led to confusion among courts and the parties.

2. Addressing the housing crisis

Over the past several years the Legislature has passed numerous bills to address the housing crisis the state currently faces, including strengthening the state's housing element law to ensure that local governments plan to meet their fair share of the housing needs in their jurisdiction, and various ministerial approval laws with the goal of streamlining and expediting housing development throughout the state. (*See Prior Legislation, below.*) Existing law allows the AG to enforce state housing laws in the AG's independent capacity and on behalf of other entities, such as the California Department of Housing and Community Development (HCD). The AG has recently brought several actions against local jurisdictions for violating state housing laws, such as the City of Elk Grove for failure to approve a housing proposal that would create 66 apartments for lower-income households at risk of homelessness.¹ Additionally, the Attorney General and HCD have sued Huntington Beach for failure to adopt a housing plan compliant with state law.²

The AG, the sponsor of the bill, states that the bill is intended to address several ambiguities that have complicated housing element litigation and have led to confusion among courts and the parties. The provisions of the bill in this Committee's jurisdiction relate to judicial proceedings to enforce compliance with the general plan law and the housing element law.

a. Actions to challenge the validity of the general plan, or any mandatory element thereof, of a local jurisdiction

Existing law requires any action to challenge a general plan, or any element thereof, on the grounds that the plan or element does not substantially comply with the general planning law to be brought as a writ pursuant to Section 1085 of the Code of Civil Procedure. (Gov. Code § 65751.) The court is required to set a date for a hearing or trial on the action within 30 days of the filing of the request for a hearing or trial. A hearing is to be set and heard at the earliest possible date that the business of the court permits, but not more than 120 days after the filing of the request. (Gov. Code § 65753.) The court may continue, for a reasonable time, the date of the hearing or trial; however, if the court grants a continuance to a respondent, the court is required to grant temporary relief upon the written motion of the petitioner. (*Ibid.*) If the court finds in a final

¹ Attorney General Bonta Issues Statement on City of Elk Grove's Failure to Approve Affordable Housing Proposal, Cal. Dept. of Justice, (Sept. 28, 2023), available at <https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-statement-city-elk-groves-failure-approve>.

² *People of California v. City of Huntington Beach* (Super. Ct. County of Orange, 2024, No. 30-2023-01312235-CU-WM-CJC).

judgement that the local jurisdiction does not substantially comply with the planning law, a local jurisdiction is required to bring its general plan into compliance within 120 days. (Gov. Code § 65754.) Additionally, if a court finds that an action of a local jurisdiction, which is required to be consistent with its general plan, does not comply with its housing element, the local jurisdiction is required to bring that action into compliance within 60 days. (Gov. Code § 65587.) The court may extend that time for an additional 60 days upon a showing that complying in 60 days places an undue hardship on the local jurisdiction. (*Id.*)

If a court issues an order of judgment that a local jurisdiction is not in compliance, the court is to include one or more specified remedies, including:

- suspension of the city's or county's authority to issue building permits;
- suspension of the city's or county's authority to grant zoning changes or variances;
- suspension of the city's or county's authority to grant subdivision map approvals;
- mandating the approval of building permits for residential housing that meet specified criteria;
- mandating the approval of final subdivision maps for housing projects that meet specified criteria; and
- mandating the approval of tentative subdivision maps for residential housing projects that meet specified criteria. (Gov. Code § 65755.)

Existing law authorizes the court to, upon a showing of probable success on the merits, grant the relief described above as temporary relief. In any order granting temporary relief, the court is prohibited from enjoining, during the pendency of the action, any housing developments that comply with existing law and which may be developed without having an impact on the ability of the local jurisdiction to properly adopt and implement an adequate housing element. (Gov. Code § 65757.)

This bill makes several changes to the procedure above. First, it makes the timelines to comply with an order related to a non-compliant action of a local jurisdiction 120 days. Second, the bill removes the ability of the court to grant a continuance for a reasonable time, and instead allows a continuance for no more than 60 days. If temporary relief has already been granted, the court is required to consider ordering additional temporary relief in light of the continuance. The bill also deletes the authority for the court to grant two extensions of time, not to exceed a total of 240 days. Lastly, the bill would require the court, instead of merely authorizing the court, to grant the temporary relief sought above if a showing is made of probable success on the merits.

