

ASSEMBLY BILL

No. 1198

Introduced by Assembly Member Norby

February 18, 2011

An act to repeal Sections 65584, 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, 65584.08, 65584.09, 65584.1, 65584.2, 65584.6, and 65584.7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1198, as introduced, Norby. Land use: housing element: regional housing need assessment.

The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan, and requires the general plan to include certain mandatory elements, including a housing element. That law also requires the housing element, in turn, to include, among other things, an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs. That law further requires the Department of Housing and Community Development, for specified revisions of the housing element, to determine the existing and projected need for housing for each region, as specified. That law sets forth manners for determining the regional housing need, bases for allocating regional housing need, bases for revising, modifying, or appealing an allocation of regional housing need, and other provisions relating to assessment or allocation of regional housing need.

This bill would repeal the requirement that the department determine the existing and projected need for housing for each region, as specified,

and other specified provisions relating to the assessment or allocation of regional housing need.

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 65584 of the Government Code is
 2 repealed.
 3 ~~65584. (a) (1) For the fourth and subsequent revisions of the~~
 4 ~~housing element pursuant to Section 65588, the department shall~~
 5 ~~determine the existing and projected need for housing for each~~
 6 ~~region pursuant to this article. For purposes of subdivision (a) of~~
 7 ~~Section 65583, the share of a city or county of the regional housing~~
 8 ~~need shall include that share of the housing need of persons at all~~
 9 ~~income levels within the area significantly affected by the general~~
 10 ~~plan of the city or county.~~
 11 ~~(2) While it is the intent of the Legislature that cities, counties,~~
 12 ~~and cities and counties should undertake all necessary actions to~~
 13 ~~encourage, promote, and facilitate the development of housing to~~
 14 ~~accommodate the entire regional housing need, it is recognized,~~
 15 ~~however, that future housing production may not equal the regional~~
 16 ~~housing need established for planning purposes.~~
 17 ~~(b) The department, in consultation with each council of~~
 18 ~~governments, shall determine each region’s existing and projected~~
 19 ~~housing need pursuant to Section 65584.01 at least two years prior~~
 20 ~~to the scheduled revision required pursuant to Section 65588. The~~
 21 ~~appropriate council of governments, or for cities and counties~~
 22 ~~without a council of governments, the department, shall adopt a~~
 23 ~~final regional housing need plan that allocates a share of the~~
 24 ~~regional housing need to each city, county, or city and county at~~
 25 ~~least one year prior to the scheduled revision for the region required~~
 26 ~~by Section 65588. The allocation plan prepared by a council of~~
 27 ~~governments shall be prepared pursuant to Sections 65584.04 and~~
 28 ~~65584.05 with the advice of the department.~~
 29 ~~(c) Notwithstanding any other provision of law, the due dates~~
 30 ~~for the determinations of the department or for the council of~~
 31 ~~governments, respectively, regarding the regional housing need~~
 32 ~~may be extended by the department by not more than 60 days if~~
 33 ~~the extension will enable access to more recent critical population~~

1 or housing data from a pending or recent release of the United
2 States Census Bureau or the Department of Finance. If the due
3 date for the determination of the department or the council of
4 governments is extended for this reason, the department shall
5 extend the corresponding housing element revision deadline
6 pursuant to Section 65588 by not more than 60 days.

7 (d) ~~The regional housing needs allocation plan shall be~~
8 ~~consistent with all of the following objectives:~~

9 (1) ~~Increasing the housing supply and the mix of housing types,~~
10 ~~tenure, and affordability in all cities and counties within the region~~
11 ~~in an equitable manner, which shall result in each jurisdiction~~
12 ~~receiving an allocation of units for low- and very low income~~
13 ~~households.~~

14 (2) ~~Promoting infill development and socioeconomic equity;~~
15 ~~the protection of environmental and agricultural resources, and~~
16 ~~the encouragement of efficient development patterns.~~

17 (3) ~~Promoting an improved intraregional relationship between~~
18 ~~jobs and housing.~~

19 (4) ~~Allocating a lower proportion of housing need to an income~~
20 ~~category when a jurisdiction already has a disproportionately high~~
21 ~~share of households in that income category, as compared to the~~
22 ~~countywide distribution of households in that category from the~~
23 ~~most recent decennial United States census.~~

24 (e) ~~For purposes of this section, “household income levels” are~~
25 ~~as determined by the department as of the most recent decennial~~
26 ~~census pursuant to the following code sections:~~

27 (1) ~~Very low incomes as defined by Section 50105 of the Health~~
28 ~~and Safety Code.~~

29 (2) ~~Lower incomes, as defined by Section 50079.5 of the Health~~
30 ~~and Safety Code.~~

31 (3) ~~Moderate incomes, as defined by Section 50093 of the Health~~
32 ~~and Safety Code.~~

33 (4) ~~Above moderate incomes are those exceeding the~~
34 ~~moderate-income level of Section 50093 of the Health and Safety~~
35 ~~Code.~~

36 (f) ~~Notwithstanding any other provision of law, determinations~~
37 ~~made by the department, a council of governments, or a city or~~
38 ~~county pursuant to this section or Section 65584.01, 65584.02,~~
39 ~~65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08~~
40 ~~are exempt from the California Environmental Quality Act~~

1 ~~(Division 13 (commencing with Section 21000) of the Public~~
2 ~~Resources Code).~~

3 SEC. 2. Section 65584.01 of the Government Code is repealed.

4 ~~65584.01. (a) For the fourth and subsequent revision of the~~
5 ~~housing element pursuant to Section 65588, the department, in~~
6 ~~consultation with each council of governments, where applicable,~~
7 ~~shall determine the existing and projected need for housing for~~
8 ~~each region in the following manner:~~

9 ~~(b) The department's determination shall be based upon~~
10 ~~population projections produced by the Department of Finance~~
11 ~~and regional population forecasts used in preparing regional~~
12 ~~transportation plans, in consultation with each council of~~
13 ~~governments. If the total regional population forecast for the~~
14 ~~planning period, developed by the council of governments and~~
15 ~~used for the preparation of the regional transportation plan, is~~
16 ~~within a range of 3 percent of the total regional population forecast~~
17 ~~for the planning period over the same time period by the~~
18 ~~Department of Finance, then the population forecast developed by~~
19 ~~the council of governments shall be the basis from which the~~
20 ~~department determines the existing and projected need for housing~~
21 ~~in the region. If the difference between the total population growth~~
22 ~~projected by the council of governments and the total population~~
23 ~~growth projected for the region by the Department of Finance is~~
24 ~~greater than 3 percent, then the department and the council of~~
25 ~~governments shall meet to discuss variances in methodology used~~
26 ~~for population projections and seek agreement on a population~~
27 ~~projection for the region to be used as a basis for determining the~~
28 ~~existing and projected housing need for the region. If no agreement~~
29 ~~is reached, then the population projection for the region shall be~~
30 ~~the population projection for the region prepared by the Department~~
31 ~~of Finance as may be modified by the department as a result of~~
32 ~~discussions with the council of governments.~~

33 ~~(c) (1) At least 26 months prior to the scheduled revision~~
34 ~~pursuant to Section 65588 and prior to developing the existing and~~
35 ~~projected housing need for a region, the department shall meet and~~
36 ~~consult with the council of governments regarding the assumptions~~
37 ~~and methodology to be used by the department to determine the~~
38 ~~region's housing needs. The council of governments shall provide~~
39 ~~data assumptions from the council's projections, including, if~~
40 ~~available, the following data for the region:~~

