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SB-341 Housing development. (2023-2024)

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Senate Bill No. 341

CHAPTER 777

An act to amend Section 65589.9 of the Government Code, to amend Section 53559 of the Health and Safety Code, relating to housing.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 341, Becker. Housing development.

Existing law, 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. The law requires the Department of Housing and Community Development to determine whether the housing element is in substantial compliance with specified provisions of that law. Existing law requires the department to designate jurisdictions as prohousing pursuant to emergency regulations adopted by the department, as prescribed. Existing law awards jurisdictions that are in substantial compliance with specified provisions and that are prohousing additional points or preference in the scoring of applications for specified state programs, including, among others, the Infill Incentive Grant Program of 2007. Existing law authorizes additional bonus points to be awarded to other state programs when already allowable under state law.

Existing law establishes the Infill Infrastructure Grant Program of 2019, which requires the department, upon appropriation of funds by the Legislature, to establish and administer a grant program to allocate those funds to eligible applicants, as defined, to fund capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project, qualifying infill area, or catalytic qualifying infill area pursuant to specified requirements. Existing law requires the department, in its review and ranking of applications for the award of capital improvement project grants, to rank affected qualifying infill areas based on specified priorities.

This bill, with respect to the Infill Infrastructure Grant Program of 2019, would specify that only the qualifying infill area portion of that program must be awarded additional points or preference. This bill would add the qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 as one of the specified state programs for which additional points or preference is awarded. This bill would also make technical changes to the provisions of the programs.

This bill would incorporate additional changes to Section 65589.9 of the Government Code proposed by AB 529 to be operative only if this bill and AB 529 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 53559 of the Health and Safety Code proposed by AB 1764 to be operative only if this bill and AB 1764 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(2) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

SEC. 1.5. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

SEC. 2. Section 53559 of the Health and Safety Code is amended to read:

53559. (a) The Infill Infrastructure Grant Program of 2019 is hereby established to be administered by the department.

(b) Upon appropriation by the Legislature of funds for purposes of this part, the department shall establish and administer a grant program to allocate those funds to selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project, qualifying infill area, or catalytic qualifying infill area pursuant to the requirements of this section. The department shall determine amounts, if any, to be made available for qualifying infill projects, qualifying infill areas, or catalytic qualifying infill areas.

(c) (1) Except for funds appropriated or set aside for small jurisdictions for grants pursuant to subdivision (e), the department shall administer a competitive application process for capital improvement projects for large jurisdictions pursuant to this subdivision.

(2) Except for grants for qualifying infill areas or catalytic qualifying infill areas, the department shall do all of the following for grants made pursuant to this subdivision:

(A) Make program funds available at the same time it makes funds, if any, available under the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(B) Rate and rank applications in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2), except that the department may establish additional point categories for the purposes of rating and ranking applications that seek funding pursuant to this part in addition to those used in the Multifamily Housing Program.

(C) Administer funds in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(D) For purposes of awarding grants pursuant to the competitive application process required by this subdivision, "qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(d) (1) In its review and ranking of applications for the award of capital improvement project grants, the department shall rank the affected qualifying infill areas based on the following priorities:

(A) Project readiness, which shall include all of the following:

(i) A demonstration that the area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.

(ii) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill area.

(B) The depth and duration of the affordability of the housing proposed for a qualifying infill area.

(C) The extent to which the average residential densities on the parcels to be developed exceed the density standards contained in paragraph (3) of subdivision (g).

(D) The qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.

(E) The proximity of housing to parks, employment or retail centers, schools, or social services.

(F) The qualifying infill area location's consistency with an adopted sustainable communities strategy pursuant to Section 65080 of the Government Code, alternative planning strategy pursuant to Section 65450 of the Government Code, or other adopted regional growth plan intended to foster efficient land use.

(G) For qualifying infill areas, in awarding funds under the program, the department shall provide additional points or preference to projects located in jurisdictions that are designated prohousing pursuant to subdivision (c) of Section 65589.9 of the Government Code, in the manner determined by the department pursuant to subdivision (d) of Section 65589.9 of the Government Code.