The author has agreed to take an amendment that would allow a court to grant a reasonable extension of time for a local jurisdiction to comply with a court order beyond 120 days, if review by HCD is required as part of a court order and that review

is not timely completed to allow the local to comply within the 120 day compliance period. The specific amendment is below in Comment 4.

b. Stay Pending Appeal

Section 916 of the Code of Civil Procedure provides a default rule that matters embraced upon an appeal of a trial court order are to be stayed during the pendency of the appeal, except as specified in Sections 917.1 through 917.9, and Section 116.810. Section 1110b of the Code of Civil Procedure provides that if an appeal is made from an order or judgment granting a writ of mandate, the court granting the writ, or the appellate court, may direct that the appeal not be stayed if it is satisfied upon the showing made by the petitioner that the petitioner will suffer irreparable damage in the petitioner's business or profession if the order is stayed.

The California Supreme Court has held that if the "statutory conditions have been met and a stay on appeal is prescribed, the courts lack discretion to deny it except as other statutes may authorize."³ The Court has stated that "the Legislature may always, if it chooses, reexamine California's statutory law governing stays pending appeal and decide whether the law would be better served by an approach that permits courts to take account of a wider array of equitable considerations than does present law."

This bill takes the Court up on its proposal, and states that the remedies ordered by a court under Section 65755 of the Government Code are not stayed during the pendency of an appeal of an order or judgment issued in an action brought to challenge the validity of a local jurisdiction's general plan, including any mandatory element. The bill provides that the court may stay the granted remedies pending appeal if the local jurisdiction makes a showing that it will suffer irreparable harm. The remedies authorized under Section 65755 of the Government Code include suspension of the authority for a local jurisdiction to grant building permits, zoning changes, or map approval and mandates certain actions, such as approval of specified maps or permits.

c. Temporary Relief

Under the bill, the court is required to grant temporary relief sought by a petitioner if a showing is made of probable success on the merits. Petitioners can be the AG or also private individuals. The bill requires the court to set a date for a hearing within 15 days of filing a request for temporary relief. The hearing is to be set at the earliest possible date that the business of the court permits, but not more than 30 days after the filing of the request for temporary relief. The court may continue for no more than 30 days the date of the hearing, but prohibits the granting of more than one continuance. If the court does not hear the motion by the deadlines provided, the relief in the motion is to

³ *Ibid.*

become effective by operation of law on the 61st day after the filing of the request for the hearing until the court enters an order ruling on the motion.

This provision is very troubling as it lacks one of the basic elements of due process – an opportunity to be heard. Under the bill, a request for temporary relief would be granted – not because the petitioner was able to make the required showing under existing law – but because the court was unable to set the hearing in time. In light of these concerns, the author has agreed to amend the bill to instead allow a petitioner to seek an ex parte application requesting the temporary relief on the 61st day after the filing of the request for hearing. The specific amendment is below in Comment 4.

d. Appeal of a judgment

Under California law, the power to appeal is wholly statutory and is generally from a final judgment or order. Existing law does authorize appeals in civil actions to the Court of Appeal of specified orders and judgments as a matter of right and for which a final judgement is not required. (Code Civ. Proc. § 904.1.) This bill seeks to provide that any order or judgment in an action challenging the validity of a general plan that resolves whether the general plan, or element thereof, substantially complies with the general plan law is immediately appealable, regardless of whether any final judgment has issued.

The reason for this amendment stems from the AG's experience in the litigation with Huntington Beach. In that case, the superior court held that the housing element law did not apply to charter cities; however, the AG sought an appeal via writ of mandate on that matter. Staff for the AG told this Committee that the appellate court was unsure if it could hear this issue on appeal or if it had to wait for a final order before taking the issue up. The appellate court eventually decided to take the issue up on appeal and found that the superior court decision was in error and that the housing element law did apply to charter cities. (*People of Cal. v. Superior Court of San Diego County (Cal. Ct. App. 4th Dist. Jan. 1, 2024) No. D083339.*) This amendment will provide for a quicker resolution of whether or not a local jurisdiction's general plan complies with existing law, which is beneficial to both parties.

The bill also provides that if a court finds that the general plan or mandatory element does not substantially comply with existing law, then the local jurisdiction has to comply within 120 days, regardless of whether any final judgment has been issued. This provision would not afford a local jurisdiction the opportunity to exhaust their right to appeal before having to comply with a court order. This provision also seems to raise due process concerns about not being afforded an opportunity to be heard. In light of these concerns. The author has agreed to remove this provision from the bill. The specific amendment is below in Comment 4.

e. Charter city

The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. The Constitution does not define “municipal affairs,” so it has been left to the courts to determine whether a statute covers an issue that is a municipal affair or whether it is an issue of statewide concern. This bill seeks to provide that that in order to enforce the general plan law and the housing element law the statutes governing challenges to general plans apply to charter cities. The bill states that this is declaratory of existing law.

