

AMENDED IN ASSEMBLY JULY 1, 2021

AMENDED IN SENATE MAY 4, 2021

SENATE BILL

No. 12

**Introduced by Senators McGuire and Stern
(Coauthors: Senators Atkins, Caballero, and Dodd)**

December 7, 2020

An act to amend Sections 65007, 65302, 65584, 65584.04, and 65584.06 of, and to add Sections 65011, 65012, 65013, 65040.18, 65302.11, 65860.2, 65865.6, 65962.3, and 66474.03 to, the Government Code, to amend Section 13132.7 of the Health and Safety Code, and to amend Section 4290 of, and to add Section 4123.6 to, the Public Resources Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, McGuire. Local government: planning and zoning: wildfires.

(1) The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a housing element and a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic and seismic hazards, flooding, and wildland and urban fires. Existing law requires the housing element to be revised according to a specific schedule. Existing law requires the planning agency to review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or

county that was not available during the previous revision of the safety element.

Existing law requires that the Office of Planning and Research, among other things, coordinate with appropriate entities, including state, regional, or local agencies, to establish a clearinghouse for climate adaptation information for use by state, regional, and local entities, as provided.

This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after July 1, 2024, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires, as specified, and would require the planning agency to submit the adopted strategy to the Office of Planning and Research for inclusion into the above-described clearinghouse. The bill would also require the planning agency to review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years, to identify new information relating to retrofit updates applicable to the city or county that was not available during the previous revision of the safety element. By increasing the duties of local officials, this bill would create a state-mandated local program.

(2) Existing law requires the general plan to include a land use element that designates the proposed general distribution and general location and extent of the uses of the land for, among other purposes, housing, business, and industry. Existing law additionally requires the general plan to include a housing element and requires each local government to review and revise its housing element, as specified.

This bill would require a city or county that contains *residential structures* in a very high fire risk area, as defined, upon each revision of the housing element on or after July 1, 2024, to amend the land use element of its general plan to contain, among other things, the locations of all very high fire risk areas within the city or county and feasible implementation measures designed to carry out specified goals, objectives, and policies relating to the protection of lives and property from unreasonable risk of wildfire. The bill would require the city or county to complete a review of, and make findings related to, wildfire risk reduction standards, as defined, upon each subsequent revision of the housing element, as provided. The bill would require the State Board of Forestry and Fire Protection to review the findings and make recommendations, as provided.

The bill would additionally require the Office of the State Fire Marshal, in consultation with the Office of Planning and Research and the State Board of Forestry and Fire Protection, by January 1, 2023, to adopt wildfire risk reduction standards for ~~developments~~ *residential developments, as defined*, in a very high fire risk area that meet certain requirements and reasonable standards for third-party inspection and certifications for a specified enforcement program. The bill would also require the Office of the State Fire Marshal to, by January 1, 2024, update the maps of the very high fire hazard severity zones, as specified. The bill would require the Office of the State Fire Marshal to convene a working group of stakeholders, as specified, to assist in this effort and to consider specified national standards.

Existing law requires county or city zoning ordinances to be consistent with the general plan of the county or city, as specified.

This bill would require a city or county that contains a very high fire risk area, within 12 months following the amendment of the city or county's land use element, to adopt a very high fire risk overlay zone or otherwise amend its zoning ordinance so that it is consistent with the general plan, as specified.

This bill would additionally prohibit the legislative body of a city or county that contains a very high fire risk area, upon the effective date of the revision of the city or county's land use element, from entering into a development agreement for ~~property~~ *a residential development* that is located within a very high fire risk area, approving specified discretionary permits or other discretionary entitlements for projects located within a very high fire risk area, or approving a tentative map or a parcel map for which a tentative map was not required for a subdivision that is located within a very high fire risk area, unless the city or county makes specified findings based on substantial evidence in the record.

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

(3) Existing law requires the Department of Housing and Community Development, in consultation with each council of governments, to determine each region's existing and projected housing need, as provided. Existing law requires each council of governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county and that furthers specified objectives.

This bill would require the regional housing needs allocation plan to additionally further the objective of reducing *residential* development pressure within very high fire risk areas.

(4) Existing law requires the council of governments, or delegate subregion, as applicable, to develop a proposed methodology for distributing the existing and projected regional housing need and, to the extent that sufficient data is available as provided, to include specified factors to develop the methodology that allocates regional housing needs, including, among other factors, the rate of overcrowding.

This bill would additionally require the council of governments, or delegate subregion, as applicable, to include within those factors for the seventh and subsequent revisions of the housing element, the amount of land in each member jurisdiction that is within a very high fire risk area by allocating a lower proportion of housing if the council of governments or delegate subregion determines, based on specified factors, that it is likely that the jurisdiction would otherwise need to identify lands within a very high fire risk area as adequate sites in order to meet its housing need allocation.

For cities and counties without a council of governments, existing law requires the Department of Housing and Community Development to determine and distribute the existing and projected housing need, unless that responsibility is delegated as provided to cities and counties, based upon available data and in consultation with the cities and counties, taking into consideration, among other things, the availability of suitable sites and public facilities.

This bill would also require the department, for the seventh and subsequent revisions of the housing element, to take into consideration the amount of land in each city and each county that is within a very high fire risk area, as defined, by allocating a lower proportion of housing if the department determines, based on specified factors, that it is likely that the jurisdiction would otherwise need to identify lands within a very high fire risk area as adequate sites in order to meet its housing need allocation.

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

(5) Existing law requires the Office of Planning and Research to implement various long-range planning and research policies and goals that are intended to, among other things, encourage the formation and proper functioning of local entities and, in connection with those

responsibilities, to adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans.

This bill would require the Office of Planning and Research, on or before January 1, 2023, in collaboration with cities and counties, to identify local ordinances, policies, and best practices relating to land use planning in very high fire risk areas, wildfire risk reduction, and wildfire preparedness and publish these resources on the above-described clearinghouse, as specified.

(6) Existing law requires, until the 2023–24 fiscal year, the amount of \$165,000,000 to be appropriated from the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.

This bill would establish the Wildfire Risk Reduction Planning Support Grants Program, administered by the Department of Forestry and Fire Protection, for the purpose of providing small jurisdictions, as defined, containing very high fire hazard risk areas with grants for specified planning activities to enable those jurisdictions to meet the requirements set forth in the bill, as described above. Upon appropriation, the bill would require the department to distribute grant funds under the program via a noncompetitive, over-the-counter process, as provided, to small jurisdictions. The bill would require a recipient small jurisdiction to use the allocation solely for wildfire risk reduction planning activities, as specified. The bill would authorize the department to set aside up to 5% of any amount appropriated for these purposes for program administration.

(7) Existing law requires the State Board of Forestry and Fire Protection to adopt regulations implementing minimum fire safety standards that are applicable to lands classified and designated as very high fire hazard severity zones, and requires the regulations to apply to the perimeters and access to all residential, commercial, and industrial building construction within lands classified and designated as very high fire hazard severity zones, as defined, after July 1, 2021.

This bill would specify that the above-described regulations apply to the perimeters and access ~~from the perimeters~~ to all residential, commercial, and industrial building construction within lands classified and designated as very high fire hazard severity zones. The bill would also require the regulations to conform as nearly as practicable with specified existing regulations adopted by the State Fire Marshal.

(8) Existing law requires a common interest development within a very high fire severity zone to allow an owner to install or repair a roof with at least one type of fire retardant roof covering material that meets specified requirements.

This bill would require the one type of fire retardant roof covering material to additionally meet, at a minimum, class B standards, as specified in the International Building Code.

(9) 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 65007 of the Government Code is
2 amended to read:

3 65007. As used in Sections 65302.9, 65860.1, 65865.5, 65962,
4 and 66474.5, the following terms have the following meanings,
5 unless the context requires otherwise:

6 (a) “Adequate progress” means all of the following:

7 (1) The total project scope, schedule, and cost of the completed
8 flood protection system have been developed to meet the
9 appropriate standard of protection.

10 (2) (A) Revenues that are sufficient to fund each year of the
11 project schedule developed in paragraph (1) have been identified
12 and, in any given year and consistent with that schedule, at least
13 90 percent of the revenues scheduled to be received by that year
14 have been appropriated and are currently being expended.

15 (B) Notwithstanding subparagraph (A), for any year in which
16 state funding is not appropriated consistent with an agreement
17 between a state agency and a local flood management agency, the
18 Central Valley Flood Protection Board may find that the local
19 flood management agency is making adequate progress in working
20 toward the completion of the flood protection system.

21 (3) Critical features of the flood protection system are under
22 construction, and each critical feature is progressing as indicated
23 by the actual expenditure of the construction budget funds.

1 (4) The city or county has not been responsible for a significant
2 delay in the completion of the system.

3 (5) The local flood management agency shall provide the
4 Department of Water Resources and the Central Valley Flood
5 Protection Board with the information specified in this subdivision
6 sufficient to determine substantial completion of the required flood
7 protection. The local flood management agency shall annually
8 report to the Central Valley Flood Protection Board on the efforts
9 in working toward completion of the flood protection system.

10 (b) “Central Valley Flood Protection Plan” has the same
11 meaning as that set forth in Section 9612 of the Water Code.

12 (c) “Developed area” has the same meaning as that set forth in
13 Section 59.1 of Title 44 of the Code of Federal Regulations.

14 (d) “Flood hazard zone” means an area subject to flooding that
15 is delineated as either a special hazard area or an area of moderate
16 hazard on an official flood insurance rate map issued by the Federal
17 Emergency Management Agency (FEMA). The identification of
18 flood hazard zones does not imply that areas outside the flood
19 hazard zones, or uses permitted within flood hazard zones, will be
20 free from flooding or flood damage.

21 (e) “National Federal Emergency Management Agency standard
22 of flood protection” means the level of flood protection that is
23 necessary to withstand flooding that has a 1-in-100 chance of
24 occurring in any given year using criteria developed by FEMA for
25 application in the National Flood Insurance Program.

26 (f) “Nonurbanized area” means a developed area or an area
27 outside a developed area in which there are fewer than 10,000
28 residents that is not an urbanizing area.

29 (g) “Project levee” means any levee that is part of the facilities
30 of the State Plan of Flood Control.

31 (h) “Sacramento-San Joaquin Valley” means lands in the bed
32 or along or near the banks of the Sacramento River or San Joaquin
33 River, or their tributaries or connected therewith, or upon any land
34 adjacent thereto, or within the overflow basins thereof, or upon
35 land susceptible to overflow therefrom. The Sacramento-San
36 Joaquin Valley does not include lands lying within the Tulare Lake
37 basin, including the Kings River.

38 (i) “State Plan of Flood Control” has the same meaning as that
39 set forth in subdivision (j) of Section 5096.805 of the Public
40 Resources Code.

1 (j) “Tulare Lake basin” means the Tulare Lake Hydrologic
2 Region as defined in the California Water Plan Update 2009,
3 prepared by the Department of Water Resources pursuant to
4 Chapter 1 (commencing with Section 10004) of Part 1.5 of Division
5 6 of the Water Code.

6 (k) “Undetermined risk area” means an urban or urbanizing area
7 within a moderate flood hazard zone, as delineated on an official
8 flood insurance rate map issued by FEMA, which has not been
9 determined to have an urban level of protection.

10 (l) “Urban area” means a developed area in which there are
11 10,000 residents or more.

12 (m) “Urbanizing area” means a developed area or an area outside
13 a developed area that is planned or anticipated to have 10,000
14 residents or more within the next 10 years.

15 (n) “Urban level of flood protection” means the level of
16 protection that is necessary to withstand flooding that has a
17 1-in-200 chance of occurring in any given year using criteria
18 consistent with, or developed by, the Department of Water
19 Resources. “Urban level of flood protection” shall not mean
20 shallow flooding or flooding from local drainage that meets the
21 criteria of the national FEMA standard of flood protection.

22 (o) “Very high fire risk area” has the same meaning as defined
23 in Section 65011.

24 SEC. 2. Section 65011 is added to the Government Code, to
25 read:

26 65011. For the purposes of Sections 65012, 65013, 65302,
27 65302.11, 65860.2, 65865.6, 65962.3, and 66474.03, unless the
28 context requires otherwise, the following terms have the following
29 meanings:

30 (a) “Adequate progress” means the city or county is taking
31 concrete steps reasonably calculated to achieve funding and
32 implementation of the applicable standard with the timeframe
33 specified in subdivision (b) of Section 65012.