(2) In allocating funds pursuant to this subdivision, the department, to the maximum extent feasible, shall ensure a reasonable geographic distribution of funds.

(3) For purposes of awarding grants pursuant to the competitive application process required by this subdivision or subparagraph (B) of paragraph (2) of subdivision (c), "qualifying infill area" means a contiguous area located within an urbanized area (i) that has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with urban uses, and (ii) in which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this section for a qualifying infill project.

(e) (1) The department shall administer an over-the-counter application process for grants funded by the allocation specified in the appropriation or paragraph (2) of subdivision (a) of Section 53559.2 for capital improvement projects for small jurisdictions, pursuant to this subdivision.

(2) Eligible applicants shall submit the following information in the application request for funding:

(A) A complete description of the qualifying infill project or qualifying infill area and documentation of how the infill project or infill area meets the requirements of this section.

(B) A complete description of the capital improvement project and requested grant funding for the project, how the project is necessary to support the development of housing, and how it meets the criteria of this section.

(C) Documentation that specifies how the application meets all of the requirements of subdivision (g).

(D) (i) Except as provided in clause (ii), a financial document that shows the gap financing needed for the project.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow an applicant to meet the requirement described in clause (i) by submitting copies of an application or applications for other sources of state or federal funding for a qualifying infill project.

(E) (i) Except as provided by clause (ii), documentation of all necessary entitlement and permits, and a certification from the applicant that the project is shovel-ready.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow the applicant to meet the requirement described in clause (i) by submitting a letter of intent from a willing affordable housing developer that has previously completed at least one comparable housing project, certifying that the developer is willing to submit an application to the county for approval by the county of a qualifying infill project within the area in the event that the funding requested pursuant to this subdivision is awarded.

(3) The department may establish a per-unit formula to determine the amount of funds awarded pursuant to this subdivision.

(4) For purposes of awarding grants pursuant to the over-the-counter application process required by this subdivision:

(A) "Qualifying infill area" means a contiguous area located within an urbanized area that meets either of the following criteria:

(i) The area contains sites included on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code, and at least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(ii) The capital improvement project for which funding is requested is necessary, as documented by an environmental review or some other adopted planning document, to make the area suitable and available for residential development, or to allow the area to accommodate housing for additional income levels, and the area otherwise meets the

requirements for inclusion on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code. At least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(B) "Qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 50 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(f) (1) For catalytic qualifying infill areas, grants for small jurisdictions and large jurisdictions shall be provided using a selection process established by the department that meets all of the following requirements:

(A) Applicants shall meet both of the following minimum threshold requirements:

(i) Readiness, which includes both of the following:

(I) A demonstration that the catalytic qualifying infill area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.

(II) A demonstration that the eligible applicant has a viable plan to secure sufficient funding, derived from sources other than this part for the timely development of housing within a catalytic qualifying infill area.

(ii) A demonstration of the catalytic qualifying infill area location's consistency with an adopted sustainable communities strategy or alternative planning strategy pursuant to Section 65080 of the Government Code.

(B) The department shall, at a minimum, rank the affected catalytic qualifying infill areas applications for small jurisdictions and large jurisdictions based on the following:

(i) The number of housing units, including affordable units as required in paragraph (2) of subdivision (g) to be developed within the catalytic qualifying infill area.

(ii) The depth and duration of the affordability of the housing proposed for within the catalytic qualifying infill area.

(iii) The extent to which the average residential densities on the parcel or parcels to be developed exceeds the density standards contained in paragraph (3) of subdivision (g).

(iv) The catalytic qualifying infill area's inclusion of, or proximity or accessibility to, a transit station, major transit stop, or other areas yielding significant reductions in vehicle miles traveled.

(v) The proximity of planned housing within the catalytic qualifying infill area used in the calculation of the eligible grant amount to existing or planned parks, employment or retail centers, schools, or social services.

