

Introduced by Senator Wiener
(Principal coauthors: Senators Atkins and Caballero)
(Principal coauthor: Assembly Member Robert Rivas)

December 7, 2020

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as introduced, Wiener. Planning and zoning: housing development: density.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office

of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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

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

1 SECTION 1. Section 65913.5 is added to the Government
2 Code, to read:
3 65913.5. (a) (1) Notwithstanding any local restrictions on
4 adopting zoning ordinances enacted by the jurisdiction, including
5 restrictions enacted by a local voter initiative, that limit the
6 legislative body’s ability to adopt zoning ordinances, a local
7 government may pass an ordinance to zone a parcel for up to 10
8 units of residential density per parcel, at a height specified by the
9 local government in the ordinance, if the parcel is located in one
10 of the following:
11 (A) A transit-rich area.
12 (B) A jobs-rich area.
13 (C) An urban infill site.
14 (2) An ordinance adopted in accordance with this subdivision
15 shall not constitute a “project” for purposes of Division 13
16 (commencing with Section 21000) of the Public Resources Code.
17 (3) Paragraph (1) shall not apply to parcels located within a very
18 high fire hazard severity zone, as determined by the Department
19 of Forestry and Fire Protection pursuant to Section 51178, or within
20 a high or very high fire hazard severity zone as indicated on maps
21 adopted by the Department of Forestry and Fire Protection pursuant
22 to Section 4202 of the Public Resources Code. This paragraph
23 does not apply to parcels excluded from the specified hazard zones
24 by a local agency pursuant to subdivision (b) of Section 51179, or

1 sites that have adopted fire hazard mitigation measures pursuant
2 to existing building standards or state fire mitigation measures
3 applicable to the development.

4 (b) (1) Notwithstanding any other law, a residential or
5 mixed-use residential project consisting of more than 10 new
6 residential units on one or more parcels that have been zoned to
7 permit residential development pursuant to this section shall not
8 be approved ministerially or by right, and shall not be exempt from
9 Division 13 (commencing with Section 21000) of the Public
10 Resources Code.

11 (2) Paragraph (1) shall not apply to a project to create no more
12 than two accessory dwelling units and no more than two junior
13 accessory dwelling units per parcel pursuant to Sections 65852.2
14 and 65852.22 of the Government Code.

15 (3) A project may not be divided into smaller projects in order
16 to exclude the project from the prohibition in this subdivision.

17 (c) For purposes of this section:

18 (1) “High-quality bus corridor” means a corridor with fixed
19 route bus service that meets all of the following criteria:

20 (A) It has average service intervals of no more than 15 minutes
21 during the three peak hours between 6 a.m. to 10 a.m., inclusive,
22 and the three peak hours between 3 p.m. and 7 p.m., inclusive, on
23 Monday through Friday.

24 (B) It has average service intervals of no more than 20 minutes
25 during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through
26 Friday.

27 (C) It has average intervals of no more than 30 minutes during
28 the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

29 (2) (A) “Jobs-rich area” means an area identified by the
30 Department of Housing and Community Development in
31 consultation with the Office of Planning and Research that is high
32 opportunity and either is jobs rich or would enable shorter commute
33 distances based on whether, in a regional analysis, the tract meets
34 both of the following:

35 (i) The tract is high opportunity, meaning its characteristics are
36 associated with positive educational and economic outcomes for
37 households of all income levels residing in the tract.

38 (ii) The tract meets either of the following criteria:

39 (I) New housing sited in the tract would enable residents to live
40 near more jobs than is typical for tracts in the region.

1 (II) New housing sited in the tract would enable shorter commute
2 distances for residents, relative to existing commute patterns and
3 jobs-housing fit.

4 (B) The Department of Housing and Community Development
5 shall, commencing on January 1, 2022, publish and update, every
6 five years thereafter, a map of the state showing the areas identified
7 by the department as “jobs-rich areas.”

8 (3) “Transit-rich area” means a parcel within one-half mile of
9 a major transit stop, as defined in Section 21064.3 of the Public
10 Resources Code, or a parcel on a high-quality bus corridor.

11 (4) “Urban infill site” means a site that satisfies all of the
12 following:

13 (A) A site that is a legal parcel or parcels located in a city if,
14 and only if, the city boundaries include some portion of either an
15 urbanized area or urban cluster, as designated by the United States
16 Census Bureau, or, for unincorporated areas, a legal parcel or
17 parcels wholly within the boundaries of an urbanized area or urban
18 cluster, as designated by the United States Census Bureau.

19 (B) A site in which at least 75 percent of the perimeter of the
20 site adjoins parcels that are developed with urban uses. For the
21 purposes of this section, parcels that are only separated by a street
22 or highway shall be considered to be adjoined.

23 (C) A site that is zoned for residential use or residential
24 mixed-use development, or has a general plan designation that
25 allows residential use or a mix of residential and nonresidential
26 uses, with at least two-thirds of the square footage of the
27 development designated for residential use.

28 (d) The Legislature finds and declares that ensuring the adequate
29 production of affordable housing is a matter of statewide concern
30 and is not a municipal affair as that term is used in Section 5 of
31 Article XI of the California Constitution. Therefore, this section
32 applies to all cities, including charter cities.