- 1 ~~(A) Anticipated household growth associated with projected~~
2 ~~population increases.~~
- 3 ~~(B) Household size data and trends in household size.~~
- 4 ~~(C) The rate of household formation, or headship rates, based~~
5 ~~on age, gender, ethnicity, or other established demographic~~
6 ~~measures.~~
- 7 ~~(D) The vacancy rates in existing housing stock, and the vacancy~~
8 ~~rates for healthy housing market functioning and regional mobility,~~
9 ~~as well as housing replacement needs.~~
- 10 ~~(E) Other characteristics of the composition of the projected~~
11 ~~population.~~
- 12 ~~(F) The relationship between jobs and housing, including any~~
13 ~~imbalance between jobs and housing.~~
- 14 ~~(2) The department may accept or reject the information~~
15 ~~provided by the council of governments or modify its own~~
16 ~~assumptions or methodology based on this information. After~~
17 ~~consultation with the council of governments, the department shall~~
18 ~~make determinations in writing on the assumptions for each of the~~
19 ~~factors listed in subparagraphs (A) to (F), inclusive, of paragraph~~
20 ~~(1) and the methodology it shall use and shall provide these~~
21 ~~determinations to the council of governments.~~
- 22 ~~(d) (1) After consultation with the council of governments, the~~
23 ~~department shall make a determination of the region's existing~~
24 ~~and projected housing need based upon the assumptions and~~
25 ~~methodology determined pursuant to subdivision (c). The region's~~
26 ~~existing and projected housing need shall reflect the achievement~~
27 ~~of a feasible balance between jobs and housing within the region~~
28 ~~using the regional employment projections in the applicable~~
29 ~~regional transportation plan. Within 30 days following notice of~~
30 ~~the determination from the department, the council of governments~~
31 ~~may file an objection to the department's determination of the~~
32 ~~region's existing and projected housing need with the department.~~
- 33 ~~(2) The objection shall be based on and substantiate either of~~
34 ~~the following:~~
- 35 ~~(A) The department failed to base its determination on the~~
36 ~~population projection for the region established pursuant to~~
37 ~~subdivision (b), and shall identify the population projection which~~
38 ~~the council of governments believes should instead be used for the~~
39 ~~determination and explain the basis for its rationale.~~

1 ~~(B) The regional housing need determined by the department~~
2 ~~is not a reasonable application of the methodology and assumptions~~
3 ~~determined pursuant to subdivision (c). The objection shall include~~
4 ~~a proposed alternative determination of its regional housing need~~
5 ~~based upon the determinations made in subdivision (c), including~~
6 ~~analysis of why the proposed alternative would be a more~~
7 ~~reasonable application of the methodology and assumptions~~
8 ~~determined pursuant to subdivision (c).~~

9 ~~(3) If a council of governments files an objection pursuant to~~
10 ~~this subdivision and includes with the objection a proposed~~
11 ~~alternative determination of its regional housing need, it shall also~~
12 ~~include documentation of its basis for the alternative determination.~~
13 ~~Within 45 days of receiving an objection filed pursuant to this~~
14 ~~section, the department shall consider the objection and make a~~
15 ~~final written determination of the region's existing and projected~~
16 ~~housing need that includes an explanation of the information upon~~
17 ~~which the determination was made.~~

18 SEC. 3. Section 65584.02 of the Government Code is repealed.

19 ~~65584.02. (a) For the fourth and subsequent revisions of the~~
20 ~~housing element pursuant to Section 65588, the existing and~~
21 ~~projected need for housing may be determined for each region by~~
22 ~~the department as follows, as an alternative to the process pursuant~~
23 ~~to Section 65584.01:~~

24 ~~(1) In a region in which at least one subregion has accepted~~
25 ~~delegated authority pursuant to Section 65584.03, the region's~~
26 ~~housing need shall be determined at least 26 months prior to the~~
27 ~~housing element update deadline pursuant to Section 65588. In a~~
28 ~~region in which no subregion has accepted delegation pursuant to~~
29 ~~Section 65584.03, the region's housing need shall be determined~~
30 ~~at least 24 months prior to the housing element deadline.~~

31 ~~(2) At least six months prior to the department's determination~~
32 ~~of regional housing need pursuant to paragraph (1), a council of~~
33 ~~governments may request the use of population and household~~
34 ~~forecast assumptions used in the regional transportation plan. This~~
35 ~~request shall include all of the following:~~

36 ~~(A) Proposed data and assumptions for factors contributing to~~
37 ~~housing need beyond household growth identified in the forecast.~~
38 ~~These factors shall include allowance for vacant or replacement~~
39 ~~units, and may include other adjustment factors.~~

1 (B) A proposed planning period that is not longer than the period
2 of time covered by the regional transportation improvement plan
3 or plans of the region pursuant to Section 14527, but a period not
4 less than five years, and not longer than six years.

5 (C) A comparison between the population and household
6 assumptions used for the Regional Transportation Plan with
7 population and household estimates and projections of the
8 Department of Finance.

9 (b) The department shall consult with the council of
10 governments regarding requests submitted pursuant to paragraph
11 (2) of subdivision (a). The department may seek advice and consult
12 with the Demographic Research Unit of the Department of Finance,
13 the State Department of Transportation, a representative of a
14 contiguous council of governments, and any other party as deemed
15 necessary. The department may request that the council of
16 governments revise data, assumptions, or methodology to be used
17 for the determination of regional housing need, or may reject the
18 request submitted pursuant to paragraph (2) of subdivision (a).
19 Subsequent to consultation with the council of governments, the
20 department will respond in writing to requests submitted pursuant
21 to paragraph (1) of subdivision (a).

22 (e) If the council of governments does not submit a request
23 pursuant to subdivision (a), or if the department rejects the request
24 of the council of governments, the determination for the region
25 shall be made pursuant to Sections 65584 and 65584.01.

26 SEC. 4. Section 65584.03 of the Government Code is repealed.

27 65584.03. (a) At least 28 months prior to the scheduled housing
28 element update required by Section 65588, at least two or more
29 cities and a county, or counties, may form a subregional entity for
30 the purpose of allocation of the subregion's existing and projected
31 need for housing among its members in accordance with the
32 allocation methodology established pursuant to Section 65584.04.
33 The purpose of establishing a subregion shall be to recognize the
34 community of interest and mutual challenges and opportunities
35 for providing housing within a subregion. A subregion formed
36 pursuant to this section may include a single county and each of
37 the cities in that county or any other combination of geographically
38 contiguous local governments and shall be approved by the
39 adoption of a resolution by each of the local governments in the
40 subregion as well as by the council of governments. All decisions

1 of the subregion shall be approved by vote as provided for in rules
2 adopted by the local governments comprising the subregion or
3 shall be approved by vote of the county or counties, if any, and
4 the majority of the cities with the majority of population within a
5 county or counties.