(vi) Existing or planned ordinances and other zoning or building provisions that facilitate adaptive reuse, including, but not limited to, demonstration that, if the existing commercial, office, or retail structure intended for reuse as housing does not occupy the entirety of the underlying parcel, the adaptive reuse project will be permitted to add to the existing building or structure provided that the addition is consistent with the existing or planned zoning of the parcel.

(vii) The extent to which local strategies or programs are in place to prevent the direct or indirect displacement of local community residents and businesses from the area within and surrounding the catalytic qualifying infill area.

(viii) The level of community outreach and engagement in project planning, including efforts to involve disadvantaged communities and low-income residents, particularly local community residents and businesses from the area within and surrounding the catalytic qualifying infill area.

(ix) Inclusion of any publicly owned lands within the designated catalytic qualifying infill area.

(x) Streamlining provisions related to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, establishment of streamlined, program-level California Environmental Quality Act analysis and certification of general plans, community plans, specific plans with accompanying environmental impact reports, and related documents and streamlining proposed projects, such as enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law.

(C) Eligible applicants shall submit the following information in the application request for funding:

(i) A complete description of the catalytic qualifying infill area and documentation of how the catalytic qualifying infill area meets the requirements of this section.

(ii) A complete description of the capital improvement project and requested grant funding, how the capital improvement project is necessary to support the development of housing, and how it meets the criteria of this section.

(iii) Documentation that specifies how the application meets all of the requirements of subdivision (g).

(iv) (I) Except as provided in subclause (II), a financial document that shows the gap financing needed for the project.

(II) For a qualifying infill project within a catalytic qualifying infill area located in the unincorporated area of the county, the department shall allow an applicant to meet the requirement described in subclause (I) by submitting copies of an application or applications for other sources of state or federal funding for a qualifying infill project.

(v) (I) Except as provided by subclause (II), documentation of all necessary entitlement and permits, and a certification from the applicant that the capital improvement project is shovel-ready.

(II) For a qualifying infill project within a catalytic qualifying infill area located in the unincorporated area of the county, the department shall allow the applicant to meet the requirement described in subclause (I) by submitting a letter of intent from a willing affordable housing developer that has previously completed at least one comparable housing project, certifying that the developer is willing to submit an application to the county for approval by the county of a qualifying infill project within the area in the event that the funding requested pursuant to this subdivision is awarded.

(2) In allocating funds pursuant to this subdivision, the department, to the maximum extent feasible, shall ensure a reasonable distribution of funds, including consideration of differing population sizes of localities and geographic location. Applications shall be considered and ranked against applications of localities of similar size and scope. For the purposes of this paragraph, the population of a county shall be the population in the unincorporated area.

(3) The department shall report the following information to the relevant fiscal and policy committees of the Legislature by January 1, 2024:

(A) Specific uses of the funds for capital improvement projects.

(B) Locations of awarded catalytic qualifying infill area grants, including both of the following:

(i) Number of awards by geography, including urban and rural.

(ii) The types of buildings adapted to residential use.

(C) Total units to be created within the awarded qualifying infill areas, including anticipated affordability levels.

(D) Data on catalytic qualifying infill area projects funded, such as project sizes, adaptive reuse ordinances adopted, and by-right sites.

(g) A qualifying infill project, qualifying infill area, or catalytic qualifying infill area for which a capital improvement project grant may be awarded pursuant to paragraph (2) of subdivision (c), subdivision (d), subdivision (e), or subdivision (f) shall meet all of the following conditions:

(1) A qualifying infill area or catalytic qualifying infill area shall be located in a city, county, or city and county in which the general plan of the city, county, or city and county has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. This paragraph does not apply to a qualifying infill project.

(2) Include not less than 15 percent of affordable units, as follows:

(A) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.