The court has held that “if the courts have not yet finally and conclusively interpreted a statute and are in the process of doing so, a declaration of a later Legislature as to what an earlier Legislature intended is entitled to consideration. But even then, ‘a legislative declaration of an existing statute’s meaning’ is but a factor for a court to consider and ‘is neither binding nor conclusive in construing the statute.’” (*McClung v. Empl. Dev. Dept.* (2004) 34 Cal.4th 467, 473.) In *Garat v. City of Riverside*, the appellate court held that the provisions of the housing element law “serve as the primary judicial remedy” to address noncompliance with general plan requirements and applied it in an action against a charter city. (*Garat v. City of Riverside* (1991) 2 Cal.App 4th 259, 303-304.) Committee staff was unable to find any California Supreme Court decisions directly on point regarding this issue. The writ decision issued by the Fourth Appellate District of California noted above also concluded that charter cities had to comply with housing element law, though that decision only applies to that specific case.⁴ As this issue seems to be one where the courts have not “finally and conclusively interpreted a statute,” the statement that this change is declaratory of existing law seems permissible.

3. Senate Local Government Committee Amendments

The author agreed to take the following amendments in Senate Local Government Committee, which, due to timing, will be processed in this Committee:

Amendment 1

SECTION 1. ~~Section 65585.02 is added to the Government Code, to read:~~

~~65585.02. (a) To the extent that a general plan element is inconsistent with another element or a local ordinance, development standard, condition, or policy applicable to housing development projects, the provisions of the most recently adopted element that is substantially compliant under Section 65585 shall supersede the previously adopted element or local ordinance, development standard, condition, or policy, as of the date that the adopted element is deemed substantially compliant~~

⁴ *People of Cal. v. Superior Court of San Diego County* (Cal. Ct. App. 4th Dist. Jan, 1, 2024) No. D083339.

~~under Section 65585 or the date specifically provided in the adopted element pursuant to subdivision (c) of Section 65583, whichever is later. If a local agency has established a deadline under subdivision (c) of Section 65583 to amend a local ordinance, development standard, condition, or policy applicable to housing development projects, the local agency's housing element or amendment shall be immediately deemed not to be in substantial compliance on the date specified, without further action from the department, if the local agency has failed to make that amendment.~~

~~(b) (1) To the extent that a local agency's housing element or amendment, which has been certified by the department as substantially compliant, is required to be ratified or otherwise approved by a vote of the local agency's electorate, that element or amendment shall, without any further action, be deemed not to be in substantial compliance with this article immediately upon certification of an election declining to approve, repealing, or otherwise choosing not to ratify the element or amendment.~~

~~(2) If a local agency's housing element or amendment has been certified by the department as substantially compliant, but is required to be ratified or otherwise approved by a vote of the local agency's electorate, that element or amendment shall, without any further action, be deemed not to be in substantial compliance with this article if any required approval has not been obtained and become effective by July 31, 2026, or 180 days after the department certified the element or amendment, whichever is later.~~

Amendment 2

SECTION 1. Section 65585.02 is added to the Government Code, to read:

65585.02. (a) For purposes of this section, "quantified development standard" means a site's maximum density or requirements for a height limit, setback, maximum or minimum unit size, lot coverage, or floor area ratio.

(b) To the extent that a quantified development standard contained in a general plan element is inconsistent with a quantified development standard contained in another element, the provisions of the most recently adopted element shall supersede inconsistent provisions of the previously adopted element.

(c) If a local agency has established a specific deadline under subdivision (c) of Section 65583 to amend a local ordinance, development standard, condition, or policy applicable to housing development projects, and the local agency has failed to make that amendment by the specified deadline, the department shall undertake the review described in subdivision (i) of Section 65585.

4. Senate Judiciary Committee Amendments

The specific amendments to address the issues raised in the comments above are as follows:⁵

Amendment 1

Section 65587 of the Government Code is amended to read:

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c)(1) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 120 days. However, the court shall retain jurisdiction throughout the period for compliance with its order and to conform to the requirements of Article 14 (commencing with Section 65750).

(2) If review by the Department of Housing and Community Development is required, as part of a court order pursuant to Article 14 (commencing with Section 65750), and the review is not timely completed to allow a city, county, or city and county to comply with a court order to bring their housing element into compliance within 120 days, the court may grant a reasonable extension of time for the city, county, or city and county to comply.

(d) (1) If a court finds that a city, county, or city and county failed to complete the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, as that deadline may be modified by the extension provided for in subdivision (f) of that section, the court shall issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 120 days or the earliest time

⁵ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court shall issue further orders to ensure that the purposes and policies of this article are fulfilled, including ordering, after considering the equities of the circumstances presented by all parties, sanctions on the city, county, or city and county until the rezoning is complete and in effect.