6 (b) ~~Upon formation of the subregional entity, the entity shall~~
7 ~~notify the council of governments of this formation. If the council~~
8 ~~of governments has not received notification from an eligible~~
9 ~~subregional entity at least 28 months prior to the scheduled housing~~
10 ~~element update required by Section 65588, the council of~~
11 ~~governments shall implement the provisions of Sections 65584~~
12 ~~and 65584.04. The delegate subregion and the council of~~
13 ~~governments shall enter into an agreement that sets forth the~~
14 ~~process, timing, and other terms and conditions of the delegation~~
15 ~~of responsibility by the council of governments to the subregion.~~

16 (c) ~~At least 25 months prior to the scheduled revision, the~~
17 ~~council of governments shall determine the share of regional~~
18 ~~housing need assigned to each delegate subregion. The share or~~
19 ~~shares allocated to the delegate subregion or subregions by a~~
20 ~~council of governments shall be in a proportion consistent with~~
21 ~~the distribution of households assumed for the comparable time~~
22 ~~period of the applicable regional transportation plan. Prior to~~
23 ~~allocating the regional housing needs to any delegate subregion~~
24 ~~or subregions, the council of governments shall hold at least one~~
25 ~~public hearing, and may consider requests for revision of the~~
26 ~~proposed allocation to a subregion. If a proposed revision is~~
27 ~~rejected, the council of governments shall respond with a written~~
28 ~~explanation of why the proposed revised share has not been~~
29 ~~accepted.~~

30 (d) ~~Each delegate subregion shall fully allocate its share of the~~
31 ~~regional housing need to local governments within its subregion.~~
32 ~~If a delegate subregion fails to complete the regional housing need~~
33 ~~allocation process among its member jurisdictions in a manner~~
34 ~~consistent with this article and with the delegation agreement~~
35 ~~between the subregion and the council of governments, the~~
36 ~~allocations to member jurisdictions shall be made by the council~~
37 ~~of governments.~~

38 SEC. 5. Section 65584.04 of the Government Code is repealed.

39 ~~65584.04. (a) At least two years prior to a scheduled revision~~
40 ~~required by Section 65588, each council of governments, or~~

1 ~~delegate subregion as applicable, shall develop a proposed~~
2 ~~methodology for distributing the existing and projected regional~~
3 ~~housing need to cities, counties, and cities and counties within the~~
4 ~~region or within the subregion, where applicable pursuant to this~~
5 ~~section. The methodology shall be consistent with the objectives~~
6 ~~listed in subdivision (d) of Section 65584.~~

7 ~~(b) (1) No more than six months prior to the development of a~~
8 ~~proposed methodology for distributing the existing and projected~~
9 ~~housing need, each council of governments shall survey each of~~
10 ~~its member jurisdictions to request, at a minimum, information~~
11 ~~regarding the factors listed in subdivision (d) that will allow the~~
12 ~~development of a methodology based upon the factors established~~
13 ~~in subdivision (d).~~

14 ~~(2) The council of governments shall seek to obtain the~~
15 ~~information in a manner and format that is comparable throughout~~
16 ~~the region and utilize readily available data to the extent possible.~~

17 ~~(3) The information provided by a local government pursuant~~
18 ~~to this section shall be used, to the extent possible, by the council~~
19 ~~of governments, or delegate subregion as applicable, as source~~
20 ~~information for the methodology developed pursuant to this section.~~
21 ~~The survey shall state that none of the information received may~~
22 ~~be used as a basis for reducing the total housing need established~~
23 ~~for the region pursuant to Section 65584.01.~~

24 ~~(4) If the council of governments fails to conduct a survey~~
25 ~~pursuant to this subdivision, a city, county, or city and county may~~
26 ~~submit information related to the items listed in subdivision (d)~~
27 ~~prior to the public comment period provided for in subdivision~~
28 ~~(e).~~

29 ~~(e) Public participation and access shall be required in the~~
30 ~~development of the methodology and in the process of drafting~~
31 ~~and adoption of the allocation of the regional housing needs.~~
32 ~~Participation by organizations other than local jurisdictions and~~
33 ~~councils of governments shall be solicited in a diligent effort to~~
34 ~~achieve public participation of all economic segments of the~~
35 ~~community. The proposed methodology, along with any relevant~~
36 ~~underlying data and assumptions, and an explanation of how~~
37 ~~information about local government conditions gathered pursuant~~
38 ~~to subdivision (b) has been used to develop the proposed~~
39 ~~methodology, and how each of the factors listed in subdivision (d)~~
40 ~~is incorporated into the methodology, shall be distributed to all~~

1 cities, counties, any subregions, and members of the public who
2 have made a written request for the proposed methodology. The
3 council of governments, or delegate subregion, as applicable, shall
4 conduct at least one public hearing to receive oral and written
5 comments on the proposed methodology.

6 (d) ~~To the extent that sufficient data is available from local
7 governments pursuant to subdivision (b) or other sources, each
8 council of governments, or delegate subregion as applicable, shall
9 include the following factors to develop the methodology that
10 allocates regional housing needs:~~

11 (1) ~~Each member jurisdiction's existing and projected jobs and
12 housing relationship.~~

13 (2) ~~The opportunities and constraints to development of
14 additional housing in each member jurisdiction, including all of
15 the following:~~

16 (A) ~~Lack of capacity for sewer or water service due to federal
17 or state laws, regulations or regulatory actions, or supply and
18 distribution decisions made by a sewer or water service provider
19 other than the local jurisdiction that preclude the jurisdiction from
20 providing necessary infrastructure for additional development
21 during the planning period.~~

22 (B) ~~The availability of land suitable for urban development or
23 for conversion to residential use, the availability of underutilized
24 land, and opportunities for infill development and increased
25 residential densities. The council of governments may not limit
26 its consideration of suitable housing sites or land suitable for urban
27 development to existing zoning ordinances and land use restrictions
28 of a locality, but shall consider the potential for increased
29 residential development under alternative zoning ordinances and
30 land use restrictions. The determination of available land suitable
31 for urban development may exclude lands where the Federal
32 Emergency Management Agency (FEMA) or the Department of
33 Water Resources has determined that the flood management
34 infrastructure designed to protect that land is not adequate to avoid
35 the risk of flooding.~~

36 (C) ~~Lands preserved or protected from urban development under
37 existing federal or state programs, or both, designed to protect
38 open space, farmland, environmental habitats, and natural resources
39 on a long-term basis.~~

- 1 ~~(D) County policies to preserve prime agricultural land, as~~
2 ~~defined pursuant to Section 56064, within an unincorporated area.~~
3 ~~(3) The distribution of household growth assumed for purposes~~
4 ~~of a comparable period of regional transportation plans and~~
5 ~~opportunities to maximize the use of public transportation and~~
6 ~~existing transportation infrastructure.~~
7 ~~(4) The market demand for housing.~~
8 ~~(5) Agreements between a county and cities in a county to direct~~
9 ~~growth toward incorporated areas of the county.~~
10 ~~(6) The loss of units contained in assisted housing developments,~~
11 ~~as defined in paragraph (9) of subdivision (a) of Section 65583,~~
12 ~~that changed to non-low-income use through mortgage prepayment,~~
13 ~~subsidy contract expirations, or termination of use restrictions.~~
14 ~~(7) High-housing cost burdens.~~
15 ~~(8) The housing needs of farmworkers.~~
16 ~~(9) The housing needs generated by the presence of a private~~
17 ~~university or a campus of the California State University or the~~
18 ~~University of California within any member jurisdiction.~~
19 ~~(10) Any other factors adopted by the council of governments.~~
20 ~~(e) The council of governments, or delegate subregion, as~~
21 ~~applicable, shall explain in writing how each of the factors~~
22 ~~described in subdivision (d) was incorporated into the methodology~~
23 ~~and how the methodology is consistent with subdivision (d) of~~
24 ~~Section 65584. The methodology may include numerical weighting.~~
25 ~~(f) Any ordinance, policy, voter-approved measure, or standard~~
26 ~~of a city or county that directly or indirectly limits the number of~~
27 ~~residential building permits issued by a city or county shall not be~~
28 ~~a justification for a determination or a reduction in the share of a~~
29 ~~city or county of the regional housing need.~~
30 ~~(g) In addition to the factors identified pursuant to subdivision~~
31 ~~(d), the council of governments, or delegate subregion, as~~
32 ~~applicable, shall identify any existing local, regional, or state~~
33 ~~incentives, such as a priority for funding or other incentives~~
34 ~~available to those local governments that are willing to accept a~~
35 ~~higher share than proposed in the draft allocation to those local~~
36 ~~governments by the council of governments or delegate subregion~~
37 ~~pursuant to Section 65584.05.~~
38 ~~(h) Following the conclusion of the 60-day public comment~~
39 ~~period described in subdivision (e) on the proposed allocation~~
40 ~~methodology, and after making any revisions deemed appropriate~~

1 by the council of governments, or delegate subregion, as applicable,
2 as a result of comments received during the public comment period,
3 each council of governments, or delegate subregion, as applicable,
4 shall adopt a final regional, or subregional, housing need allocation
5 methodology and provide notice of the adoption of the
6 methodology to the jurisdictions within the region, or delegate
7 subregion as applicable, and to the department.