34 (b) “Residential development” means a development that
35 includes at least one residential dwelling unit.

36 ~~(b)~~

37 (c) “Very high fire risk area” means any lands located within a
38 very high fire hazard severity zone, as indicated on maps adopted
39 by the Department of Forestry and Fire Protection pursuant to

1 Section 4202 of the Public Resources Code or as designated
2 pursuant to subdivisions (a) and (b) of Section 51179.

3 SEC. 3. Section 65012 is added to the Government Code, to
4 read:

5 65012. (a) For the purposes of Sections 65302.11, 65860.2,
6 65865.6, 65962.3, and 66474.03, “wildfire risk reduction standard”
7 means the following:

8 (1) For a *residential* development of any size:

9 (A) The regulations adopted by the State Board of Forestry and
10 Fire Protection, the State Fire Marshal, and the California Building
11 Standards Commission regarding defensible space, vegetation
12 management, fuel modification, and materials and construction
13 methods for exterior wildfire exposure, including, but not limited
14 to, all of the following, or the successor provisions:

15 (i) Chapter 7A of the California Building Code.

16 (ii) Chapter 49 of the California Fire Code.

17 (iii) Section R337 of the California Residential Code.

18 (iv) Chapter 12-7A of the California Referenced Standards
19 Code.

20 (v) Subchapter 2 (commencing with Section 1270) of Chapter
21 7 of Division 1.5 of Title 14 of the California Code of Regulations.

22 (vi) Article 3 (commencing with Section 1299.01) of Subchapter
23 3 of Chapter 7 of Division 1.5 of Title 14 of the California Code
24 of Regulations.

25 (B) A wildland fire hazard assessment and wildfire hazard
26 mitigation plan approved by the enforcing agency in accordance
27 with standards adopted by the State Fire Marshal pursuant to
28 Section 65013.

29 (C) An enforcement program established, funded, and
30 implemented to verify ongoing compliance of the defensible space,
31 vegetation management, and fuel modification requirements of
32 the regulations described in subparagraph (A), and with any
33 continuing obligations imposed under a fire protection plan or
34 wildfire hazard mitigation plan established for the project. The
35 enforcing agency may charge a fee sufficient to cover the costs of
36 administering the program and providing any inspections conducted
37 by the enforcing agency. The program shall ensure that compliance
38 is documented for each affected property or structure at least once
39 every three years. Acceptable methods of compliance inspection

1 and documentation shall be determined by the enforcing agency
2 and may include any of the following:

3 (i) The local, state, or federal fire authority or designee
4 authorized to enforce vegetation management requirements.

5 (ii) The enforcing agency.

6 (iii) Third-party inspection and certification authorized in
7 accordance with the regulations adopted by the State Fire Marshal
8 pursuant to Section 65013.

9 (D) The regulations relating to the organization and deployment
10 of fire suppression operations, fire protection infrastructure, water
11 supplies for fire fighting, and reducing ignition hazards from
12 wildland fire adopted by the State Fire Marshal pursuant to Section
13 65013.

14 (2) For a *residential* development of ~~nine units or more~~: *or more*
15 *residential units*:

16 (A) All of the standards set forth in paragraph (1).

17 (B) A fire protection plan setting forth reasonable site-specific
18 safety measures to ensure that the development as a whole is
19 planned and constructed to resist the encroachment of uncontrolled
20 fire. The fire protection plan may be combined with the wildfire
21 hazard mitigation plan prepared for the development in accordance
22 with subparagraph (B) of paragraph (1). The plan shall include,
23 but not be limited to, all of the following:

24 (i) A development layout that reduces wildfire risk to the greatest
25 extent practicable, through measures that may include, but are not
26 limited to, clustering of structures in the lowest risk areas on the
27 property, while still requiring all structures to be separated by a
28 safe distance to avoid the spread of fires from structure to structure,
29 the use of natural and manmade features as fire breaks, and the
30 establishment of community protection fire breaks on the perimeter
31 of the property.

32 (ii) Identification of a low-risk fire safety area where community
33 members can evacuate to and wait until emergency service
34 providers can reach them.

35 (iii) Mechanisms, including funding, to maintain common areas
36 and open spaces within the development so that ground fuels do
37 not promote the spread of wildfire and aerial fuels do not allow
38 the spread of a fire through the tree canopy.

39 (C) A condition on the development that all parcels within the
40 development containing *residential* structures are subject to an

1 ongoing, permanent fee, tax, or assessment, an assessment through
2 a homeowners' association, or a similar funding mechanism
3 sufficient to ensure that defensible space and vegetation
4 management maintenance is funded and occurs on a schedule so
5 as to comply with subparagraph (C) of paragraph (1), and other
6 requirements for maintaining defensible space and vegetation
7 management under law, including, but not limited to, Section 4291
8 of the Public Resources Code.

9 (D) The development shall not be approved unless the city or
10 county finds, based on substantial evidence in the record, that the
11 development can be reasonably accessed and served in the case
12 of a wildfire, with adequate ingress and egress, including, but not
13 limited to, primary and secondary routes and capacity for
14 evacuation and emergency response at the same time.

15 (3) For any *residential* development subject to this subdivision
16 that includes 100 or more residential dwelling units:

17 (A) All of the standards set forth in paragraphs (1) and (2).

18 (B) Additional wildfire risk reduction standards adopted by the
19 State Fire Marshal pursuant to clause (ii) of subparagraph (A) of
20 paragraph (1) of subdivision (a) of Section 65013, or conditions
21 imposed by the city or county that provide the same practical effect
22 as the standards and are at least the equivalent of the standards in
23 reducing the risk to life and property from catastrophic wildfire.

24 (b) For a period of five years following adoption of the zoning
25 ordinance amendment pursuant to Section 65860.2, a *residential*
26 development shall be deemed in compliance with the wildfire risk
27 reduction standards set forth in subparagraphs (C) and (D) of
28 paragraph (1) of subdivision (a) if the city or county finds, based
29 on substantial evidence in the record, that the responsible state and
30 local agencies have made adequate progress toward providing
31 protection from wildfire risk to the level set forth in those
32 standards, or wildfire protection standards adopted by the city or
33 county that meet or exceed those standards.

34 (c) Nothing in this section shall be construed to limit the existing
35 authority of the State Fire Marshal or any other public agency
36 under any other law from adopting standards that are more
37 protective of life and property from the risk of wildfire.

38 SEC. 4. Section 65013 is added to the Government Code, to
39 read:

1 65013. (a) By January 1, 2023, the Office of the State Fire
2 Marshal, in consultation with the Office of Planning and Research
3 and the State Board of Forestry and Fire Protection, shall do all of
4 the following:

5 (1) Adopt wildfire risk reduction standards for *residential*
6 developments in a very high fire risk area that meet all of the
7 following requirements:

8 (A) (i) Account for differences in the size of proposed
9 developments, consistent with the categories set forth in Section
10 65012.

11 (ii) When adopting standards for developments that include 100
12 or more residential dwelling units, the Office of the State Fire
13 Marshal shall incorporate all applicable recommendations included
14 in the Office of Planning and Research’s 2015 publication of “Fire
15 Hazard Planning—General Plan Technical Advice Series.”

16 (B) Include standards for organization and development of fire
17 suppression operations, fire protection infrastructure, water supplies
18 for fire fighting, and reducing structure ignition hazards from
19 wildland fire.

20 (C) Include any additional requirements for fire hardening or
21 similar building standards applicable to structures located in areas
22 without a secondary egress route that are identified in accordance
23 with subdivision (a) of Section 4290.5 of the Public Resources
24 Code.

25 (D) Establish community-scale risk reduction measures,
26 including, but not limited to, both of the following:

27 (i) Community design and layout.

28 (ii) Location and construction of infrastructure to reduce ignition
29 potential and ensure availability of water supplies essential for fire
30 suppression during a wildfire.

31 (E) Are designed to reduce the risk of catastrophic loss due to
32 wildfire based upon a risk model that uses current wildfire hazard
33 severity information known for the very high fire risk areas. The
34 Office of the State Fire Marshal shall utilize a risk model that meets
35 both of the following requirements:

36 (i) The risk model is able to quantify the risk for a community
37 or parcel in a very high fire risk area through the input of mitigating
38 factors into the model.

39 (ii) The model uses the best available science and objective
40 scientific methodologies.

1 (F) Are directly applicable to, and account for, California’s
2 climate, weather, topography, and development patterns.

3 (2) Adopt standards for third-party inspection and certification
4 conducted pursuant to subparagraph (C) of paragraph (1) of
5 subdivision (a) of Section 65012.

6 (b) (1) By January 1, 2024, the Office of the State Fire Marshal
7 shall update the maps of the very high fire hazard severity zones
8 pursuant to Section 51178.

9 (2) In updating the maps pursuant to subparagraph (A), the State
10 Fire Marshal shall identify areas within very high fire hazard
11 severity zones where new residential development poses
12 exceptional risk to future occupants of the development and to fire
13 personnel and other public safety personnel that must access the
14 development during a wildfire.

15 (c) Standards adopted pursuant to this section, regulations and
16 rules of general applicability adopted pursuant to Section 65012,
17 and regulations and rules of general applicability adopted by state
18 or local agencies as necessary to implement those standards, shall
19 be reasonable, and shall be feasible and achievable for the majority
20 of developments in each category set forth in subdivision (a) of
21 Section 65012.

22 (d) In developing the standards required by this section, the
23 Office of the State Fire Marshal shall do both of the following:

24 (1) Convene a working group of stakeholders, including
25 representatives of urban, suburban, and rural counties and cities
26 to assist in this effort.

27 (2) Consider national standards, including, but not limited to,
28 the following:

29 (A) The ICC International Wildland-Urban Interface Code.

30 (B) NFPA 1141: Standard for Fire Protection Infrastructure for
31 Land Development and Wildland, Rural, and Suburban Areas.

32 (C) NFPA 1142: Standard on Water Supplies for Suburban and
33 Rural Fire Fighting.

34 (D) NFPA 1144: Standard for Reducing Structure Ignition
35 Hazards from Wildland Fire.

36 (E) NFPA 1720: Standards for the Organization and Deployment
37 of Fire Suppression Operations, Emergency Medical Operations,
38 and Special Operations to the Public by Volunteer Fire
39 Departments.

1 (e) The Office of the State Fire Marshal may incorporate some
2 or all of the wildfire risk reduction standards adopted pursuant to
3 this section into the building standards developed pursuant to
4 Section 13108.5 of the Health and Safety Code or the regulations
5 adopted pursuant to Section 4290 of the Public Resources Code.

6 (f) Standards adopted pursuant to this section shall be adopted
7 pursuant to the rulemaking provisions of the Administrative
8 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
9 Part 1 of Division 3 of Title 2).

10 (g) Nothing in this section shall be construed to limit the existing
11 authority of the State Fire Marshal or any other state or local public
12 agency under any other law from adopting standards that are more
13 protective of life and property from the risk of wildfire.

14 (h) “Very high fire risk area” has the same meaning as defined
15 in Section 65011.

16 SEC. 5. Section 65040.18 is added to the Government Code,
17 to read:

18 65040.18. By January 1, 2023, the Office of Planning and
19 Research, in collaboration with cities and counties, shall identify
20 local ordinances, policies, and best practices relating to land use
21 planning in very high fire risk areas, wildfire risk reduction, and
22 wildfire preparedness and publish these resources on the
23 clearinghouse established pursuant to Section 71360 of the Public
24 Resources Code. The office shall include in the clearinghouse any
25 comprehensive retrofit strategies submitted pursuant to
26 subparagraph (E) of paragraph (6) of subdivision (g) of Section
27 65302. The office shall regularly update the clearinghouse materials
28 made available pursuant to this section. For purposes of this
29 section, “very high fire risk area” has the same meaning as defined
30 in Section 65011.