(B) (i) To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

(ii) Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low- and moderate-income housing market. Residential units to be replaced shall not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

(C) For the purposes of this subdivision, "affordable unit" means a unit that is made available at an affordable rent, as defined in Section 50053, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, as defined in Section 50052.5, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(3) Include average residential densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, except that a project located in a rural area as defined in Section 50199.21 shall include average residential densities on the parcels to be developed of at least 10 units per acre.

(4) Be located in an area designated for mixed-use or residential development pursuant to one of the following:

(A) A general plan adopted pursuant to Section 65300 of the Government Code.

(B) A sustainable communities strategy adopted pursuant to Section 65080 of the Government Code.

(C) A specific plan adopted pursuant to Section 65450 of the Government Code.

(D) A Workforce Housing Opportunity Zone established pursuant to Section 65620 of the Government Code.

(E) A housing sustainability district established pursuant to Section 66201 of the Government Code.

(h) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.

(i) The department shall adopt guidelines for the operation of the grant program. The guidelines shall include performance standards and authorize the reversion of grant awards if the awardee has not substantially met the performance standards.

(1) Performance standards shall include timelines for commencement of construction of a capital improvement project, completion of a capital improvement project, and commencement and completion of associated housing development on an identified infill site, as identified in the qualifying infill project, qualifying infill area, or catalytic qualifying infill area application.

(2) Catalytic qualifying infill area awards may be conditioned upon the local jurisdiction completing any actions to expedite housing development rezoning to accommodate density, completing environmental reviews to support ministerial approvals of housing, and granting fee waivers or other incentives to expedite housing development that were used in qualifying for an award.

(j) The department shall require recipients of funds to report on progress of capital improvement projects, including, but not limited to, substantiation of grant expenditures and housing outcomes, including levels of affordability as provided in the application.

(k) The guidelines may also provide for recapture of grants awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(l) For each fiscal year within the duration of the grant program, the department shall include within the report to the Governor and the Legislature, required by Section 50408, information on its activities relating to the grant program activities related to qualifying infill projects and qualifying infill areas, including small jurisdiction funding activities. The report shall include, but is not limited to, the following information:

(1) A summary of the projects that received grants under the program for each fiscal year that grants were awarded.

(2) The description, location, and estimated date of completion for each project that received a grant award under the program.

(3) An update on the status of each project that received a grant award under the program, and the number of housing units created or facilitated by the program.

(m) Notwithstanding paragraph (3) of subdivision (g), a city with a population greater than 100,000 in a standard metropolitan statistical area or a population of less than 2,000,000 may petition the department for, and the department may grant, an exception to the jurisdiction's classification pursuant to subdivisions (d) to (f), inclusive, of Section 65583.2 of the Government Code, if the city believes it is unable to meet the density requirements specified in paragraph (3) of subdivision (g). The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may

encounter in meeting the density requirements specified in paragraph (3) of subdivision (g). Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2026.

SEC. 2.5. Section 53559 of the Health and Safety Code is amended to read:

53559. (a) The Infill Infrastructure Grant Program of 2019 is hereby established to be administered by the department.

(b) Upon appropriation by the Legislature of funds for purposes of this part, the department shall establish and administer a grant program to allocate those funds to selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project, qualifying infill area, or catalytic qualifying infill area pursuant to the requirements of this section. The department shall determine amounts, if any, to be made available for qualifying infill projects, qualifying infill areas, or catalytic qualifying infill areas.

(c) (1) Except for funds appropriated or set aside for small jurisdictions for grants pursuant to subdivision (e), the department shall administer a competitive application process for capital improvement projects for large jurisdictions pursuant to this subdivision.

(2) Except for grants for qualifying infill areas or catalytic qualifying infill areas, the department shall do all of the following for grants made pursuant to this subdivision:

(A) Make program funds available at the same time it makes funds, if any, available under the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(B) Rate and rank applications in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2), except that the department may establish additional point categories for the purposes of rating and ranking applications that seek funding pursuant to this part in addition to those used in the Multifamily Housing Program.