8 (i) (1) It is the intent of the Legislature that housing planning
9 be coordinated and integrated with the regional transportation plan.
10 To achieve this goal, the allocation plan shall allocate housing
11 units within the region consistent with the development pattern
12 included in the sustainable communities strategy.

13 (2) The final allocation plan shall ensure that the total regional
14 housing need, by income category, as determined under Section
15 65584, is maintained, and that each jurisdiction in the region
16 receive an allocation of units for low- and very low income
17 households.

18 (3) The resolution approving the final housing need allocation
19 plan shall demonstrate that the plan is consistent with the
20 sustainable communities strategy in the regional transportation
21 plan.

22 SEC. 6. Section 65584.05 of the Government Code is repealed.

23 65584.05. (a) At least one and one-half years prior to the
24 scheduled revision required by Section 65588, each council of
25 governments and delegate subregion, as applicable, shall distribute
26 a draft allocation of regional housing needs to each local
27 government in the region or subregion, where applicable, based
28 on the methodology adopted pursuant to Section 65584.04. The
29 draft allocation shall include the underlying data and methodology
30 on which the allocation is based. It is the intent of the Legislature
31 that the draft allocation should be distributed prior to the
32 completion of the update of the applicable regional transportation
33 plan. The draft allocation shall distribute to localities and
34 subregions, if any, within the region the entire regional housing
35 need determined pursuant to Section 65584.01 or within
36 subregions, as applicable, the subregion's entire share of the
37 regional housing need determined pursuant to Section 65584.03.

38 (b) Within 60 days following receipt of the draft allocation, a
39 local government may request from the council of governments
40 or the delegate subregion, as applicable, a revision of its share of

1 the regional housing need in accordance with the factors described
2 in paragraphs (1) to (9), inclusive, of subdivision (d) of Section
3 65584.04, including any information submitted by the local
4 government to the council of governments pursuant to subdivision
5 (b) of that section. The request for a revised share shall be based
6 upon comparable data available for all affected jurisdictions and
7 accepted planning methodology, and supported by adequate
8 documentation.

9 (e) ~~Within 60 days after the request submitted pursuant to~~
10 ~~subdivision (b), the council of governments or delegate subregion,~~
11 ~~as applicable, shall accept the proposed revision, modify its earlier~~
12 ~~determination, or indicate, based upon the information and~~
13 ~~methodology described in Section 65584.04, why the proposed~~
14 ~~revision is inconsistent with the regional housing need.~~

15 (d) ~~If the council of governments or delegate subregion, as~~
16 ~~applicable, does not accept the proposed revised share or modify~~
17 ~~the revised share to the satisfaction of the requesting party, the~~
18 ~~local government may appeal its draft allocation based upon either~~
19 ~~or both of the following criteria:~~

20 (1) ~~The council of governments or delegate subregion, as~~
21 ~~applicable, failed to adequately consider the information submitted~~
22 ~~pursuant to subdivision (b) of Section 65584.04, or a significant~~
23 ~~and unforeseen change in circumstances has occurred in the local~~
24 ~~jurisdiction that merits a revision of the information submitted~~
25 ~~pursuant to that subdivision.~~

26 (2) ~~The council of governments or delegate subregion, as~~
27 ~~applicable, failed to determine its share of the regional housing~~
28 ~~need in accordance with the information described in, and the~~
29 ~~methodology established pursuant to Section 65584.04.~~

30 (e) ~~The council of governments or delegate subregion, as~~
31 ~~applicable, shall conduct public hearings to hear all appeals within~~
32 ~~60 days after the date established to file appeals. The local~~
33 ~~government shall be notified within 10 days by certified mail,~~
34 ~~return receipt requested, of at least one public hearing on its appeal.~~
35 ~~The date of the hearing shall be at least 30 days and not more than~~
36 ~~35 days after the date of the notification. Before taking action on~~
37 ~~an appeal, the council of governments or delegate subregion, as~~
38 ~~applicable, shall consider all comments, recommendations, and~~
39 ~~available data based on accepted planning methodologies submitted~~
40 ~~by the appellant. The final action of the council of governments~~

1 or delegate subregion, as applicable, on an appeal shall be in
2 writing and shall include information and other evidence explaining
3 how its action is consistent with this article. The final action on
4 an appeal may require the council of governments or delegate
5 subregion, as applicable, to adjust the allocation of a local
6 government that is not the subject of an appeal.

7 (f) The council of governments or delegate subregion, as
8 applicable, shall issue a proposed final allocation within 45 days
9 after the completion of the 60-day period for hearing appeals. The
10 proposed final allocation plan shall include responses to all
11 comments received on the proposed draft allocation and reasons
12 for any significant revisions included in the final allocation.

13 (g) In the proposed final allocation plan, the council of
14 governments or delegate subregion, as applicable, shall adjust
15 allocations to local governments based upon the results of the
16 revision request process and the appeals process specified in this
17 section. If the adjustments total 7 percent or less of the regional
18 housing need determined pursuant to Section 65584.01, or, as
19 applicable, total 7 percent or less of the subregion's share of the
20 regional housing need as determined pursuant to Section 65584.03,
21 then the council of governments or delegate subregion, as
22 applicable, shall distribute the adjustments proportionally to all
23 local governments. If the adjustments total more than 7 percent of
24 the regional housing need, then the council of governments or
25 delegate subregion, as applicable, shall develop a methodology to
26 distribute the amount greater than the 7 percent to local
27 governments. In no event shall the total distribution of housing
28 need equal less than the regional housing need, as determined
29 pursuant to Section 65584.01, nor shall the subregional distribution
30 of housing need equal less than its share of the regional housing
31 need as determined pursuant to Section 65584.03. Two or more
32 local governments may agree to an alternate distribution of
33 appealed housing allocations between the affected local
34 governments. If two or more local governments agree to an
35 alternative distribution of appealed housing allocations that
36 maintains the total housing need originally assigned to these
37 communities, then the council of governments shall include the
38 alternative distribution in the final allocation plan.

39 (h) Within 45 days after the issuance of the proposed final
40 allocation plan by the council of governments and each delegate

1 subregion, as applicable, the council of governments shall hold a
2 public hearing to adopt a final allocation plan. To the extent that
3 the final allocation plan fully allocates the regional share of
4 statewide housing need, as determined pursuant to Section
5 65584.01, the council of governments shall have final authority
6 to determine the distribution of the region's existing and projected
7 housing need as determined pursuant to Section 65584.01. The
8 council of governments shall submit its final allocation plan to the
9 department within three days of adoption. Within 60 days after
10 the department's receipt of the final allocation plan adopted by the
11 council of governments, the department shall determine whether
12 or not the final allocation plan is consistent with the existing and
13 projected housing need for the region, as determined pursuant to
14 Section 65584.01. The department may revise the determination
15 of the council of governments if necessary to obtain this
16 consistency.