31 SEC. 6. Section 65302 of the Government Code, as amended
32 by Section 169 of Chapter 370 of the Statutes of 2020, is amended
33 to read:

34 65302. The general plan shall consist of a statement of
35 development policies and shall include a diagram or diagrams and
36 text setting forth objectives, principles, standards, and plan
37 proposals. The plan shall include the following elements:

38 (a) A land use element that designates the proposed general
39 distribution and general location and extent of the uses of the land
40 for housing, business, industry, open space, including agriculture,

1 natural resources, recreation, and enjoyment of scenic beauty,
2 education, public buildings and grounds, solid and liquid waste
3 disposal facilities, greenways, as defined in Section 816.52 of the
4 Civil Code, and other categories of public and private uses of land.
5 The location and designation of the extent of the uses of the land
6 for public and private uses shall consider the identification of land
7 and natural resources pursuant to paragraph (3) of subdivision (d).
8 The land use element shall include a statement of the standards of
9 population density and building intensity recommended for the
10 various districts and other territory covered by the plan. The land
11 use element shall identify and annually review those areas covered
12 by the plan that are subject to flooding identified by flood plain
13 mapping prepared by the Federal Emergency Management Agency
14 (FEMA) or the Department of Water Resources. The land use
15 element shall also do both of the following:

16 (1) Designate in a land use category that provides for timber
17 production those parcels of real property zoned for timberland
18 production pursuant to the California Timberland Productivity Act
19 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
20 of Division 1 of Title 5).

21 (2) Consider the impact of new growth on military readiness
22 activities carried out on military bases, installations, and operating
23 and training areas, when proposing zoning ordinances or
24 designating land uses covered by the general plan for land, or other
25 territory adjacent to military facilities, or underlying designated
26 military aviation routes and airspace.

27 (A) In determining the impact of new growth on military
28 readiness activities, information provided by military facilities
29 shall be considered. Cities and counties shall address military
30 impacts based on information from the military and other sources.

31 (B) The following definitions govern this paragraph:

32 (i) “Military readiness activities” mean all of the following:

33 (I) Training, support, and operations that prepare the members
34 of the military for combat.

35 (II) Operation, maintenance, and security of any military
36 installation.

37 (III) Testing of military equipment, vehicles, weapons, and
38 sensors for proper operation or suitability for combat use.

39 (ii) “Military installation” means a base, camp, post, station,
40 yard, center, homeport facility for any ship, or other activity under

1 the jurisdiction of the United States Department of Defense as
2 defined in paragraph (1) of subsection (g) of Section 2687 of Title
3 10 of the United States Code.

4 (b) (1) A circulation element consisting of the general location
5 and extent of existing and proposed major thoroughfares,
6 transportation routes, terminals, any military airports and ports,
7 and other local public utilities and facilities, all correlated with the
8 land use element of the plan.

9 (2) (A) Commencing January 1, 2011, upon any substantive
10 revision of the circulation element, the legislative body shall
11 modify the circulation element to plan for a balanced, multimodal
12 transportation network that meets the needs of all users of streets,
13 roads, and highways for safe and convenient travel in a manner
14 that is suitable to the rural, suburban, or urban context of the
15 general plan.

16 (B) For purposes of this paragraph, “users of streets, roads, and
17 highways” mean bicyclists, children, persons with disabilities,
18 motorists, movers of commercial goods, pedestrians, users of public
19 transportation, and seniors.

20 (c) A housing element as provided in Article 10.6 (commencing
21 with Section 65580).

22 (d) (1) A conservation element for the conservation,
23 development, and utilization of natural resources, including water
24 and its hydraulic force, forests, soils, rivers and other waters,
25 harbors, fisheries, wildlife, minerals, and other natural resources.
26 The conservation element shall consider the effect of development
27 within the jurisdiction, as described in the land use element, on
28 natural resources located on public lands, including military
29 installations. That portion of the conservation element including
30 waters shall be developed in coordination with any countywide
31 water agency and with all district and city agencies, including
32 flood management, water conservation, or groundwater agencies
33 that have developed, served, controlled, managed, or conserved
34 water of any type for any purpose in the county or city for which
35 the plan is prepared. Coordination shall include the discussion and
36 evaluation of any water supply and demand information described
37 in Section 65352.5, if that information has been submitted by the
38 water agency to the city or county.

39 (2) The conservation element may also cover all of the
40 following:

- 1 (A) The reclamation of land and waters.
2 (B) Prevention and control of the pollution of streams and other
3 waters.
4 (C) Regulation of the use of land in stream channels and other
5 areas required for the accomplishment of the conservation plan.
6 (D) Prevention, control, and correction of the erosion of soils,
7 beaches, and shores.
8 (E) Protection of watersheds.
9 (F) The location, quantity, and quality of the rock, sand, and
10 gravel resources.
- 11 (3) Upon the next revision of the housing element on or after
12 January 1, 2009, the conservation element shall identify rivers,
13 creeks, streams, flood corridors, riparian habitats, and land that
14 may accommodate floodwater for purposes of groundwater
15 recharge and stormwater management.
- 16 (e) An open-space element as provided in Article 10.5
17 (commencing with Section 65560).
- 18 (f) (1) A noise element that shall identify and appraise noise
19 problems in the community. The noise element shall analyze and
20 quantify, to the extent practicable, as determined by the legislative
21 body, current and projected noise levels for all of the following
22 sources:
- 23 (A) Highways and freeways.
24 (B) Primary arterials and major local streets.
25 (C) Passenger and freight online railroad operations and ground
26 rapid transit systems.
27 (D) Commercial, general aviation, heliport, helistop, and military
28 airport operations, aircraft overflights, jet engine test stands, and
29 all other ground facilities and maintenance functions related to
30 airport operation.
31 (E) Local industrial plants, including, but not limited to, railroad
32 classification yards.
33 (F) Other ground stationary noise sources, including, but not
34 limited to, military installations, identified by local agencies as
35 contributing to the community noise environment.
- 36 (2) Noise contours shall be shown for all of these sources and
37 stated in terms of community noise equivalent level (CNEL) or
38 day-night average sound level (L_{dn}). The noise contours shall be
39 prepared on the basis of noise monitoring or following generally

1 accepted noise modeling techniques for the various sources
2 identified in subparagraphs (A) to (F), inclusive, of paragraph (1).

3 (3) The noise contours shall be used as a guide for establishing
4 a pattern of land uses in the land use element that minimizes the
5 exposure of community residents to excessive noise.

6 (4) The noise element shall include implementation measures
7 and possible solutions that address existing and foreseeable noise
8 problems, if any. The adopted noise element shall serve as a
9 guideline for compliance with the state's noise insulation standards.

10 (g) (1) A safety element for the protection of the community
11 from any unreasonable risks associated with the effects of
12 seismically induced surface rupture, ground shaking, ground
13 failure, tsunami, seiche, and dam failure; slope instability leading
14 to mudslides and landslides; subsidence; liquefaction; and other
15 seismic hazards identified pursuant to Chapter 7.8 (commencing
16 with Section 2690) of Division 2 of the Public Resources Code,
17 and other geologic hazards known to the legislative body; flooding;
18 and wildland and urban fires. The safety element shall include
19 mapping of known seismic and other geologic hazards. It shall
20 also address evacuation routes, military installations, peakload
21 water supply requirements, and minimum road widths and
22 clearances around structures, as those items relate to identified fire
23 and geologic hazards.

24 (2) The safety element, upon the next revision of the housing
25 element on or after January 1, 2009, shall also do the following:

26 (A) Identify information regarding flood hazards, including,
27 but not limited to, the following:

28 (i) Flood hazard zones. As used in this subdivision, "flood
29 hazard zone" means an area subject to flooding that is delineated
30 as either a special hazard area or an area of moderate or minimal
31 hazard on an official flood insurance rate map issued by FEMA.
32 The identification of a flood hazard zone does not imply that areas
33 outside the flood hazard zones or uses permitted within flood
34 hazard zones will be free from flooding or flood damage.

35 (ii) National Flood Insurance Program maps published by
36 FEMA.

37 (iii) Information about flood hazards that is available from the
38 United States Army Corps of Engineers.

39 (iv) Designated floodway maps that are available from the
40 Central Valley Flood Protection Board.

- 1 (v) Dam failure inundation maps prepared pursuant to Section
2 6161 of the Water Code that are available from the Department of
3 Water Resources.
- 4 (vi) Awareness Floodplain Mapping Program maps and 200-year
5 flood plain maps that are or may be available from, or accepted
6 by, the Department of Water Resources.
- 7 (vii) Maps of levee protection zones.
- 8 (viii) Areas subject to inundation in the event of the failure of
9 project or nonproject levees or floodwalls.
- 10 (ix) Historical data on flooding, including locally prepared maps
11 of areas that are subject to flooding, areas that are vulnerable to
12 flooding after wildfires, and sites that have been repeatedly
13 damaged by flooding.
- 14 (x) Existing and planned development in flood hazard zones,
15 including structures, roads, utilities, and essential public facilities.
- 16 (xi) Local, state, and federal agencies with responsibility for
17 flood protection, including special districts and local offices of
18 emergency services.
- 19 (B) Establish a set of comprehensive goals, policies, and
20 objectives based on the information identified pursuant to
21 subparagraph (A), for the protection of the community from the
22 unreasonable risks of flooding, including, but not limited to:
 - 23 (i) Avoiding or minimizing the risks of flooding to new
24 development.
 - 25 (ii) Evaluating whether new development should be located in
26 flood hazard zones, and identifying construction methods or other
27 methods to minimize damage if new development is located in
28 flood hazard zones.
 - 29 (iii) Maintaining the structural and operational integrity of
30 essential public facilities during flooding.
 - 31 (iv) Locating, when feasible, new essential public facilities
32 outside of flood hazard zones, including hospitals and health care
33 facilities, emergency shelters, fire stations, emergency command
34 centers, and emergency communications facilities or identifying
35 construction methods or other methods to minimize damage if
36 these facilities are located in flood hazard zones.
 - 37 (v) Establishing cooperative working relationships among public
38 agencies with responsibility for flood protection.

1 (C) Establish a set of feasible implementation measures designed
2 to carry out the goals, policies, and objectives established pursuant
3 to subparagraph (B).

4 (3) Upon the next revision of the housing element on or after
5 January 1, 2014, the safety element shall be reviewed and updated
6 as necessary to address the risk of fire for land classified as state
7 responsibility areas, as defined in Section 4102 of the Public
8 Resources Code, and land classified as very high fire hazard
9 severity zones, as defined in Section 51177. This review shall
10 consider the advice included in the Office of Planning and
11 Research's most recent publication of "Fire Hazard
12 Planning—General Plan Technical Advice Series" and shall also
13 include all of the following:

14 (A) Information regarding fire hazards, including, but not limited
15 to, all of the following:

16 (i) Fire hazard severity zone maps available from the Department
17 of Forestry and Fire Protection.

18 (ii) Any historical data on wildfires available from local agencies
19 or a reference to where the data can be found.

20 (iii) Information about wildfire hazard areas that may be
21 available from the United States Geological Survey.

22 (iv) General location and distribution of existing and planned
23 uses of land in very high fire hazard severity zones and in state
24 responsibility areas, including structures, roads, utilities, and
25 essential public facilities. The location and distribution of planned
26 uses of land shall not require defensible space compliance measures
27 required by state law or local ordinance to occur on publicly owned
28 lands or open space designations of homeowner associations.

29 (v) Local, state, and federal agencies with responsibility for fire
30 protection, including special districts and local offices of
31 emergency services.

32 (B) A set of goals, policies, and objectives based on the
33 information identified pursuant to subparagraph (A) for the
34 protection of the community from the unreasonable risk of wildfire.

35 (C) A set of feasible implementation measures designed to carry
36 out the goals, policies, and objectives based on the information
37 identified pursuant to subparagraph (B) including, but not limited
38 to, all of the following:

39 (i) Avoiding or minimizing the wildfire hazards associated with
40 new uses of land.

1 (ii) Locating, when feasible, new essential public facilities
2 outside of high fire risk areas, including, but not limited to,
3 hospitals and health care facilities, emergency shelters, emergency
4 command centers, and emergency communications facilities, or
5 identifying construction methods or other methods to minimize
6 damage if these facilities are located in a state responsibility area
7 or very high fire hazard severity zone.