(C) Administer funds in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(D) For purposes of awarding grants pursuant to the competitive application process required by this subdivision, "qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(d) (1) In its review and ranking of applications for the award of capital improvement project grants, the department shall rank the affected qualifying infill areas based on the following priorities:

(A) Project readiness, which shall include all of the following:

(i) A demonstration that the area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.

(ii) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill area.

(B) The depth and duration of the affordability of the housing proposed for a qualifying infill area.

(C) The extent to which the average residential densities on the parcels to be developed exceed the density standards contained in paragraph (3) of subdivision (g).

(D) The qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.

(E) The proximity of housing to parks, employment or retail centers, schools, or social services.

(F) The qualifying infill area location's consistency with an adopted sustainable communities strategy pursuant to Section 65080 of the Government Code, alternative planning strategy pursuant to Section 65450 of the Government Code, or other adopted regional growth plan intended to foster efficient land use.

(G) For qualifying infill areas, in awarding funds under the program, the department shall provide additional points or preference to projects located in jurisdictions that are designated prohousing pursuant to subdivision (c) of Section 65589.9 of the Government Code, in the manner determined by the department pursuant to subdivision (d) of Section 65589.9 of the Government Code.

(2) In allocating funds pursuant to this subdivision, the department, to the maximum extent feasible, shall ensure a reasonable geographic distribution of funds.

(3) For purposes of awarding grants pursuant to the competitive application process required by this subdivision or subparagraph (B) of paragraph (2) of subdivision (c), "qualifying infill area" means a contiguous area located within an urbanized area (i) that has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with urban uses, and (ii) in which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this section for a qualifying infill project.

(e) (1) The department shall administer an over-the-counter application process for grants funded by the allocation specified in the appropriation or paragraph (2) of subdivision (a) of Section 53559.2 for capital improvement projects for small jurisdictions, pursuant to this subdivision.

(2) Eligible applicants shall submit the following information in the application request for funding:

(A) A complete description of the qualifying infill project or qualifying infill area and documentation of how the infill project or infill area meets the requirements of this section.

(B) A complete description of the capital improvement project and requested grant funding for the project, how the project is necessary to support the development of housing, and how it meets the criteria of this section.

(C) Documentation that specifies how the application meets all of the requirements of subdivision (g).

(D) (i) Except as provided in clause (ii), a financial document that shows the gap financing needed for the project.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow an applicant to meet the requirement described in clause (i) by submitting copies of an application or applications for other sources of state or federal funding for a qualifying infill project.

(E) (i) Except as provided by clause (ii), documentation of all necessary entitlement and permits, and a certification from the applicant that the project is shovel-ready.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow the applicant to meet the requirement described in clause (i) by submitting a letter of intent from a willing affordable housing developer that has previously completed at least one comparable housing project, certifying that the developer is willing to submit an application to the county for approval by the county of a qualifying infill project within the area in the event that the funding requested pursuant to this subdivision is awarded.

(3) The department may establish a per-unit formula to determine the amount of funds awarded pursuant to this subdivision.

(4) For purposes of awarding grants pursuant to the over-the-counter application process required by this subdivision:

(A) "Qualifying infill area" means a contiguous area located within an urbanized area that meets either of the following criteria:

(i) The area contains sites included on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code, and at least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(ii) The capital improvement project for which funding is requested is necessary, as documented by an environmental review or some other adopted planning document, to make the area suitable and available for residential development, or to allow the area to accommodate housing for additional income levels, and the area otherwise meets the requirements for inclusion on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code. At least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(B) "Qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 50 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(f) (1) For catalytic qualifying infill areas, grants for small jurisdictions and large jurisdictions shall be provided using a selection process established by the department that meets all of the following requirements:

(A) Applicants shall meet both of the following minimum threshold requirements:

(i) Readiness, which includes both of the following:

(I) A demonstration that the catalytic qualifying infill area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.

(II) A demonstration that the eligible applicant has a viable plan to secure sufficient funding, derived from sources other than this part for the timely development of housing within a catalytic qualifying infill area.