17 (i) Any authority of the council of governments to review and
18 revise the share of a city or county of the regional housing need
19 under this section shall not constitute authority to revise, approve,
20 or disapprove the manner in which the share of the city or county
21 of the regional housing need is implemented through its housing
22 program.

23 SEC. 7. Section 65584.06 of the Government Code is repealed.

24 65584.06.— (a) For cities and counties without a council of
25 governments, the department shall determine and distribute the
26 existing and projected housing need, in accordance with Section
27 65584 and this section. If the department determines that a county
28 or counties, supported by a resolution adopted by the board or
29 boards of supervisors, and a majority of cities within the county
30 or counties representing a majority of the population of the county
31 or counties, possess the capability and resources and has agreed
32 to accept the responsibility, with respect to its jurisdiction, for the
33 distribution of the regional housing need, the department shall
34 delegate this responsibility to the cities and county or counties.

35 (b) The distribution of regional housing need shall, based upon
36 available data and in consultation with the cities and counties, take
37 into consideration market demand for housing, the distribution of
38 household growth within the county assumed in the regional
39 transportation plan where applicable, employment opportunities
40 and commuting patterns, the availability of suitable sites and public

1 facilities, agreements between a county and cities in a county to
2 direct growth toward incorporated areas of the county, or other
3 considerations as may be requested by the affected cities or
4 counties and agreed to by the department. As part of the allocation
5 of the regional housing need, the department shall provide each
6 city and county with data describing the assumptions and
7 methodology used in calculating its share of the regional housing
8 need. Consideration of suitable housing sites or land suitable for
9 urban development is not limited to existing zoning ordinances
10 and land use restrictions of a locality, but shall include
11 consideration of the potential for increased residential development
12 under alternative zoning ordinances and land use restrictions. The
13 determination of available land suitable for urban development
14 may exclude lands where the Federal Emergency Management
15 Agency (FEMA) or the Department of Water Resources has
16 determined that the flood management infrastructure designed to
17 protect that land is not adequate to avoid the risk of flooding.

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

26 (d) (1) ~~Within 60 days after the end of the 90-day time period~~
27 ~~for the revision by the cities or county, the department shall accept~~
28 ~~the proposed revision, modify its earlier determination, or indicate~~
29 ~~why the proposed revision is inconsistent with the regional housing~~
30 ~~need.~~

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

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

37 (4) ~~The date of the hearing shall be at least 10 but not more than~~
38 ~~15 days from the date of the notification.~~

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

4 ~~(e) If the department accepts the proposed revision or modifies~~
5 ~~its earlier determination, the city or county shall use that share. If~~
6 ~~the department grants a revised allocation pursuant to subdivision~~
7 ~~(d), the department shall ensure that the total regional housing~~
8 ~~need is maintained. The department's final determination shall be~~
9 ~~in writing and shall include information explaining how its action~~
10 ~~is consistent with this section. If the department indicates that the~~
11 ~~proposed revision is inconsistent with the regional housing need,~~
12 ~~the city or county shall use the share that was originally determined~~
13 ~~by the department. The department, within its final determination,~~
14 ~~may adjust the allocation of a city or county that was not the subject~~
15 ~~of a request for revision of the draft distribution.~~

16 ~~(f) The department shall issue a final regional housing need~~
17 ~~allocation for all cities and counties within 45 days of the~~
18 ~~completion of the local review period.~~

19 SEC. 8. Section 65584.07 of the Government Code is repealed.

20 ~~65584.07. (a) During the period between adoption of a final~~
21 ~~regional housing needs allocation and the due date of the housing~~
22 ~~element update under Section 65588, the council of governments,~~
23 ~~or the department, whichever assigned the county's share, shall~~
24 ~~reduce the share of regional housing needs of a county if all of the~~
25 ~~following conditions are met:~~

26 ~~(1) One or more cities within the county agree to increase its~~
27 ~~share or their shares in an amount equivalent to the reduction.~~

28 ~~(2) The transfer of shares shall only occur between a county~~
29 ~~and cities within that county.~~

30 ~~(3) The county's share of low-income and very low income~~
31 ~~housing shall be reduced only in proportion to the amount by which~~
32 ~~the county's share of moderate- and above moderate-income~~
33 ~~housing is reduced.~~

34 ~~(4) The council of governments or the department, whichever~~
35 ~~assigned the county's share, shall approve the proposed reduction,~~
36 ~~if it determines that the conditions set forth in paragraphs (1), (2),~~
37 ~~and (3) above have been satisfied. The county and city or cities~~
38 ~~proposing the transfer shall submit an analysis of the factors and~~
39 ~~circumstances, with all supporting data, justifying the revision to~~
40 ~~the council of governments or the department. The council of~~

1 ~~governments shall submit a copy of its decision regarding the~~
2 ~~proposed reduction to the department.~~

3 ~~(b) (1) The county and cities that have executed transfers of~~
4 ~~regional housing needs pursuant to subdivision (a) shall use the~~
5 ~~revised regional housing need allocation in their housing elements~~
6 ~~and shall adopt their housing elements by the deadlines set forth~~
7 ~~in Section 65588.~~

8 ~~(2) A city that has received a transfer of a regional housing need~~
9 ~~pursuant to subdivision (c) shall adopt or amend its housing~~
10 ~~element within 30 months of the effective date of incorporation.~~

11 ~~(3) A county or city that has received a transfer of regional~~
12 ~~housing need pursuant to subdivision (d) shall amend its housing~~
13 ~~element within 180 days of the effective date of the transfer.~~

14 ~~(4) A county or city is responsible for identifying sites to~~
15 ~~accommodate its revised regional housing need by the deadlines~~
16 ~~set forth in paragraphs (1), (2), and (3).~~

17 ~~(5) All materials and data used to justify any revision shall be~~
18 ~~made available upon request to any interested party within seven~~
19 ~~days upon payment of reasonable costs of reproduction unless the~~
20 ~~costs are waived due to economic hardship. A fee may be charged~~
21 ~~to interested parties for any additional costs caused by the~~
22 ~~amendments made to former subdivision (c) of Section 65584 that~~
23 ~~reduced from 45 to 7 days the time within which materials and~~
24 ~~data were required to be made available to interested parties.~~

25 ~~(e) (1) If an incorporation of a new city occurs after the council~~
26 ~~of governments, subregional entity, or the department for areas~~
27 ~~with no council of governments, has made its final allocation under~~
28 ~~Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of~~
29 ~~the county's allocation shall be transferred to the new city. The~~
30 ~~city and county may reach a mutually acceptable agreement for~~
31 ~~transfer of a portion of the county's allocation to the city, which~~
32 ~~shall be accepted by the council of governments, subregional entity,~~
33 ~~or the department, whichever allocated the county's share. If the~~
34 ~~affected parties cannot reach a mutually acceptable agreement,~~
35 ~~then either party may submit a written request to the council of~~
36 ~~governments, subregional entity, or to the department for areas~~
37 ~~with no council of governments, to consider the facts, data, and~~
38 ~~methodology presented by both parties and determine the number~~
39 ~~of units, by income category, that should be transferred from the~~
40 ~~county's allocation to the new city.~~