8 (iii) Designing adequate infrastructure if a new development is
9 located in a state responsibility area or in a very high fire hazard
10 severity zone, including safe access for emergency response
11 vehicles, visible street signs, and water supplies for structural fire
12 suppression.

13 (iv) Working cooperatively with public agencies with
14 responsibility for fire protection.

15 (D) If a city or county has adopted a fire safety plan or document
16 separate from the general plan, an attachment of, or reference to,
17 a city or county's adopted fire safety plan or document that fulfills
18 commensurate goals and objectives and contains information
19 required pursuant to this paragraph.

20 (4) Upon the next revision of a local hazard mitigation plan,
21 adopted in accordance with the federal Disaster Mitigation Act of
22 2000 (Public Law 106-390), on or after January 1, 2017, or, if a
23 local jurisdiction has not adopted a local hazard mitigation plan,
24 beginning on or before January 1, 2022, the safety element shall
25 be reviewed and updated as necessary to address climate adaptation
26 and resiliency strategies applicable to the city or county. This
27 review shall consider advice provided in the Office of Planning
28 and Research's General Plan Guidelines and shall include all of
29 the following:

30 (A) (i) A vulnerability assessment that identifies the risks that
31 climate change poses to the local jurisdiction and the geographic
32 areas at risk from climate change impacts, including, but not limited
33 to, an assessment of how climate change may affect the risks
34 addressed pursuant to paragraphs (2) and (3).

35 (ii) Information that may be available from federal, state,
36 regional, and local agencies that will assist in developing the
37 vulnerability assessment and the adaptation policies and strategies
38 required pursuant to subparagraph (B), including, but not limited
39 to, all of the following:

40 (I) Information from the internet-based Cal-Adapt tool.

- 1 (II) Information from the most recent version of the California
2 Adaptation Planning Guide.
- 3 (III) Information from local agencies on the types of assets,
4 resources, and populations that will be sensitive to various climate
5 change exposures.
- 6 (IV) Information from local agencies on their current ability to
7 deal with the impacts of climate change.
- 8 (V) Historical data on natural events and hazards, including
9 locally prepared maps of areas subject to previous risk, areas that
10 are vulnerable, and sites that have been repeatedly damaged.
- 11 (VI) Existing and planned development in identified at-risk
12 areas, including structures, roads, utilities, and essential public
13 facilities.
- 14 (VII) Federal, state, regional, and local agencies with
15 responsibility for the protection of public health and safety and
16 the environment, including special districts and local offices of
17 emergency services.
- 18 (B) A set of adaptation and resilience goals, policies, and
19 objectives based on the information specified in subparagraph (A)
20 for the protection of the community.
- 21 (C) A set of feasible implementation measures designed to carry
22 out the goals, policies, and objectives identified pursuant to
23 subparagraph (B) including, but not limited to, all of the following:
- 24 (i) Feasible methods to avoid or minimize climate change
25 impacts associated with new uses of land.
- 26 (ii) The location, when feasible, of new essential public facilities
27 outside of at-risk areas, including, but not limited to, hospitals and
28 health care facilities, emergency shelters, emergency command
29 centers, and emergency communications facilities, or identifying
30 construction methods or other methods to minimize damage if
31 these facilities are located in at-risk areas.
- 32 (iii) The designation of adequate and feasible infrastructure
33 located in an at-risk area.
- 34 (iv) Guidelines for working cooperatively with relevant local,
35 regional, state, and federal agencies.
- 36 (v) The identification of natural infrastructure that may be used
37 in adaptation projects, where feasible. Where feasible, the plan
38 shall use existing natural features and ecosystem processes, or the
39 restoration of natural features and ecosystem processes, when
40 developing alternatives for consideration. For purposes of this

1 clause, “natural infrastructure” means using natural ecological
2 systems or processes to reduce vulnerability to climate change
3 related hazards, or other related climate change effects, while
4 increasing the long-term adaptive capacity of coastal and inland
5 areas by perpetuating or restoring ecosystem services. This
6 includes, but is not limited to, the conservation, preservation, or
7 sustainable management of any form of aquatic or terrestrial
8 vegetated open space, such as beaches, dunes, tidal marshes, reefs,
9 seagrass, parks, rain gardens, and urban tree canopies. It also
10 includes systems and practices that use or mimic natural processes,
11 such as permeable pavements, bioswales, and other engineered
12 systems, such as levees that are combined with restored natural
13 systems, to provide clean water, conserve ecosystem values and
14 functions, and provide a wide array of benefits to people and
15 wildlife.

16 (D) (i) If a city or county has adopted the local hazard
17 mitigation plan, or other climate adaptation plan or document that
18 fulfills commensurate goals and objectives and contains the
19 information required pursuant to this paragraph, separate from the
20 general plan, an attachment of, or reference to, the local hazard
21 mitigation plan or other climate adaptation plan or document.

22 (ii) Cities or counties that have an adopted hazard mitigation
23 plan, or other climate adaptation plan or document that substantially
24 complies with this section, or have substantially equivalent
25 provisions to this subdivision in their general plans, may use that
26 information in the safety element to comply with this subdivision,
27 and shall summarize and incorporate by reference into the safety
28 element the other general plan provisions, climate adaptation plan
29 or document, specifically showing how each requirement of this
30 subdivision has been met.

31 (5) Upon the next revision of the housing element on or after
32 January 1, 2020, the safety element shall be reviewed and updated
33 as necessary to identify residential developments in any hazard
34 area identified in the safety element that do not have at least two
35 emergency evacuation routes.

36 (6) Upon the next revision of the housing element or the hazard
37 mitigation plan, after July 1, 2024, whichever occurs first, the
38 safety element shall be reviewed and updated as necessary to
39 include a comprehensive retrofit strategy *for residential*
40 *developments* to reduce the risk of property loss and damage during

1 wildfires. The comprehensive retrofit strategy shall include, but
2 is not limited to, all of the following:

3 (A) A list of the types of retrofits needed in an area based on
4 fire risk.

5 (B) A process for identifying and inventorying *residential*
6 structures in need of retrofit for fire hardening. The strategy shall
7 prioritize the identification and inventorying of residential
8 structures in very high fire risk areas.

9 (C) Goals and milestones for completing needed retrofit work.

10 (D) Potential funding sources and financing strategies to pay
11 for needed retrofits on public and private property.

12 (E) Once adopted, the planning agency shall submit the adopted
13 comprehensive retrofit strategy to the Office of Planning and
14 Research for inclusion in the clearinghouse established pursuant
15 to Section 71360 of the Public Resources Code.

16 (7) After the initial revision of the safety element pursuant to
17 paragraphs (2), (3), (4), (5), and (6), the planning agency shall
18 review and, if necessary, revise the safety element upon each
19 revision of the housing element or local hazard mitigation plan,
20 but not less than once every eight years, to identify new information
21 relating to flood and fire hazards, climate adaptation and resiliency
22 strategies, and retrofit updates applicable to the city or county that
23 was not available during the previous revision of the safety
24 element.

25 (8) Cities and counties that have flood plain management
26 ordinances that have been approved by FEMA that substantially
27 comply with this section, or have substantially equivalent
28 provisions to this subdivision in their general plans, may use that
29 information in the safety element to comply with this subdivision,
30 and shall summarize and incorporate by reference into the safety
31 element the other general plan provisions or the flood plain
32 ordinance, specifically showing how each requirement of this
33 subdivision has been met.

34 (9) Before the periodic review of its general plan and before
35 preparing or revising its safety element, each city and county shall
36 consult the California Geological Survey of the Department of
37 Conservation, the Central Valley Flood Protection Board, if the
38 city or county is located within the boundaries of the Sacramento
39 and San Joaquin Drainage District, as set forth in Section 8501 of
40 the Water Code, and the Office of Emergency Services for the

1 purpose of including information known by and available to the
2 department, the agency, and the board required by this subdivision.

3 (10) To the extent that a county's safety element is sufficiently
4 detailed and contains appropriate policies and programs for
5 adoption by a city, a city may adopt that portion of the county's
6 safety element that pertains to the city's planning area in
7 satisfaction of the requirement imposed by this subdivision.

8 (h) (1) An environmental justice element, or related goals,
9 policies, and objectives integrated in other elements, that identifies
10 disadvantaged communities within the area covered by the general
11 plan of the city, county, or city and county, if the city, county, or
12 city and county has a disadvantaged community. The
13 environmental justice element, or related environmental justice
14 goals, policies, and objectives integrated in other elements, shall
15 do all of the following:

16 (A) Identify objectives and policies to reduce the unique or
17 compounded health risks in disadvantaged communities by means
18 that include, but are not limited to, the reduction of pollution
19 exposure, including the improvement of air quality, and the
20 promotion of public facilities, food access, safe and sanitary homes,
21 and physical activity.

22 (B) Identify objectives and policies to promote civic engagement
23 in the public decisionmaking process.

24 (C) Identify objectives and policies that prioritize improvements
25 and programs that address the needs of disadvantaged communities.

26 (2) A city, county, or city and county subject to this subdivision
27 shall adopt or review the environmental justice element, or the
28 environmental justice goals, policies, and objectives in other
29 elements, upon the adoption or next revision of two or more
30 elements concurrently on or after January 1, 2018.

31 (3) By adding this subdivision, the Legislature does not intend
32 to require a city, county, or city and county to take any action
33 prohibited by the United States Constitution or the California
34 Constitution.

35 (4) For purposes of this subdivision, the following terms shall
36 apply:

37 (A) "Disadvantaged communities" means an area identified by
38 the California Environmental Protection Agency pursuant to
39 Section 39711 of the Health and Safety Code or an area that is a
40 low-income area that is disproportionately affected by

1 environmental pollution and other hazards that can lead to negative
2 health effects, exposure, or environmental degradation.

3 (B) “Public facilities” includes public improvements, public
4 services, and community amenities, as defined in subdivision (d)
5 of Section 66000.

6 (C) “Low-income area” means an area with household incomes
7 at or below 80 percent of the statewide median income or with
8 household incomes at or below the threshold designated as low
9 income by the Department of Housing and Community
10 Development’s list of state income limits adopted pursuant to
11 Section 50093 of the Health and Safety Code.

12 SEC. 7. Section 65302.11 is added to the Government Code,
13 to read:

14 65302.11. (a) Upon each revision of the housing element on
15 or after July 1, 2024, each city or county that contains *residential*
16 *structures* in a very high fire risk area shall amend the land use
17 element of its general plan to contain all of the following with
18 respect to *residential* lands located within a very high fire risk
19 area:

20 (1) (A) The goals contained in the most recent Strategic Fire
21 Plan for California prepared by the Department of Forestry and
22 Fire Protection.

23 (B) The locations of all very high fire risk areas within the city
24 or county.

25 (C) The data and analysis described in the Office of Planning
26 and Research’s most recent publication of “Fire Hazard
27 Planning—General Plan Technical Advice Series.”

28 (D) The goals of any local hazard mitigation plan, community
29 wildfire protection plan, and climate adaptation plan that has been
30 adopted by the governing body of the city or county.

31 (2) Objectives and policies, based on the goals, data, and
32 analysis identified pursuant to paragraph (1), for the protection of
33 lives and property from unreasonable risk of wildfire. These
34 objectives and policies shall take into consideration, and be
35 consistent with, the information, goals, policies, objectives, and
36 implementation measures included in the safety element in
37 accordance with paragraph (3) of subdivision (g) of Section 65302.

38 (3) Feasible implementation measures designed to carry out the
39 goals, objectives, and policies established pursuant to this
40 subdivision.

1 (b) (1) After the initial amendment of the land use element
2 pursuant to subdivision (a), the governing body of the city or
3 county shall review all of the following upon each subsequent
4 revision of the housing element, but not less than once every eight
5 years:

6 (A) The implementation of the wildfire risk reduction standards,
7 as defined in Section 65012, within the jurisdiction. The governing
8 body shall make written findings, based upon substantial evidence,
9 regarding whether the city or county has implemented the wildfire
10 risk reduction standards during the preceding planning period, or
11 made adequate progress toward implementing the wildfire risk
12 reduction standards as provided in subdivision (b) of Section
13 65012.

14 (B) The designation of lands within the jurisdiction as very high
15 fire hazard severity zones pursuant to subdivision (b) of Section
16 51179. The governing body shall make written findings, based
17 upon substantial evidence, supporting the determinations made in
18 accordance with that subdivision.