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. In any such action, the city, county, or city and county shall bear the burden of proof.

Amendment 2

SEC. 5. Section 65754 of the Government Code is amended to read:

65754. In any order or judgment issued in an action brought to challenge the validity of the general plan of any city, county, or city and county, or any mandatory element thereof, that resolves whether the general plan or any mandatory element of the general plan thereof substantially complies with the requirements of Article 5 (commencing with Section 65300):

(a) The order or judgment shall be immediately appealable, regardless of whether any final judgment has been issued.

(b) If the court finds that the general plan or mandatory element does not substantially comply with the requirements of Article 5 (commencing with Section 65300), the city, county, or city and county shall bring its general plan or relevant mandatory element or elements thereof into compliance with the requirements of Article 5 (commencing with Section 65300) within 120 days, ~~regardless of whether any final judgment has been issued.~~ days.

Notwithstanding the provisions of subdivision (b) of Section 65585, the planning agency of the city, county, or city and county shall submit a draft of its revised housing element or housing element amendment at least 45 days prior to its adoption to the Department of Housing and Community Development for its review, notifying the department that the element is subject to the review procedure set forth in this section.

The department shall review the draft element or amendment and report its findings to the planning agency within 45 days of receipt of the draft. The legislative body shall consider the department's findings prior to final adoption of the housing

element or amendment if the department's findings are reported to the planning agency within 45 days after the department receives that draft element or amendment.

(c) The city or county, including the chartered cities specified in subdivision (d) of Section 65860, shall, in accordance with Section 65860, bring its zoning ordinance into consistency with its general plan or relevant mandatory element or elements thereof within 120 days after the general plan has been amended in accordance with subdivision (b).

Amendment 3

Section 65757 of the Government Code is amended to read:

65757. (a) During the pendency of any action described in Section 65754, the court shall, upon a showing of probable success on the merits, grant the relief provided in Section 65755 as temporary relief. In any order granting temporary relief, the court shall not enjoin during the pendency of the action any housing developments which comply with applicable provisions of law and which may be developed without having an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element. Any housing developments permitted to proceed during the pendency of the action shall not be subject to the restrictions specified in subdivision (a) or (b) of Section 65754 as part of any final judgment.

(b) The court shall set a date for a hearing within 15 days of the filing of a request for temporary relief pursuant to subdivision (a). The court shall set the hearing for the earliest possible date that the business of the court permits, but not more than 30 days after the filing of the request for temporary relief pursuant to subdivision (a). The court may continue for no more than 30 days the date of the hearing, but shall not grant more than one continuance. If the court does not hear the motion by the deadlines provided by this subdivision, ~~the relief in the motion shall become effective by operation of law on the 61st day after the filing of the request for the hearing until the court enters an order ruling on the motion.~~ *the petitioner may file an ex parte application requesting temporary relief on the 61st day after the initial filing of a request for temporary relief.*

SUPPORT

Attorney General, Rob Bonta (sponsor)
California YIMBY
Circulate San Diego
Habitat for Humanity California
Inner City Law Center

South Pasadena Residents for Responsible Growth

SPUR

The Two Hundred

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1037 (Wiener, Ch. 293, Stats. 2024), among other things, increased penalties for not adopting housing element revisions, as specified, or ministerially approving any planning or permitting application related to a housing development project, as required under existing law.

AB 1485 (Haney, Ch. 763, Stats. 2023), among other things, granted HCD and the AG the unconditional right to intervene in any suit brought to enforce specified housing laws.

AB 215 (Chiu, Ch. 342, Stats. 2021) specified that the AG has the authority to bring a suit to enforce state law in an independent capacity and can seek all remedies available under existing law.

AB 101 (Committee on Budget, Ch. 159, Stats. 2019) authorized the AG to bring suit for a violation of specified housing laws related to housing element compliance, authorized the court to issue an order or judgment directing the jurisdiction to bring its housing element into compliance, and authorized the court to assess specified civil penalties as a result of failure to comply with that order or judgment.

AB 2162 (Chiu, Ch. 753, Stats. 2018), among other things, required that affordable housing projects with a supportive housing component be permitted through a ministerial process in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses.

AB 72 (Santiago, Ch. 370, Stats. 2017) authorized HCD to find a local government's housing element is out of substantial compliance if it determines that the local government acts, or fails to act, in compliance with its housing element, and authorized HCD to refer violations to the AG.

PRIOR VOTES:

Senate Local Government Committee (5 Ayes, 2 Noes)