1 ~~(2) Within 90 days after the date of incorporation, either the~~
2 ~~transfer, by income category, agreed upon by the city and county,~~
3 ~~or a written request for a transfer, shall be submitted to the council~~
4 ~~of governments, subregional entity, or to the department, whichever~~
5 ~~allocated the county's share. A mutually acceptable transfer~~
6 ~~agreement shall be effective immediately upon receipt by the~~
7 ~~council of governments, the subregional entity, or the department.~~
8 ~~A copy of a written transfer request submitted to the council of~~
9 ~~governments shall be submitted to the department. The council of~~
10 ~~governments, subregional entity, or the department, whichever~~
11 ~~allocated the county's share, shall make the transfer effective within~~
12 ~~180 days after receipt of the written request. If the council of~~
13 ~~governments allocated the county's share, the transfer shall be~~
14 ~~based on the methodology adopted pursuant to Section 65584.04~~
15 ~~or 65584.08. If the subregional entity allocated the subregion's~~
16 ~~share, the transfer shall be based on the methodology adopted~~
17 ~~pursuant to Section 65584.03. If the department allocated the~~
18 ~~county's share, the transfer shall be based on the considerations~~
19 ~~specified in Section 65584.06. The transfer shall neither reduce~~
20 ~~the total regional housing needs nor change the regional housing~~
21 ~~needs allocated to other cities by the council of governments,~~
22 ~~subregional entity, or the department. A copy of the transfer~~
23 ~~finalized by the council of governments or subregional entity shall~~
24 ~~be submitted to the department. The council of governments, the~~
25 ~~subregional entity, or the department, as appropriate, may extend~~
26 ~~the 90-day deadline if it determines an extension is consistent with~~
27 ~~the objectives of this article.~~

28 ~~(d) (1) If an annexation of unincorporated land to a city occurs~~
29 ~~after the council of governments, subregional entity, or the~~
30 ~~department for areas with no council of governments, has made~~
31 ~~its final allocation under Section 65584.03, 65584.04, 65584.06,~~
32 ~~or 65584.08, a portion of the county's allocation may be transferred~~
33 ~~to the city. The city and county may reach a mutually acceptable~~
34 ~~agreement for transfer of a portion of the county's allocation to~~
35 ~~the city, which shall be accepted by the council of governments,~~
36 ~~subregional entity, or the department, whichever allocated the~~
37 ~~county's share. If the affected parties cannot reach a mutually~~
38 ~~acceptable agreement, then either party may submit a written~~
39 ~~request to the council of governments, subregional entity, or to the~~
40 ~~department for areas with no council of governments, to consider~~

1 the facts, data, and methodology presented by both parties and
2 determine the number of units, by income category, that should
3 be transferred from the county's allocation to the city.

4 (2) (A) Except as provided under subparagraph (B), within 90
5 days after the date of annexation, either the transfer, by income
6 category, agreed upon by the city and county, or a written request
7 for a transfer, shall be submitted to the council of governments,
8 subregional entity, and to the department. A mutually acceptable
9 transfer agreement shall be effective immediately upon receipt by
10 the council of governments, the subregional entity, or the
11 department. The council of governments, subregional entity, or
12 the department for areas with no council of governments, shall
13 make the transfer effective within 180 days after receipt of the
14 written request. If the council of governments allocated the
15 county's share, the transfer shall be based on the methodology
16 adopted pursuant to Section 65584.04 or 65584.08. If the
17 subregional entity allocated the subregion's share, the transfer
18 shall be based on the methodology adopted pursuant to Section
19 65584.03. If the department allocated the county's share, the
20 transfer shall be based on the considerations specified in Section
21 65584.06. The transfer shall neither reduce the total regional
22 housing needs nor change the regional housing needs allocated to
23 other cities by the council of governments, subregional entity, or
24 the department for areas with no council of governments. A copy
25 of the transfer finalized by the council of governments or
26 subregional entity shall be submitted to the department. The council
27 of governments, the subregional entity, or the department, as
28 appropriate, may extend the 90-day deadline if it determines an
29 extension is consistent with the objectives of this article.

30 (B) If the annexed land is subject to a development agreement
31 authorized under subdivision (b) of Section 65865 that was entered
32 into by a city and a landowner prior to January 1, 2008, the revised
33 determination shall be based upon the number of units allowed by
34 the development agreement.

35 (3) A transfer shall not be made when the council of
36 governments or the department, as applicable, confirms that the
37 annexed land was fully incorporated into the methodology used
38 to allocate the city's share of the regional housing needs.

39 SEC. 9. Section 65584.08 of the Government Code is repealed.

1 ~~65584.08. (a) For the purposes of this section the “association”~~
2 ~~is the Southern California Association of Governments.~~
3 ~~(b) For the fourth revision of the housing element pursuant to~~
4 ~~Section 65588 within the region of the association, the existing~~
5 ~~and projected need for housing for the region as a whole and each~~
6 ~~jurisdiction within the region shall be determined according to the~~
7 ~~provisions of this article except as those provisions are specifically~~
8 ~~modified by this section.~~
9 ~~(c) The existing and projected housing need for the region shall~~
10 ~~be determined in the following manner:~~
11 ~~(1) The association shall develop an integrated long-term growth~~
12 ~~forecast by five-year increments. The growth forecast is not a~~
13 ~~regional housing needs allocation plan.~~
14 ~~(2) The forecast shall consist of the following three major~~
15 ~~variables by geographic area throughout the region:~~
16 ~~(A) Population.~~
17 ~~(B) Employment.~~
18 ~~(C) Households.~~
19 ~~(3) The association shall convert households into housing units~~
20 ~~using replacement rates from the Department of Finance, and~~
21 ~~county level vacancy rates, by weighing vacancy rates of for-sale~~
22 ~~and for-rent units.~~
23 ~~(4) The association shall transmit the forecast to the department~~
24 ~~with the following variables:~~
25 ~~(A) Population.~~
26 ~~(B) Employment.~~
27 ~~(C) Households.~~
28 ~~(D) Housing units.~~
29 ~~(E) Household formation ratios.~~
30 ~~(F) Replacement rates.~~
31 ~~(G) Owner and renter vacancy rates.~~
32 ~~(5) Upon receiving the forecast, the department shall determine~~
33 ~~the existing and projected housing need for the region in~~
34 ~~accordance with paragraph (2) of subdivision (c) of, and with~~
35 ~~subdivision (d) of, Section 65584.01.~~
36 ~~(d) The association shall conduct a public workshop for the~~
37 ~~purpose of surveying its member jurisdictions pursuant to~~
38 ~~subdivision (b) of Section 65584.04. Not less than 30 days prior~~
39 ~~to the date of commencement of the public workshop, the~~
40 ~~association shall notify affected jurisdictions about the manner in~~

1 which it proposes to consider the factors specified in subdivision
2 (d) of Section 65584.04 in the housing allocation process. Local
3 governments may submit information about the factors before the
4 workshop for consideration by the association and incorporation
5 into the discussion of the methodology at the workshop.

6 (e) ~~The association shall delegate development of the housing~~
7 ~~need allocation plan to the subregional entities, if the association~~
8 ~~and the subregional entities agree in writing to that delegation and~~
9 ~~the association ensures that the total regional housing need, by~~
10 ~~income category, is maintained.~~

11 (f) ~~The association shall conduct a minimum of 14 public~~
12 ~~workshops to discuss the regional growth forecast and the~~
13 ~~methodology, including the factors, by which housing needs are~~
14 ~~proposed to be allocated to subregions, or, in the absence of a~~
15 ~~subregion, to individual jurisdictions. The workshops shall also~~
16 ~~present opportunities for jurisdictions and members of the public~~
17 ~~or relevant stakeholders to provide information to the association~~
18 ~~on local conditions and factors. Following the workshops, and~~
19 ~~concurrent with the adoption of its draft housing allocation plan,~~
20 ~~the association shall describe the following:~~

21 (1) ~~The manner in which the plan is consistent with the housing,~~
22 ~~employment, transportation, and environmental needs of the region.~~

23 (2) ~~The manner in which the methodology that produced the~~
24 ~~plan complies with subdivision (e) of Section 65584.04.~~

25 (3) ~~The manner in which the information received in the public~~
26 ~~workshops was considered in the methodology used to allocate~~
27 ~~the regional housing need.~~

28 (g) ~~Following the adoption of the draft housing allocation plan,~~
29 ~~a local government may request from the association or the delegate~~
30 ~~subregion, as applicable, a revision of its share of the regional~~
31 ~~housing need in accordance with the factors described in~~
32 ~~subdivision (d) of Section 65584.04, including any information~~
33 ~~submitted by the local government pursuant to subdivision (d).~~
34 ~~The request for a revised share shall be based upon comparable~~
35 ~~data available for all affected jurisdictions and accepted planning~~
36 ~~methodology, and shall be supported by adequate documentation.~~
37 ~~The association or delegate subregion, as applicable, shall establish~~
38 ~~a timeline for accepting and reviewing revision requests. However,~~
39 ~~revision requests shall not be accepted after the deadline for filing~~
40 ~~an appeal pursuant to subdivision (i). The association or delegate~~

1 subregion shall respond to the request in writing no later than the
2 close of the appeal process, and shall describe the rationale for its
3 decision.