19 (2) The draft findings required under this subdivision shall be
20 submitted to the State Board of Forestry and Fire Protection and
21 to every local agency that provides fire protection to territory in
22 the city or county at least 90 days prior to adoption by the
23 governing body.

24 (A) The State Board of Forestry and Fire Protection shall, and
25 a local agency may, review the draft findings and recommend
26 changes to the city or county within 60 days of its receipt regarding
27 both of the following:

28 (i) Whether the city or county has implemented the wildfire risk
29 reduction standards during the preceding planning period, or made
30 adequate progress toward implementing the wildfire risk reduction
31 standards as provided in subdivision (b) of Section 65012.

32 (ii) Whether the designation of lands within the jurisdiction as
33 very high fire hazard severity zones is appropriate.

34 (B) (i) Prior to the adoption of its draft findings, the governing
35 body shall consider the recommendations, if any, made by the
36 State Board of Forestry and Fire Protection and any local agency
37 that provides fire protection to territory in the city or county. If
38 the governing body determines not to accept all or some of the
39 recommendations, if any, made by the State Board of Forestry and
40 Fire Protection or the local agency, the governing body shall

1 communicate in writing to the State Board of Forestry and Fire
2 Protection or the local agency, its reasons for not accepting the
3 recommendations.

4 (ii) If the governing body proposes not to adopt the State Board
5 of Forestry and Fire Protection's recommendations concerning its
6 draft findings, the State Board of Forestry and Fire Protection,
7 within 15 days of receipt of the governing body's written response,
8 may request in writing a consultation with the governing body to
9 discuss the State Board of Forestry and Fire Protection's
10 recommendations and the governing body's response. The
11 consultation may be conducted in person, electronically, or
12 telephonically. If the State Board of Forestry and Fire Protection
13 requests a consultation pursuant to this subparagraph, the governing
14 body shall not approve the draft element or draft amendment until
15 after consulting with the State Board of Forestry and Fire
16 Protection. The consultation shall occur within 30 days after the
17 State Board of Forestry and Fire Protection's request.

18 (C) The State Board of Forestry and Fire Protection shall notify
19 the city or county and may notify the Office of the Attorney
20 General that the city or county is in violation of state law if the
21 State Board of Forestry and Fire Protection finds that the written
22 findings do not substantially comply with this section, or that the
23 city or county has otherwise failed to substantially comply with
24 this section or with Section 65860.2.

25 (3) Any interested person may bring an action to compel
26 compliance with the requirements of this subdivision. The action
27 shall be brought pursuant to Section 1085 of the Code of Civil
28 Procedure.

29 (c) For purposes of this section, "very high fire risk area" has
30 the same meaning as defined in Section 65011.

31 SEC. 8. Section 65584 of the Government Code is amended
32 to read:

33 65584. (a) (1) For the fourth and subsequent revisions of the
34 housing element pursuant to Section 65588, the department shall
35 determine the existing and projected need for housing for each
36 region pursuant to this article. For purposes of subdivision (a) of
37 Section 65583, the share of a city or county of the regional housing
38 need shall include that share of the housing need of persons at all
39 income levels within the area significantly affected by the general
40 plan of the city or county.

1 (2) It is the intent of the Legislature that cities, counties, and
2 cities and counties should undertake all necessary actions to
3 encourage, promote, and facilitate the development of housing to
4 accommodate the entire regional housing need, and reasonable
5 actions should be taken by local and regional governments to
6 ensure that future housing production meets, at a minimum, the
7 regional housing need established for planning purposes. These
8 actions shall include applicable reforms and incentives in Section
9 65582.1.

10 (3) The Legislature finds and declares that insufficient housing
11 in job centers hinders the state’s environmental quality and runs
12 counter to the state’s environmental goals. In particular, when
13 Californians seeking affordable housing are forced to drive longer
14 distances to work, an increased amount of greenhouse gases and
15 other pollutants is released and puts in jeopardy the achievement
16 of the state’s climate goals, as established pursuant to Section
17 38566 of the Health and Safety Code, and clean air goals.

18 (b) The department, in consultation with each council of
19 governments, shall determine each region’s existing and projected
20 housing need pursuant to Section 65584.01 at least two years prior
21 to the scheduled revision required pursuant to Section 65588. The
22 appropriate council of governments, or for cities and counties
23 without a council of governments, the department, shall adopt a
24 final regional housing need plan that allocates a share of the
25 regional housing need to each city, county, or city and county at
26 least one year prior to the scheduled revision for the region required
27 by Section 65588. The allocation plan prepared by a council of
28 governments shall be prepared pursuant to Sections 65584.04 and
29 65584.05.

30 (c) Notwithstanding any other provision of law, the due dates
31 for the determinations of the department or for the council of
32 governments, respectively, regarding the regional housing need
33 may be extended by the department by not more than 60 days if
34 the extension will enable access to more recent critical population
35 or housing data from a pending or recent release of the United
36 States Census Bureau or the Department of Finance. If the due
37 date for the determination of the department or the council of
38 governments is extended for this reason, the department shall
39 extend the corresponding housing element revision deadline
40 pursuant to Section 65588 by not more than 60 days.

1 (d) The regional housing needs allocation plan shall further all
2 of the following objectives:

3 (1) Increasing the housing supply and the mix of housing types,
4 tenure, and affordability in all cities and counties within the region
5 in an equitable manner, which shall result in each jurisdiction
6 receiving an allocation of units for low- and very low income
7 households.

8 (2) Promoting infill development and socioeconomic equity,
9 the protection of environmental and agricultural resources, the
10 encouragement of efficient development patterns, and the
11 achievement of the region’s greenhouse gas reductions targets
12 provided by the State Air Resources Board pursuant to Section
13 65080.

14 (3) Promoting an improved intraregional relationship between
15 jobs and housing, including an improved balance between the
16 number of low-wage jobs and the number of housing units
17 affordable to low-wage workers in each jurisdiction.

18 (4) Allocating a lower proportion of housing need to an income
19 category when a jurisdiction already has a disproportionately high
20 share of households in that income category, as compared to the
21 countywide distribution of households in that category from the
22 most recent American Community Survey.

23 (5) Affirmatively furthering fair housing.

24 (6) Promoting resilient communities. Furthering this objective
25 shall include reducing *residential* development pressure within
26 very high fire risk areas. This paragraph shall apply only to the
27 regional housing needs allocation plan for the seventh and
28 subsequent revisions of the housing element.

29 (e) For purposes of this section, “affirmatively furthering fair
30 housing” means taking meaningful actions, in addition to
31 combating discrimination, that overcome patterns of segregation
32 and foster inclusive communities free from barriers that restrict
33 access to opportunity based on protected characteristics.
34 Specifically, affirmatively furthering fair housing means taking
35 meaningful actions that, taken together, address significant
36 disparities in housing needs and in access to opportunity, replacing
37 segregated living patterns with truly integrated and balanced living
38 patterns, transforming racially and ethnically concentrated areas
39 of poverty into areas of opportunity, and fostering and maintaining
40 compliance with civil rights and fair housing laws.

1 (f) For purposes of this section, “household income levels” are
2 as determined by the department as of the most recent American
3 Community Survey pursuant to the following code sections:

4 (1) Very low incomes, as defined by Section 50105 of the Health
5 and Safety Code.

6 (2) Lower incomes, as defined by Section 50079.5 of the Health
7 and Safety Code.

8 (3) Moderate incomes, as defined by Section 50093 of the Health
9 and Safety Code.

10 (4) Above moderate incomes are those exceeding the
11 moderate-income level of Section 50093 of the Health and Safety
12 Code.

13 (g) Notwithstanding any other provision of law, determinations
14 made by the department, a council of governments, or a city or
15 county pursuant to this section or Section 65584.01, 65584.02,
16 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08
17 are exempt from the California Environmental Quality Act
18 (Division 13 (commencing with Section 21000) of the Public
19 Resources Code).

20 SEC. 9. Section 65584.04 of the Government Code is amended
21 to read:

22 65584.04. (a) At least two years prior to a scheduled revision
23 required by Section 65588, each council of governments, or
24 delegate subregion as applicable, shall develop, in consultation
25 with the department, a proposed methodology for distributing the
26 existing and projected regional housing need to cities, counties,
27 and cities and counties within the region or within the subregion,
28 where applicable pursuant to this section. The methodology shall
29 further the objectives listed in subdivision (d) of Section 65584.

30 (b) (1) No more than six months before the development of a
31 proposed methodology for distributing the existing and projected
32 housing need, each council of governments shall survey each of
33 its member jurisdictions to request, at a minimum, information
34 regarding the factors listed in subdivision (e) that will allow the
35 development of a methodology based upon the factors established
36 in subdivision (e).

37 (2) With respect to the objective in paragraph (5) of subdivision
38 (d) of Section 65584, the survey shall review and compile
39 information that will allow the development of a methodology
40 based upon the issues, strategies, and actions that are included, as

1 available, in an Analysis of Impediments to Fair Housing Choice
2 or an Assessment of Fair Housing completed by any city or county
3 or the department that covers communities within the area served
4 by the council of governments, and in housing elements adopted
5 pursuant to this article by cities and counties within the area served
6 by the council of governments.

7 (3) The council of governments shall seek to obtain the
8 information in a manner and format that is comparable throughout
9 the region and utilize readily available data to the extent possible.

10 (4) The information provided by a local government pursuant
11 to this section shall be used, to the extent possible, by the council
12 of governments, or delegate subregion as applicable, as source
13 information for the methodology developed pursuant to this section.
14 The survey shall state that none of the information received may
15 be used as a basis for reducing the total housing need established
16 for the region pursuant to Section 65584.01.

17 (5) If the council of governments fails to conduct a survey
18 pursuant to this subdivision, a city, county, or city and county may
19 submit information related to the items listed in subdivision (e)
20 before the public comment period provided for in subdivision (d).

21 (c) The council of governments shall electronically report the
22 results of the survey of fair housing issues, strategies, and actions
23 compiled pursuant to paragraph (2) of subdivision (b). The report
24 shall describe common themes and effective strategies employed
25 by cities and counties within the area served by the council of
26 governments, including common themes and effective strategies
27 around avoiding the displacement of lower income households.
28 The council of governments shall also identify significant barriers
29 to affirmatively furthering fair housing at the regional level and
30 may recommend strategies or actions to overcome those barriers.
31 A council of governments or metropolitan planning organization,
32 as appropriate, may use this information for any other purpose,
33 including publication within a regional transportation plan adopted
34 pursuant to Section 65080 or to inform the land use assumptions
35 that are applied in the development of a regional transportation
36 plan.

37 (d) Public participation and access shall be required in the
38 development of the methodology and in the process of drafting
39 and adoption of the allocation of the regional housing needs.
40 Participation by organizations other than local jurisdictions and

1 councils of governments shall be solicited in a diligent effort to
2 achieve public participation of all economic segments of the
3 community as well as members of protected classes under Section
4 12955. The proposed methodology, along with any relevant
5 underlying data and assumptions, an explanation of how
6 information about local government conditions gathered pursuant
7 to subdivision (b) has been used to develop the proposed
8 methodology, how each of the factors listed in subdivision (e) is
9 incorporated into the methodology, and how the proposed
10 methodology furthers the objectives listed in subdivision (e) of
11 Section 65584, shall be distributed to all cities, counties, any
12 subregions, and members of the public who have made a written
13 or electronic request for the proposed methodology and published
14 on the council of governments', or delegate subregion's, internet
15 website. The council of governments, or delegate subregion, as
16 applicable, shall conduct at least one public hearing to receive oral
17 and written comments on the proposed methodology.

18 (e) To the extent that sufficient data is available from local
19 governments pursuant to subdivision (b) or other sources, each
20 council of governments, or delegate subregion as applicable, shall
21 include the following factors to develop the methodology that
22 allocates regional housing needs:

23 (1) Each member jurisdiction's existing and projected jobs and
24 housing relationship. This shall include an estimate based on
25 readily available data on the number of low-wage jobs within the
26 jurisdiction and how many housing units within the jurisdiction
27 are affordable to low-wage workers as well as an estimate based
28 on readily available data, of projected job growth and projected
29 household growth by income level within each member jurisdiction
30 during the planning period.