(ii) A demonstration of the catalytic qualifying infill area location's consistency with an adopted sustainable communities strategy or alternative planning strategy pursuant to Section 65080 of the Government Code.

(B) The department shall, at a minimum, rank the affected catalytic qualifying infill areas applications for small jurisdictions and large jurisdictions based on the following:

(i) The number of housing units, including affordable units as required in paragraph (2) of subdivision (g) to be developed within the catalytic qualifying infill area.

(ii) The depth and duration of the affordability of the housing proposed for within the catalytic qualifying infill area.

(iii) The extent to which the average residential densities on the parcel or parcels to be developed exceeds the density standards contained in paragraph (3) of subdivision (g).

(iv) The catalytic qualifying infill area's inclusion of, or proximity or accessibility to, a transit station, major transit stop, or other areas yielding significant reductions in vehicle miles traveled.

(v) The proximity of planned housing within the catalytic qualifying infill area used in the calculation of the eligible grant amount to existing or planned parks, employment or retail centers, schools, or social services.

(vi) Existing or planned ordinances and other zoning or building provisions that facilitate adaptive reuse, including, but not limited to, demonstration that, if the existing commercial, office, or retail structure intended for reuse as housing does not occupy the entirety of the underlying parcel, the adaptive reuse project will be permitted to add to the existing building or structure provided that the addition is consistent with the existing or planned zoning of the parcel.

(vii) The extent to which local strategies or programs are in place to prevent the direct or indirect displacement of local community residents and businesses from the area within and surrounding the catalytic qualifying infill area.

(viii) The level of community outreach and engagement in project planning, including efforts to involve disadvantaged communities and low-income residents, particularly local community residents and businesses from the area within and surrounding the catalytic qualifying infill area.

(ix) Inclusion of any publicly owned lands within the designated catalytic qualifying infill area.

(x) Streamlining provisions related to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, establishment of streamlined, program-level California Environmental Quality Act analysis and certification of general plans, community plans, specific plans with accompanying environmental impact reports, and related documents and streamlining proposed projects, such as enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law.

(C) Eligible applicants shall submit the following information in the application request for funding:

(i) A complete description of the catalytic qualifying infill area and documentation of how the catalytic qualifying infill area meets the requirements of this section.

(ii) A complete description of the capital improvement project and requested grant funding, how the capital improvement project is necessary to support the development of housing, and how it meets the criteria of this section.

(iii) Documentation that specifies how the application meets all of the requirements of subdivision (g).

(iv) (I) Except as provided in subclause (II), a financial document that shows the gap financing needed for the project.

(II) For a qualifying infill project within a catalytic qualifying infill area located in the unincorporated area of the county, the department shall allow an applicant to meet the requirement described in subclause (I) by submitting copies of an application or applications for other sources of state or federal funding for a qualifying infill project.

(v) (I) Except as provided by subclause (II), documentation of all necessary entitlement and permits, and a certification from the applicant that the capital improvement project is shovel-ready.

(II) For a qualifying infill project within a catalytic qualifying infill area located in the unincorporated area of the county, the department shall allow the applicant to meet the requirement described in subclause (I) by submitting a letter of intent from a willing affordable housing developer that has previously completed at least one comparable housing project, certifying that the developer is willing to submit an application to the county for approval by the county of a qualifying infill project within the area in the event that the funding requested pursuant to this subdivision is awarded.

(2) In allocating funds pursuant to this subdivision, the department, to the maximum extent feasible, shall ensure a reasonable distribution of funds, including consideration of differing population sizes of localities and geographic location. Applications shall be considered and ranked against applications of localities of similar size and scope. For the purposes of this paragraph, the population of a county shall be the population in the unincorporated area.

(3) The department shall report the following information in its annual report due in 2024, as required by Section 50408:

(A) Specific uses of the funds for capital improvement projects.

(B) Locations of awarded catalytic qualifying infill area grants, including both of the following:

(i) Number of awards by geography, including urban and rural.

(ii) The types of buildings adapted to residential use.