4 ~~(h) Both the methodology and allocation process shall consider~~
5 ~~the factors listed under subdivision (d) of Section 65584.04 and~~
6 ~~promote the goals and objectives of subdivision (d) of Section~~
7 ~~65584 and the regional transportation plan growth forecasting~~
8 ~~process to integrate housing planning with projected population~~
9 ~~growth and transportation. The association shall complete the final~~
10 ~~housing need allocation plan on or before June 30, 2007. It is the~~
11 ~~intent of the Legislature that the housing element update deadlines,~~
12 ~~as required under Section 65588, and as modified by the~~
13 ~~department under paragraph (2) of subdivision (a) of Section~~
14 ~~65584.02, will not be extended. The association shall submit a~~
15 ~~report to the Legislature on or before March 30, 2007, describing~~
16 ~~the progress it has made in completing the final need allocation~~
17 ~~plan.~~

18 ~~(i) A city or county may file one appeal of its draft allocation~~
19 ~~to the association, or a delegate subregion, pursuant to subdivision~~
20 ~~(e) of Section 65584.05, based upon any of the following criteria:~~

21 ~~(1) The association or delegate subregion, as applicable, failed~~
22 ~~to adequately consider the information submitted pursuant to~~
23 ~~subdivision (d), or a significant and unforeseen change in~~
24 ~~circumstances has occurred in the local jurisdiction that merits a~~
25 ~~revision of the information submitted pursuant to that subdivision.~~

26 ~~(2) The association or delegate subregion, as applicable, failed~~
27 ~~to determine the local government's share of the regional housing~~
28 ~~need in accordance with the information described in, and the~~
29 ~~methodology established pursuant to subdivision (f).~~

30 ~~(j) A city or county shall not be allowed to file more than one~~
31 ~~appeal under subdivision (i), and no appeals may be filed relating~~
32 ~~to any adjustments made pursuant to subdivision (g) of Section~~
33 ~~65584.05.~~

34 ~~(k) The final allocation plan shall be subject to the provisions~~
35 ~~of subdivision (h) of Section 65584.05.~~

36 ~~(l) The final allocation plan adopted by the association shall~~
37 ~~ensure that the total regional housing need, by income category,~~
38 ~~as determined under subdivision (e), is maintained. The resolution~~
39 ~~adopted by the association approving the final housing need~~
40 ~~allocation plan shall show how the plan:~~

- 1 ~~(1) Is consistent with the objectives of this section and article.~~
- 2 ~~(2) Is consistent with the pending update of the regional~~
- 3 ~~transportation plan.~~
- 4 ~~(3) Takes into account the information provided to the~~
- 5 ~~association by its member jurisdictions and members of the public~~
- 6 ~~pursuant to subdivisions (d) and (f).~~
- 7 ~~(m) This section shall remain in effect only until January 1, 2015,~~
- 8 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 9 ~~is enacted before January 1, 2015, deletes or extends that date.~~

10 SEC. 10. Section 65584.09 of the Government Code is
11 repealed.

12 ~~65584.09. (a) For housing elements due pursuant to Section~~
13 ~~65588 on or after January 1, 2006, if a city or county in the prior~~
14 ~~planning period failed to identify or make available adequate sites~~
15 ~~to accommodate that portion of the regional housing need allocated~~
16 ~~pursuant to Section 65584, then the city or county shall, within~~
17 ~~the first year of the planning period of the new housing element,~~
18 ~~zone or rezone adequate sites to accommodate the~~
19 ~~unaccommodated portion of the regional housing need allocation~~
20 ~~from the prior planning period.~~

21 ~~(b) The requirements under subdivision (a) shall be in addition~~
22 ~~to any zoning or rezoning required to accommodate the~~
23 ~~jurisdiction's share of the regional housing need pursuant to Section~~
24 ~~65584 for the new planning period.~~

25 ~~(c) Nothing in this section shall be construed to diminish the~~
26 ~~requirement of a city or county to accommodate its share of the~~
27 ~~regional housing need for each income level during the planning~~
28 ~~period set forth in Section 65588, including the obligations to (1)~~
29 ~~implement programs included pursuant to Section 65583 to achieve~~
30 ~~the goals and objectives, including programs to zone or rezone~~
31 ~~land, and (2) timely adopt a housing element with an inventory~~
32 ~~described in paragraph (3) of subdivision (a) of Section 65583 and~~
33 ~~a program to make sites available pursuant to paragraph (1) of~~
34 ~~subdivision (c) of Section 65583, which can accommodate the~~
35 ~~jurisdiction's share of the regional housing need.~~

36 SEC. 11. Section 65584.1 of the Government Code is repealed.

37 ~~65584.1. Councils of government may charge a fee to local~~
38 ~~governments to cover the projected reasonable, actual costs of the~~
39 ~~council in distributing regional housing needs pursuant to this~~
40 ~~article. Any fee shall not exceed the estimated amount required to~~

1 implement its obligations pursuant to Sections 65584, 65584.01,
2 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city,
3 county, or city and county may charge a fee, not to exceed the
4 amount charged in the aggregate to the city, county, or city and
5 county by the council of governments, to reimburse it for the cost
6 of the fee charged by the council of government to cover the
7 council's actual costs in distributing regional housing needs. The
8 legislative body of the city, county, or city and county shall impose
9 the fee pursuant to Section 66016, except that if the fee creates
10 revenue in excess of actual costs, those revenues shall be refunded
11 to the payers of the fee.

12 SEC. 12. Section 65584.2 of the Government Code is repealed.
13 65584.2. A local government may, but is not required to,
14 conduct a review or appeal regarding allocation data provided by
15 the department or the council of governments pertaining the
16 locality's share of the regional housing need or the submittal of
17 data or information for a proposed allocation, as permitted by this
18 article.

19 SEC. 13. Section 65584.6 of the Government Code is repealed.
20 65584.6. (a) The County of Napa may, during its current
21 housing element planning period, identified in Section 65588, meet
22 up to 15 percent of its existing share of the regional housing need
23 for lower income households, as defined in Section 65584, by
24 committing funds for the purpose of constructing affordable
25 housing units, and constructing those units in one or more cities
26 within the county, only after all of the following conditions are
27 met:

28 (1) An agreement has been executed between the county and
29 the receiving city or cities, following a public hearing held by the
30 county and the receiving city or cities to solicit public comments
31 on the draft agreement. The agreement shall contain information
32 sufficient to demonstrate that the county and city or cities have
33 complied with the requirements of this section and shall also
34 include the following:

35 (A) A plan and schedule for timely construction of dwelling
36 units.