31 (2) The opportunities and constraints to development of
32 additional housing in each member jurisdiction, including all of
33 the following:

34 (A) Lack of capacity for sewer or water service due to federal
35 or state laws, regulations or regulatory actions, or supply and
36 distribution decisions made by a sewer or water service provider
37 other than the local jurisdiction that preclude the jurisdiction from
38 providing necessary infrastructure for additional development
39 during the planning period.

1 (B) The availability of land suitable for urban development or
2 for conversion to residential use, the availability of underutilized
3 land, and opportunities for infill development and increased
4 residential densities. The council of governments may not limit
5 its consideration of suitable housing sites or land suitable for urban
6 development to existing zoning ordinances and land use restrictions
7 of a locality, but shall consider the potential for increased
8 residential development under alternative zoning ordinances and
9 land use restrictions. The determination of available land suitable
10 for urban development may exclude lands where the Federal
11 Emergency Management Agency (FEMA) or the Department of
12 Water Resources has determined that the flood management
13 infrastructure designed to protect that land is not adequate to avoid
14 the risk of flooding.

15 (C) Lands preserved or protected from urban development under
16 existing federal or state programs, or both, designed to protect
17 open space, farmland, environmental habitats, and natural resources
18 on a long-term basis, including land zoned or designated for
19 agricultural protection or preservation that is subject to a local
20 ballot measure that was approved by the voters of that jurisdiction
21 that prohibits or restricts conversion to nonagricultural uses.

22 (D) County policies to preserve prime agricultural land, as
23 defined pursuant to Section 56064, within an unincorporated area
24 and land within an unincorporated area zoned or designated for
25 agricultural protection or preservation that is subject to a local
26 ballot measure that was approved by the voters of that jurisdiction
27 that prohibits or restricts its conversion to nonagricultural uses.

28 (3) The distribution of household growth assumed for purposes
29 of a comparable period of regional transportation plans and
30 opportunities to maximize the use of public transportation and
31 existing transportation infrastructure.

32 (4) Agreements between a county and cities in a county to direct
33 growth toward incorporated areas of the county and land within
34 an unincorporated area zoned or designated for agricultural
35 protection or preservation that is subject to a local ballot measure
36 that was approved by the voters of the jurisdiction that prohibits
37 or restricts conversion to nonagricultural uses.

38 (5) The loss of units contained in assisted housing developments,
39 as defined in paragraph (9) of subdivision (a) of Section 65583,

1 that changed to non-low-income use through mortgage prepayment,
2 subsidy contract expirations, or termination of use restrictions.

3 (6) The percentage of existing households at each of the income
4 levels listed in subdivision (f) of Section 65584 that are paying
5 more than 30 percent and more than 50 percent of their income in
6 rent.

7 (7) The rate of overcrowding.

8 (8) The housing needs of farmworkers.

9 (9) The housing needs generated by the presence of a private
10 university or a campus of the California State University or the
11 University of California within any member jurisdiction.

12 (10) The housing needs of individuals and families experiencing
13 homelessness. If a council of governments has surveyed each of
14 its member jurisdictions pursuant to subdivision (b) on or before
15 January 1, 2020, this paragraph shall apply only to the development
16 of methodologies for the seventh and subsequent revisions of the
17 housing element.

18 (11) The loss of units during a state of emergency that was
19 declared by the Governor pursuant to the California Emergency
20 Services Act (Chapter 7 (commencing with Section 8550) of
21 Division 1 of Title 2), during the planning period immediately
22 preceding the relevant revision pursuant to Section 65588 that
23 have yet to be rebuilt or replaced at the time of the analysis.

24 (12) The region's greenhouse gas emissions targets provided
25 by the State Air Resources Board pursuant to Section 65080.

26 (13) The amount of land in each member jurisdiction that is
27 within a very high fire risk area, by allocating a lower proportion
28 of housing to a jurisdiction if it is likely that the jurisdiction would
29 otherwise need to identify lands within a very high fire risk area
30 as adequate sites pursuant to Section 65583 in order to meet its
31 housing need allocation. In determining whether it is likely the
32 jurisdiction would otherwise need to identify lands within a very
33 high fire risk area as adequate sites pursuant to Section 65583 in
34 order to meet its housing need allocation, the council of
35 governments, or delegate subregion as applicable, shall consider
36 factors that include, but are not limited to, the following:

37 (A) (i) The percentage of land described in subparagraph (B)
38 of paragraph (2) within the jurisdiction that includes a very high
39 fire risk area.

1 (ii) Whether suitable alternative sites exist outside the
2 jurisdiction, but within the region, to accommodate the remaining
3 regional housing need.

4 (B) Any determination by a council of governments, or delegate
5 subregions, as applicable, to establish, or not establish, a lower
6 allocation under this paragraph for a jurisdiction containing a very
7 high fire risk area shall be supported by a data-driven analysis
8 demonstrating that the reduced allocation is, or is not, appropriate,
9 including evidence-based consideration of the factors set forth in
10 clauses (i) and (ii) of subparagraph (A).

11 (C) This paragraph shall apply only to the development of
12 methodologies for the seventh and subsequent revisions of the
13 housing element.

14 (D) For the purposes of this paragraph, “very high fire risk area”
15 has the same meaning as defined in Section 65011.

16 (14) Any other factors adopted by the council of governments,
17 that further the objectives listed in subdivision (d) of Section
18 65584, provided that the council of governments specifies which
19 of the objectives each additional factor is necessary to further. The
20 council of governments may include additional factors unrelated
21 to furthering the objectives listed in subdivision (d) of Section
22 65584 so long as the additional factors do not undermine the
23 objectives listed in subdivision (d) of Section 65584 and are applied
24 equally across all household income levels as described in
25 subdivision (f) of Section 65584 and the council of governments
26 makes a finding that the factor is necessary to address significant
27 health and safety conditions.

28 (f) The council of governments, or delegate subregion, as
29 applicable, shall explain in writing how each of the factors
30 described in subdivision (e) was incorporated into the methodology
31 and how the methodology furthers the objectives listed in
32 subdivision (d) of Section 65584. The methodology may include
33 numerical weighting. This information, and any other supporting
34 materials used in determining the methodology, shall be posted
35 on the council of governments’, or delegate subregion’s, internet
36 website.

37 (g) The following criteria shall not be a justification for a
38 determination or a reduction in a jurisdiction’s share of the regional
39 housing need:

1 (1) Any ordinance, policy, voter-approved measure, or standard
2 of a city or county that directly or indirectly limits the number of
3 residential building permits issued by a city or county.

4 (2) Prior underproduction of housing in a city or county from
5 the previous regional housing need allocation, as determined by
6 each jurisdiction's annual production report submitted pursuant
7 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
8 65400.

9 (3) Stable population numbers in a city or county from the
10 previous regional housing needs cycle.

11 (h) Following the conclusion of the public comment period
12 described in subdivision (d) on the proposed allocation
13 methodology, and after making any revisions deemed appropriate
14 by the council of governments, or delegate subregion, as applicable,
15 as a result of comments received during the public comment period,
16 and as a result of consultation with the department, each council
17 of governments, or delegate subregion, as applicable, shall publish
18 a draft allocation methodology on its internet website and submit
19 the draft allocation methodology, along with the information
20 required pursuant to subdivision (e), to the department.

21 (i) Within 60 days, the department shall review the draft
22 allocation methodology and report its written findings to the
23 council of governments, or delegate subregion, as applicable. In
24 its written findings the department shall determine whether the
25 methodology furthers the objectives listed in subdivision (d) of
26 Section 65584. If the department determines that the methodology
27 is not consistent with subdivision (d) of Section 65584, the council
28 of governments, or delegate subregion, as applicable, shall take
29 one of the following actions:

30 (1) Revise the methodology to further the objectives listed in
31 subdivision (d) of Section 65584 and adopt a final regional, or
32 subregional, housing need allocation methodology.

33 (2) Adopt the regional, or subregional, housing need allocation
34 methodology without revisions and include within its resolution
35 of adoption findings, supported by substantial evidence, as to why
36 the council of governments, or delegate subregion, believes that
37 the methodology furthers the objectives listed in subdivision (d)
38 of Section 65584 despite the findings of the department.

1 (j) If the department's findings are not available within the time
2 limits set by subdivision (i), the council of governments, or delegate
3 subregion, may act without them.

4 (k) Upon either action pursuant to subdivision (i), the council
5 of governments, or delegate subregion, shall provide notice of the
6 adoption of the methodology to the jurisdictions within the region,
7 or delegate subregion, as applicable, and to the department, and
8 shall publish the adopted allocation methodology, along with its
9 resolution and any adopted written findings, on its internet website.

10 (l) The department may, within 90 days, review the adopted
11 methodology and report its findings to the council of governments,
12 or delegate subregion.

13 (m) (1) It is the intent of the Legislature that housing planning
14 be coordinated and integrated with the regional transportation plan.
15 To achieve this goal, the allocation plan shall allocate housing
16 units within the region consistent with the development pattern
17 included in the sustainable communities strategy.

18 (2) The final allocation plan shall ensure that the total regional
19 housing need, by income category, as determined under Section
20 65584, is maintained, and that each jurisdiction in the region
21 receive an allocation of units for low- and very low income
22 households.

23 (3) The resolution approving the final housing need allocation
24 plan shall demonstrate that the plan is consistent with the
25 sustainable communities strategy in the regional transportation
26 plan and furthers the objectives listed in subdivision (d) of Section
27 65584.

28 SEC. 10. Section 65584.06 of the Government Code is amended
29 to read:

30 65584.06. (a) For cities and counties without a council of
31 governments, the department shall determine and distribute the
32 existing and projected housing need, in accordance with Section
33 65584 and this section. If the department determines that a county
34 or counties, supported by a resolution adopted by the board or
35 boards of supervisors, and a majority of cities within the county
36 or counties representing a majority of the population of the county
37 or counties, possess the capability and resources and has agreed
38 to accept the responsibility, with respect to its jurisdiction, for the
39 distribution of the regional housing need, the department shall
40 delegate this responsibility to the cities and county or counties.

1 (b) The distribution of regional housing need shall, based upon
2 available data and in consultation with the cities and counties, take
3 into consideration market demand for housing, the distribution of
4 household growth within the county assumed in the regional
5 transportation plan where applicable, employment opportunities
6 and commuting patterns, the availability of suitable sites and public
7 facilities, the needs of individuals and families experiencing
8 homelessness, agreements between a county and cities in a county
9 to direct growth toward incorporated areas of the county, or other
10 considerations as may be requested by the affected cities or
11 counties and agreed to by the department. As part of the allocation
12 of the regional housing need, the department shall provide each
13 city and county with data describing the assumptions and
14 methodology used in calculating its share of the regional housing
15 need. Consideration of suitable housing sites or land suitable for
16 urban development is not limited to existing zoning ordinances
17 and land use restrictions of a locality, but shall include
18 consideration of the potential for increased residential development
19 under alternative zoning ordinances and land use restrictions. The
20 determination of available land suitable for urban development
21 may exclude lands where the Federal Emergency Management
22 Agency (FEMA) or the Department of Water Resources has
23 determined that the flood management infrastructure designed to
24 protect that land is not adequate to avoid the risk of flooding.

25 (c) (1) The distribution of regional housing need pursuant to
26 this section shall also take into consideration the amount of land
27 in each city and each county that is within a very high fire risk
28 area, by allocating a lower proportion of housing to a jurisdiction
29 if it is likely that the jurisdiction would otherwise need to identify
30 lands within a very high fire risk area as adequate sites pursuant
31 to Section 65583 in order to meet its housing need allocation. In
32 determining whether it is likely the jurisdiction would otherwise
33 need to identify lands within a very high fire risk area as adequate
34 sites pursuant to Section 65583 in order to meet its housing need
35 allocation, the department shall consider factors that include, but
36 are not limited to, the following:

37 (A) The percentage of land described in subparagraph (B) of
38 paragraph (2) of subdivision (e) of Section 65584.04 within the
39 jurisdiction that includes a very high fire risk area.

1 (B) Whether suitable alternative sites exist outside the
2 jurisdiction, but within the region, to accommodate the remaining
3 regional housing need.