(C) Total units to be created within the awarded qualifying infill areas, including anticipated affordability levels.

(D) Data on catalytic qualifying infill area projects funded, such as project sizes, adaptive reuse ordinances adopted, and by-right sites.

(g) A qualifying infill project, qualifying infill area, or catalytic qualifying infill area for which a capital improvement project grant may be awarded pursuant to paragraph (2) of subdivision (c), subdivision (d), subdivision (e), or subdivision (f) shall meet all of the following conditions:

(1) A qualifying infill area or catalytic qualifying infill area shall be located in a city, county, or city and county in which the general plan of the city, county, or city and county has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. This paragraph does not apply to a qualifying infill project.

(2) Include not less than 15 percent of affordable units, as follows:

(A) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.

(B) (i) To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

(ii) Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low- and moderate-income housing market. Residential units to be replaced shall not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

(C) For the purposes of this subdivision, "affordable unit" means a unit that is made available at an affordable rent, as defined in Section 50053, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, as defined in Section 50052.5, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(3) Include average residential densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, except that a project located in a rural area as defined in Section 50199.21 shall include average residential densities on the parcels to be developed of at least 10 units per acre.

(4) Be located in an area designated for mixed-use or residential development pursuant to one of the following:

(A) A general plan adopted pursuant to Section 65300 of the Government Code.

(B) A sustainable communities strategy adopted pursuant to Section 65080 of the Government Code.

(C) A specific plan adopted pursuant to Section 65450 of the Government Code.

(D) A Workforce Housing Opportunity Zone established pursuant to Section 65620 of the Government Code.

(E) A housing sustainability district established pursuant to Section 66201 of the Government Code.

(h) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.

(i) The department shall adopt guidelines for the operation of the grant program. The guidelines shall include performance standards and authorize the reversion of grant awards if the awardee has not substantially met the performance standards.

(1) Performance standards shall include timelines for commencement of construction of a capital improvement project, completion of a capital improvement project, and commencement and completion of associated housing development on an identified infill site, as identified in the qualifying infill project, qualifying infill area, or catalytic qualifying infill area application.

(2) Catalytic qualifying infill area awards may be conditioned upon the local jurisdiction completing any actions to expedite housing development rezoning to accommodate density, completing environmental reviews to support ministerial approvals of housing, and granting fee waivers or other incentives to expedite housing development that were used in qualifying for an award.

(j) The department shall require recipients of funds to report on progress of capital improvement projects, including, but not limited to, substantiation of grant expenditures and housing outcomes, including levels of affordability as provided in the application.

(k) The guidelines may also provide for recapture of grants awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(l) For each fiscal year within the duration of the grant program, the department shall include within the report to the Governor and the Legislature, required by Section 50408, information on its activities relating to the grant program activities related to qualifying infill projects and qualifying infill areas, including small jurisdiction funding activities. The report shall include, but is not limited to, the following information:

(1) A summary of the projects that received grants under the program for each fiscal year that grants were awarded.

(2) The description, location, and estimated date of completion for each project that received a grant award under the program.

(3) An update on the status of each project that received a grant award under the program, and the number of housing units created or facilitated by the program.

(m) Notwithstanding paragraph (3) of subdivision (g), a city with a population greater than 100,000 in a standard metropolitan statistical area or a population of less than 2,000,000 may petition the department for, and the department may grant, an exception to the jurisdiction's classification pursuant to subdivisions (d) to (f), inclusive, of Section 65583.2 of the Government Code, if the city believes it is unable to meet the density requirements specified in paragraph (3) of subdivision (g). The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may encounter in meeting the density requirements specified in paragraph (3) of subdivision (g). Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2026.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 65589.9 of the Government Code proposed by both this bill and Assembly Bill 529. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 65589.9 of the Government Code, and (3) this bill is enacted after Assembly Bill 529, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 53559 of the Health and Safety Code proposed by both this bill and Assembly Bill 1764. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 53559 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1764, in which case Section 2 of this bill shall not become operative.