37 (B) Site identification by street address for the units to be
38 developed.

39 (C) A statement either that the sites upon which the units will
40 be developed were identified in the receiving city's housing

1 ~~element as potential sites for the development of housing for~~
2 ~~lower-income households, or that the units will be developed on~~
3 ~~previously unidentified sites.~~

4 ~~(D) The number and percentage of the county's lower-income~~
5 ~~housing needs previously transferred, for the appropriate planning~~
6 ~~period, pursuant to this section.~~

7 ~~(2) The council of governments that assigned the county's share~~
8 ~~receives and approves each proposed agreement to meet a portion~~
9 ~~of the county's fair share housing allocation within one or more~~
10 ~~of the cities within the county after taking into consideration the~~
11 ~~criteria of subdivision (a) of Section 65584. If the council of~~
12 ~~governments fails to take action to approve or disapprove an~~
13 ~~agreement between the county and the receiving city or cities~~
14 ~~within 45 days following the receipt of the agreement, the~~
15 ~~agreement shall be deemed approved.~~

16 ~~(3) The city or cities in which the units are developed agree not~~
17 ~~to count the units towards their share of the region's affordable~~
18 ~~housing need.~~

19 ~~(4) The county and the receiving city or cities, based on~~
20 ~~substantial evidence on the record, make the following findings:~~

21 ~~(A) Adequate sites with appropriate zoning exist in the receiving~~
22 ~~city or cities to accommodate the units to be developed pursuant~~
23 ~~to this section. The agreement shall demonstrate that the city or~~
24 ~~cities have identified sufficient vacant or underutilized or vacant~~
25 ~~and underutilized sites in their housing elements to meet their~~
26 ~~existing share of regional housing need, as allocated by the council~~
27 ~~of governments pursuant to subdivision (a) of Section 65584, in~~
28 ~~addition to the sites needed to construct the units pursuant to this~~
29 ~~section.~~

30 ~~(B) If needed, additional subsidy or financing for the~~
31 ~~construction of the units is available.~~

32 ~~(C) The receiving city or cities have housing elements that have~~
33 ~~been found by the Department of Housing and Community~~
34 ~~Development to be in compliance with this article.~~

35 ~~(5) If the sites upon which units are to be developed pursuant~~
36 ~~to this section were previously identified in the receiving city's~~
37 ~~housing element as potential sites for the development of housing~~
38 ~~sufficient to accommodate the receiving city's share of the lower~~
39 ~~income household need identified in its housing element, then the~~
40 ~~receiving city shall have amended its housing element to identify~~

1 replacement sites by street address for housing for lower-income
2 households. Additionally, the Department of Housing and
3 Community Development shall have received and reviewed the
4 amendment and found that the city's housing element continues
5 to comply with this article.

6 ~~(6) The county and receiving city or cities shall have completed,~~
7 ~~and provided to the department, the annual report required by~~
8 ~~subdivision (b) of Section 65400.~~

9 ~~(7) For a period of five years after a transfer occurs, the report~~
10 ~~required by subdivision (b) of Section 65400 shall include~~
11 ~~information on the status of transferred units, implementation of~~
12 ~~the terms and conditions of the transfer agreement, and information~~
13 ~~on any dwelling units actually constructed, including the number,~~
14 ~~type, location, and affordability requirements.~~

15 ~~(8) The receiving city demonstrates that it has met, in the current~~
16 ~~or previous housing element cycle, at least 20 percent of its share~~
17 ~~of the regional need for housing for very low-income households~~
18 ~~allocated to the city pursuant to Section 65584.~~

19 ~~(b) The credit that the county receives pursuant to this section~~
20 ~~shall not exceed 40 percent of the number of units that are~~
21 ~~affordable to lower income households and constructed and~~
22 ~~occupied during the same housing element cycle in unincorporated~~
23 ~~areas of the county. The county shall only receive the credit after~~
24 ~~the units have been constructed and occupied. Within 60 days of~~
25 ~~issuance of a certificate of occupancy for the units, the county shall~~
26 ~~inform the council of governments and the department in writing~~
27 ~~that a certificate of occupancy has been issued.~~

28 ~~(e) Concurrent with the review by the council of governments~~
29 ~~prescribed by this section, the Department of Housing and~~
30 ~~Community Development shall evaluate the agreement to~~
31 ~~determine whether the city or cities are in substantial compliance~~
32 ~~with this section. The department shall report the results of its~~
33 ~~evaluation to the county and city or cities for inclusion in their~~
34 ~~record of compliance with this section.~~

35 ~~(d) If at the end of the five-year period identified in subdivision~~
36 ~~(e) of Section 65583, any percentage of the regional share~~
37 ~~allocation has not been constructed as provided pursuant to~~
38 ~~subdivision (a), or, after consultation with the department, the~~
39 ~~council of governments determines that the requirements of~~
40 ~~paragraphs (5) and (7) of subdivision (a) have not been~~

1 substantially complied with, the council of governments shall add
2 the unbuilt units to Napa County’s regional share allocation for
3 the planning period of the next periodic update of the housing
4 element.

5 (e) Napa County shall not meet a percentage of its share of the
6 regional share pursuant to subdivision (a) on or after June 30,
7 2007, unless a later enacted statute, that is enacted before June 30,
8 2007, deletes or extends that date.

9 SEC. 14. Section 65584.7 of the Government Code is repealed.
10 65584.7. (a) The Legislature finds and declares all of the
11 following:

12 (1) Accurate and current data to estimate housing needs is
13 necessary to ensure that state, regional, and local agencies plan
14 effectively.

15 (2) The Department of Finance, which is charged with providing
16 demographic data to aid effective state and local planning and
17 policymaking, released updated population projections for the state
18 on July 9, 2007.

19 (3) The updated projections released by the Department of
20 Finance represent a decline of over 30 percent from the prior
21 projection in the near-term population growth for the area within
22 the regional jurisdiction of the Sacramento Area Council of
23 Governments.

24 (4) Authorizing the department to adjust its regional housing
25 needs determination for the Sacramento Area Council of
26 Governments region is allowed only because a substantially
27 different projection was released by the Department of Finance
28 prior to the adoption of the Sacramento Area Council of
29 Governments’ final regional housing need allocation plan, and
30 will not alter the schedule for its adoption.

31 (b) (1) Consistent with the revised population projections
32 released by the Department of Finance on July 9, 2007, the
33 department, for the fourth revision of the housing element pursuant
34 to Section 65588, and prior to the adoption of the final regional
35 housing need allocation plan by the Sacramento Area Council of
36 Governments, may revise its regional housing need determination
37 for the Sacramento Area Council of Governments. The revised
38 determination by the department shall be consistent with the current
39 population projections of the Department of Finance and with the
40 methodology used for the initial determination for the region.

1 ~~(2) The revision of the regional housing need determination~~
2 ~~shall not extend the time for, or reinstate any right to, an appeal,~~
3 ~~request for revision, or public comment or consultation period~~
4 ~~established pursuant to this article with respect to the determination~~
5 ~~of the regional housing need and the allocation to local government~~
6 ~~members of the Sacramento Area Council of Governments.~~

7 ~~(3) This section does not change or modify the deadline~~
8 ~~established in Section 65588 by which local governments within~~
9 ~~Sacramento Area Council of Governments are required to adopt~~
10 ~~revised housing elements.~~

11 ~~(e) This section is not intended to change or modify the~~
12 ~~deadlines in Sections 65584.01 to 65584.08, inclusive.~~

13 ~~(d) This section shall remain in effect only until January 1, 2014,~~
14 ~~and as of that date is repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2014, deletes or extends that date.~~