4 (2) Any determination to establish, or not establish, a lower
5 allocation under this paragraph for a jurisdiction containing a very
6 high fire risk area shall be supported by a data-driven analysis
7 demonstrating that the reduced allocation is, or is not, appropriate,
8 including evidence-based consideration of the factors set forth in
9 paragraph (1).

10 (3) This paragraph shall apply only to the development of
11 methodologies for the seventh and subsequent revisions of the
12 housing element.

13 (d) Within 90 days following the department's determination
14 of a draft distribution of the regional housing need to the cities and
15 the county, a city or county may propose to revise the determination
16 of its share of the regional housing need in accordance with criteria
17 set forth in the draft distribution. The proposed revised share shall
18 be based upon comparable data available for all affected
19 jurisdictions, and accepted planning methodology, and shall be
20 supported by adequate documentation.

21 (e) (1) Within 60 days after the end of the 90-day time period
22 for the revision by the cities or county, the department shall accept
23 the proposed revision, modify its earlier determination, or indicate
24 why the proposed revision is inconsistent with the regional housing
25 need.

26 (2) If the department does not accept the proposed revision,
27 then, within 30 days, the city or county may request a public
28 hearing to review the determination.

29 (3) The city or county shall be notified within 30 days by
30 certified mail, return receipt requested, of at least one public
31 hearing regarding the determination.

32 (4) The date of the hearing shall be at least 10 but not more than
33 15 days from the date of the notification.

34 (5) Before making its final determination, the department shall
35 consider all comments received and shall include a written response
36 to each request for revision received from a city or county.

37 (f) If the department accepts the proposed revision or modifies
38 its earlier determination, the city or county shall use that share. If
39 the department grants a revised allocation pursuant to subdivision
40 (d), the department shall ensure that the total regional housing

1 need is maintained. The department’s final determination shall be
2 in writing and shall include information explaining how its action
3 is consistent with this section. If the department indicates that the
4 proposed revision is inconsistent with the regional housing need,
5 the city or county shall use the share that was originally determined
6 by the department. The department, within its final determination,
7 may adjust the allocation of a city or county that was not the subject
8 of a request for revision of the draft distribution.

9 (g) The department shall issue a final regional housing need
10 allocation for all cities and counties within 45 days of the
11 completion of the local review period.

12 (h) Statutory changes enacted after the date the department
13 issued a final determination pursuant to this section shall not be a
14 basis for a revision of the final determination.

15 (i) For purposes of this section, “very high fire risk area” has
16 the same meaning as defined in Section 65011.

17 SEC. 11. Section 65860.2 is added to the Government Code,
18 to read:

19 65860.2. (a) Not more than 12 months following the
20 amendment of the land use element of a city’s or county’s general
21 plan pursuant to Section 65302.11, each city or county that contains
22 a very high fire risk area, as defined in Section 65011, shall adopt
23 a very high fire risk overlay zone or otherwise amend its zoning
24 ordinance so that it is consistent with the general plan, as amended.

25 (b) Notwithstanding any other law, the minimum requirements
26 set forth in this section shall apply to all cities, including charter
27 cities, and counties that contain a very high fire risk area. The
28 Legislature finds and declares that establishment of minimum
29 requirements for wildfire protection *for residential developments*
30 in very high fire risk areas is a matter of statewide concern and
31 not a municipal affair as that term is used in Section 5 of Article
32 XI of the California Constitution. Except as expressly stated, it is
33 not the intent of the Legislature to limit the ordinances, rules, or
34 regulations that a city or county may otherwise adopt and enforce
35 beyond the minimum requirements outlined in this section.

36 SEC. 12. Section 65865.6 is added to the Government Code,
37 to read:

38 65865.6. (a) Notwithstanding any other law and subject to
39 subdivision (b), after the amendments to the land use element of
40 the city’s or county’s general plan and zoning ordinances required

1 by Sections 65302.11 and 65860.2 have become effective, the
2 legislative body of a city or county that contains a very high fire
3 risk area, as defined in Section 65011, shall not enter into a
4 development agreement for ~~property~~ *a residential development*
5 that is located within such a very high fire risk area unless the city
6 or county finds, based on substantial evidence in the record that
7 the *residential development* project and all *residential* structures
8 within the project are protected from wildfire risk in accordance
9 with the wildfire risk reduction standards in effect at the time that
10 the development agreement is entered into, or wildfire protection
11 standards adopted by the city or county that meet or exceed the
12 wildfire risk reduction standards in effect at the time that the
13 development agreement is entered into.

14 (b) Subdivision (a) shall apply only to a development agreement
15 entered into on or after the date upon which the statutes of
16 limitation specified in subdivision (c) of Section 65009 have run
17 with respect to the amendments to a city's or county's general plan
18 and zoning ordinances required by Sections 65302.11 and 65860.2
19 or, if the amendments and any associated environmental documents
20 are challenged in court, the validity of the amendments and any
21 associated environmental documents has been upheld in a final
22 decision.

23 (c) For purposes of this section, "wildfire risk reduction
24 standards" means the wildfire risk reduction standards set forth in
25 Section 65012 that are adopted pursuant to Section 65013 or
26 implemented by the city or county pursuant to subparagraph (B)
27 or (C) of paragraph (1) or subparagraph (B), (C), or (D) of
28 paragraph (2) of subdivision (a) of Section 65012.

29 (d) This section shall not be interpreted to change or diminish
30 the requirements of any other law or ordinance relating to fire
31 protection. In the event of conflict among the wildfire risk
32 reduction standards, or between the wildfire risk reduction
33 standards and the requirements of any other law relating to fire
34 protection, such conflicts shall be resolved in a manner which on
35 balance is most protective against potential loss from wildfire
36 exposure. Nothing in this section shall be construed to limit the
37 existing authority of a city or county under any other law from
38 adopting ordinances, rules, or regulations beyond the minimum
39 requirements outlined in this section.

1 (e) For purposes of this section, “very high fire risk area” has
2 the same meaning as defined in Section 65011.

3 SEC. 13. Section 65962.3 is added to the Government Code,
4 to read:

5 65962.3. (a) Notwithstanding any other law, and subject to
6 subdivision (b), after the amendments to the land use element of
7 the city’s or county’s general plan and zoning ordinances required
8 by Sections 65302.11 and 65860.2 have become effective, a city
9 or county that contains a very high fire risk area, as defined in
10 Section 65011, shall not approve a discretionary permit or other
11 discretionary entitlement that would result in the construction of
12 a new *residential* building or construction that would result in an
13 increase in allowed occupancy for an existing *residential* building,
14 or a ministerial permit that would result in the construction of a
15 new residence, for a project that is located within such a very high
16 fire risk area unless the city or county finds, based on substantial
17 evidence in the record that the project and all structures within the
18 project are protected from wildfire risk in accordance with the
19 wildfire risk reduction standards defined in Section 65012, or
20 wildfire protection standards in effect at the time the application
21 for the permit or entitlement is deemed complete, adopted by the
22 city or county that meet or exceed the wildfire risk reduction
23 standards in effect at the time the application for the permit or
24 entitlement is deemed complete. Approval of a final map or parcel
25 map that conforms to a previously approved tentative map pursuant
26 to Section 66458 shall not constitute approval of a ministerial
27 permit for purposes of this section.

28 (b) Subdivision (a) shall only apply to a discretionary permit,
29 discretionary entitlement, or ministerial permit issued on or after
30 the date upon which the statutes of limitation specified in
31 subdivision (c) of Section 65009 have run with respect to the
32 amendments to a city’s or a county’s general plan and zoning
33 ordinances required by Sections 65302.11 and 65860.2 or, if the
34 amendments and any associated environmental documents are
35 challenged in court, the validity of the amendments and any
36 associated environmental documents has been upheld in a final
37 decision.

38 (c) This section shall not be interpreted to waive or reduce a
39 city or county’s obligation pursuant to Section 65863 to ensure
40 that its housing element inventory accommodates, at all times

1 throughout the housing element planning period, its remaining
2 share of its regional housing need.

3 (d) This section shall not be interpreted to change or diminish
4 the requirements of any other law or ordinance relating to fire
5 protection. In the event of conflict among the wildfire risk
6 reduction standards, or between the wildfire risk reduction
7 standards and the requirements of any other law relating to fire
8 protection, such conflicts shall be resolved in a manner which on
9 balance is most protective against potential loss from wildfire
10 exposure. Nothing in this section shall be construed to limit the
11 existing authority of a city or county under any other law from
12 adopting ordinances, rules, or regulations beyond the minimum
13 requirements outlined in this section.

14 (e) For purposes of this section, “wildfire risk reduction
15 standards” means those wildfire risk reduction standards set forth
16 in Section 65012 that are adopted pursuant to Section 65013 or
17 implemented by the city or county pursuant to subparagraph (B)
18 or (C) of paragraph (1) of or subparagraph (B), (C), or (D) of
19 paragraph (2) of subdivision (a) of Section 65012.

20 (f) For purposes of this section, “very high fire risk area” has
21 the same meaning as defined in Section 65011.

22 SEC. 14. Section 66474.03 is added to the Government Code,
23 to read:

24 66474.03. (a) Notwithstanding any other law and subject to
25 subdivision (b), after the amendments to the land use element of
26 the city’s or county’s general plan and zoning ordinances required
27 by Sections 65302.11 and 65860.2 have become effective, each
28 city and each county that contains a very high fire risk area, as
29 defined in Section 65011, shall deny approval of a tentative map,
30 or a parcel map for which a tentative map was not required, for a
31 *residential* subdivision that is located within such a very high fire
32 risk area unless, in addition to any findings required under Section
33 66474.02, the city or county finds, based on substantial evidence
34 in the record that the *residential development* project and all
35 *residential* structures within the project are protected from wildfire
36 risk in accordance with the wildfire risk reduction standards in
37 effect at the time the application for the tentative map or parcel
38 map is deemed complete, or wildfire protection standards adopted
39 by the city or county that meet or exceed the wildfire risk reduction

1 standards in effect at the time the application for the tentative map
2 or parcel map is deemed complete.

3 (b) Subdivision (a) shall only apply to an approval of a tentative
4 map, or a parcel map for which a tentative map was not required,
5 on or after the date upon which the statutes of limitation specified
6 in subdivision (c) of Section 65009 have run with respect to the
7 amendments to the land use element of the city's or county's
8 general plan and zoning ordinances required by Sections 65302.11
9 and 65860.2 or, if the amendments and any associated
10 environmental documents are challenged in court, the validity of
11 the amendments and any associated environmental documents has
12 been upheld in a final decision.

13 (c) For purposes of this section, "wildfire risk reduction
14 standards" means those wildfire risk reduction standards set forth
15 in Section 65012 that are adopted pursuant to Section 65013 or
16 implemented by the city or county pursuant to subparagraph (B)
17 or (C) of paragraph (1) or subparagraph (B), (C), or (D) of
18 paragraph (2) of subdivision (a) of Section 65012.

19 (d) This section shall not be interpreted to change or diminish
20 the requirements of any other law or ordinance relating to fire
21 protection. In the event of conflict among the wildfire risk
22 reduction standards, or between the wildfire risk reduction
23 standards and the requirements of any other law relating to fire
24 protection, such conflicts shall be resolved in a manner which on
25 balance is most protective against potential loss from wildfire
26 exposure. Nothing in this section shall be construed to limit the
27 existing authority of a city or county under any other law from
28 adopting ordinances, rules, or regulations beyond the minimum
29 requirements outlined in this section.

30 SEC. 15. Section 13132.7 of the Health and Safety Code is
31 amended to read:

32 13132.7. (a) Within a very high fire hazard severity zone
33 designated by the Director of Forestry and Fire Protection pursuant
34 to Article 9 (commencing with Section 4201) of Chapter 1 of Part
35 2 of Division 4 of the Public Resources Code and within a very
36 high fire hazard severity zone designated by a local agency
37 pursuant to Chapter 6.8 (commencing with Section 51175) of Part
38 1 of Division 1 of Title 5 of the Government Code, the entire roof
39 covering of every existing structure where more than 50 percent
40 of the total roof area is replaced within any one-year period, every

1 new structure, and any roof covering applied in the alteration,
2 repair, or replacement of the roof of every existing structure, shall
3 be a fire retardant roof covering that is at least class B as defined
4 in the Uniform Building Code, as adopted and amended by the
5 State Building Standards Commission.

6 (b) In all other areas, the entire roof covering of every existing
7 structure where more than 50 percent of the total roof area is
8 replaced within any one-year period, every new structure, and any
9 roof covering applied in the alteration, repair, or replacement of
10 the roof of every existing structure, shall be a fire retardant roof
11 covering that is at least class C as defined in the Uniform Building
12 Code, as adopted and amended by the State Building Standards
13 Commission.

14 (c) Notwithstanding subdivision (b), within state responsibility
15 areas classified by the State Board of Forestry and Fire Protection
16 pursuant to Article 3 (commencing with Section 4125) of Chapter
17 1 of Part 2 of Division 4 of the Public Resources Code, except for
18 those state responsibility areas designated as moderate fire hazard
19 responsibility zones, the entire roof covering of every existing
20 structure where more than 50 percent of the total roof area is
21 replaced within any one-year period, every new structure, and any
22 roof covering applied in the alteration, repair, or replacement of
23 the roof of every existing structure, shall be a fire retardant roof
24 covering that is at least class B as defined in the Uniform Building
25 Code, as adopted and amended by the State Building Standards
26 Commission.

27 (d) (1) Notwithstanding subdivision (a), (b), or (c), within very
28 high fire hazard severity zones designated by the Director of
29 Forestry and Fire Protection pursuant to Article 9 (commencing
30 with Section 4201) of Chapter 1 of Part 2 of Division 4 of the
31 Public Resources Code or by a local agency pursuant to Chapter
32 6.8 (commencing with Section 51175) of Part 1 of Division 1 of
33 Title 5 of the Government Code, the entire roof covering of every
34 existing structure where more than 50 percent of the total roof area
35 is replaced within any one-year period, every new structure, and
36 any roof covering applied in the alteration, repair, or replacement
37 of the roof of every existing structure, shall be a fire retardant roof
38 covering that is at least class A as defined in the Uniform Building
39 Code, as adopted and amended by the State Building Standards
40 Commission.

1 (2) Paragraph (1) does not apply to any jurisdiction containing
2 a very high fire hazard severity zone if the jurisdiction fulfills both
3 of the following requirements:

4 (A) Adopts the model ordinance approved by the State Fire
5 Marshal pursuant to Section 51189 of the Government Code or an
6 ordinance that substantially conforms to the model ordinance of
7 the State Fire Marshal.

8 (B) Transmits, upon adoption, a copy of the ordinance to the
9 State Fire Marshal.

10 (e) The State Building Standards Commission shall incorporate
11 the requirements set forth in subdivisions (a), (b), and (c) by
12 publishing them as an amendment to the California Building
13 Standards Code in accordance with Chapter 4 (commencing with
14 Section 18935) of Part 2.5 of Division 13.

15 (f) Nothing in this section shall limit the authority of a city,
16 county, city and county, or fire protection district in establishing
17 more restrictive requirements, in accordance with current law, than
18 those specified in this section.

19 (g) This section shall not affect the validity of an ordinance,
20 adopted prior to the effective date for the relevant roofing standard
21 specified in subdivisions (a) and (b), by a city, county, city and
22 county, or fire protection district, unless the ordinance mandates
23 a standard that is less stringent than the standards set forth in
24 subdivision (a), in which case the ordinance shall not be valid on
25 or after the effective date for the relevant roofing standard specified
26 in subdivisions (a) and (b).

27 (h) Any qualified historical building or structure as defined in
28 Section 18955 may, on a case-by-case basis, utilize alternative
29 roof constructions as provided by the State Historical Building
30 Code.

31 (i) The installer of the roof covering shall provide certification
32 of the roof covering classification, as provided by the manufacturer
33 or supplier, to the building owner and, when requested, to the
34 agency responsible for enforcement of this part. The installer shall
35 also install the roof covering in accordance with the manufacturer's
36 listing.

37 (j) No wood roof covering materials shall be sold or applied in
38 this state unless both of the following conditions are met:

39 (1) The materials have been approved and listed by the State
40 Fire Marshal as complying with the requirements of this section.

1 (2) The materials have passed at least 5 years of the 10-year
2 natural weathering test. The 10-year natural weathering test
3 required by this subdivision shall be conducted in accordance with
4 standard 15-2 of the 1994 edition of the Uniform Building Code
5 at a testing facility recognized by the State Fire Marshal.

6 (k) The Insurance Commissioner shall accept the use of fire
7 retardant wood roof covering material that complies with the
8 requirements of this section, used in the partial repair or
9 replacement of nonfire retardant wood roof covering material, as
10 complying with the requirement in Section 2695.9 of Title 10 of
11 the California Code of Regulations relative to matching
12 replacement items in quality, color, and size.

13 (l) No common interest development, as defined in Section 4100
14 or 6534 of the Civil Code, may require an owner to install or repair
15 a roof in a manner that is in violation of this section. The governing
16 documents, as defined in Section 4150 or 6552 of the Civil Code,
17 of a common interest development within a very high fire severity
18 zone shall allow for at least one type of fire retardant roof covering
19 material that meets the requirements of this section and that is, at
20 a minimum, class B, as defined in the International Building Code.

21 SEC. 16. Section 4123.6 is added to the Public Resources Code,
22 to read:

23 4123.6. (a) For purposes of this section:

24 (1) "Department" means the Department of Forestry and Fire
25 Protection.

26 (2) "Program" means the Wildfire Risk Reduction Planning
27 Support Grants Program established by this section.

28 (3) "Small jurisdiction" means either of the following:

29 (A) A county that had a population of less than 250,000 as of
30 January 1, 2019.

31 (B) A city located within a county described in subparagraph
32 (A) that contains a very high fire risk area.

33 (b) (1) The Wildfire Risk Reduction Planning Support Grants
34 Program is hereby established for the purpose of providing small
35 jurisdictions that contain very high fire risk areas with grants for
36 planning activities to enable those jurisdictions to meet the
37 requirements set forth in the act adding this section.

38 (2) Upon appropriation by the Legislature for purposes of this
39 section, the department shall distribute grant funds under the
40 program, in accordance with subdivision (e).

1 (c) The department shall administer the program and, consistent
2 with the requirements of this section, provide grants to jurisdictions
3 for the purposes described in paragraph (1) of subdivision (b).

4 (d) A small jurisdiction that receives an allocation of grant funds
5 pursuant to this section shall use that allocation solely for wildfire
6 risk reduction planning activities, including, but not limited to,
7 one or more of the following:

8 (1) Updating planning documents and zoning ordinances,
9 including general plans, community plans, specific plans, local
10 hazard mitigation plans, community wildfire protection plans,
11 climate adaptation plans, and local coastal programs to implement
12 Sections 65302.11 and 65860.2 of the Government Code.

13 (2) Developing and adopting a comprehensive retrofit strategy
14 in accordance with paragraph (6) of subdivision (g) of Section
15 65302 of the Government Code.

16 (3) Reviewing and updating the local designation of lands within
17 the jurisdiction as very high fire hazard severity zones pursuant to
18 subdivision (b) of Section 51179 of the Government Code.

19 (4) Implementing the wildfire risk reduction standards set forth
20 in Sections 65012 and 65013 of the Government Code or local
21 wildfire protection standards that meet or exceed those wildfire
22 risk reduction standards, including development and adoption of
23 any appropriate local ordinances, rules, or regulations.

24 (5) Establishing and initial funding of an enforcement program
25 in accordance with subparagraph (C) of paragraph (1) of
26 subdivision (a) of Section 65012 of the Government Code.

27 (6) Performing infrastructure planning, including for access
28 roads, water supplies providing fire protection, or other public
29 facilities necessary to support the wildfire risk reduction standards
30 set forth in Sections 65012 and 65013 of the Government Code.

31 (7) Partnering with other local entities to implement wildfire
32 risk reduction.

33 (8) Updating local planning processes to otherwise support
34 wildfire risk reduction.

35 (9) Completing any environmental review associated with the
36 activities described in paragraphs (1) to (8), inclusive.

37 (10) Covering the costs of temporary staffing or consulting
38 needs associated with the activities described in paragraphs (1) to
39 (9), inclusive.

1 (e) (1) The amount described in paragraph (2) of subdivision
2 (b) shall be allocated in each year for which funding is made
3 available for the program to small jurisdictions in accordance with
4 this subdivision.

5 (2) The department shall administer a noncompetitive,
6 over-the-counter application process for grants funded by the
7 allocation specified in paragraph (1) for wildfire risk reduction
8 planning activities, as described in subdivision (d), for small
9 jurisdictions.

10 (3) The department shall award no more than three hundred
11 fifty thousand dollars (\$350,000), and no less than two hundred
12 fifty thousand dollars (\$250,000), to a qualifying small jurisdiction.

13 (4) Any qualifying small jurisdiction may submit an application
14 for funding, in the form and manner prescribed by the department,
15 in order to receive an allocation of funds pursuant to this
16 subdivision. An application submitted pursuant to this paragraph
17 shall include a description of the proposed uses of funds, in
18 accordance with subdivision (d). The department shall verify
19 whether each funding request meets the minimum criteria
20 established by this subdivision and make awards on a continuous
21 basis based on those criteria.

22 (f) Of any amount appropriated for purposes of this section, up
23 to 5 percent of those funds may be set aside for program
24 administration by the department.

25 (g) For purposes of this section, “very high fire risk area” has
26 the same meaning as defined in Section 65011.

27 SEC. 17. Section 4290 of the Public Resources Code is
28 amended to read:

29 4290. (a) The board shall adopt regulations implementing
30 minimum fire safety standards related to defensible space that are
31 applicable to state responsibility area lands under the authority of
32 the department, and to lands classified and designated as very high
33 fire hazard severity zones, as defined in subdivision (i) of Section
34 51177 of the Government Code. These regulations apply to the
35 perimeters and access ~~from the perimeters~~ to all residential,
36 commercial, and industrial building construction within state
37 responsibility areas approved after January 1, 1991, and within
38 lands classified and designated as very high fire hazard severity
39 zones, as defined in subdivision (i) of Section 51177 of the
40 Government Code after July 1, 2021. The regulations shall conform

1 as nearly as practicable with the regulations adopted by the State
2 Fire Marshal pursuant to Section 65013. The board may not adopt
3 building standards, as defined in Section 18909 of the Health and
4 Safety Code, under the authority of this section. As an integral
5 part of fire safety standards, the State Fire Marshal has the authority
6 to adopt regulations for roof coverings and openings into the attic
7 areas of buildings specified in Section 13108.5 of the Health and
8 Safety Code. The regulations apply to the placement of mobile
9 homes as defined by National Fire Protection Association
10 standards. These regulations do not apply where an application
11 for a building permit was filed prior to January 1, 1991, or to parcel
12 or tentative maps or other developments approved prior to January
13 1, 1991, if the final map for the tentative map is approved within
14 the time prescribed by the local ordinance. The regulations shall
15 include all of the following:

- 16 (1) Road standards for fire equipment access.
 - 17 (2) Standards for signs identifying streets, roads, and buildings.
 - 18 (3) Minimum private water supply reserves for emergency fire
19 use.
 - 20 (4) Fuel breaks and greenbelts.
- 21 (b) The board shall, on and after July 1, 2021, periodically
22 update regulations for fuel breaks and greenbelts near communities
23 to provide greater fire safety for the perimeters to all residential,
24 commercial, and industrial building construction within state
25 responsibility areas and lands classified and designated as very
26 high fire hazard severity zones, as defined in subdivision (i) of
27 Section 51177 of the Government Code, after July 1, 2021. These
28 regulations shall include measures to preserve undeveloped
29 ridgelines to reduce fire risk and improve fire protection. The board
30 shall, by regulation, define “ridgeline” for purposes of this
31 subdivision.
- 32 (c) These regulations do not supersede local regulations which
33 equal or exceed minimum regulations adopted by the state.
- 34 (d) The board may enter into contracts with technical experts
35 to meet the requirements of this section.

36 SEC. 18. No reimbursement is required by this act pursuant
37 to Section 6 of Article XIII B of the California Constitution because
38 a local agency or school district has the authority to levy service
39 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O