

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 504**

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**Introduced by Assembly Member Gonzalez**

February 23, 2015

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An act to add Section 65108 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 504, as amended, Gonzalez. Local planning.

The Planning and Zoning Law, among other things, establishes in each city or county a planning agency and requires each city or county to, by ordinance, assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. The law requires, if a city or county does not make an assignment, as specified, the legislative body of the city or county to carry out all the functions of the planning agency. The law specifies the functions of a planning agency and the minimum membership of a planning commission to be at least 5 members who act in the public interest.

This bill would, notwithstanding any other law, authorize a city to delegate to, or authorize pursuant to a contract with, a nonprofit public benefit corporation the performance of ministerial planning functions,

as defined, and require that the city retain all nonministerial planning functions. The bill would require a nonprofit public benefit corporation performing ministerial planning functions to comply with city laws and plans and state laws, including, but not limited to, laws relating to the requirements for open meetings and the disclosure of public records, as specified. The bill would require ~~a planning function taken~~ *any planning function approved* by a nonprofit public benefit corporation to be able to be appealed to the legislative body of the city, as specified. The bill would require a nonprofit public benefit corporation, beginning on or before July 1, 2016, and annually thereafter, to report to the legislative body of the city on the planning functions it has undertaken in the previous calendar year, and require the legislative body of the city to review and approve each report at a noticed public hearing. The bill would also state that this is an issue of statewide concern.

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

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

1 SECTION 1. Section 65108 is added to the Government Code,  
 2 to read:  
 3 65108. (a) Notwithstanding any other law, a city may delegate  
 4 to, or authorize pursuant to a contract with, a nonprofit public  
 5 benefit corporation organized under the Nonprofit Public Benefit  
 6 Corporation Law (Part 2 (commencing with Section 5110) of  
 7 Division 2 of Title ~~2~~ 1 of the Corporations Code) the performance  
 8 of ministerial planning functions. A city shall retain all  
 9 nonministerial planning functions.  
 10 (b) (1) A nonprofit public benefit corporation performing  
 11 ministerial planning functions shall comply with the city’s charter,  
 12 contracting rules, municipal code, ordinances, and any other  
 13 applicable parts of a general plan, community plan, specific plan  
 14 or other plan, and all applicable local and state laws, including,  
 15 but not limited to, the California Public Records Act (Chapter 3.5  
 16 (commencing with Section 6250) of Division 7 of Title 1), and the  
 17 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)  
 18 of Part 1 of Division 2 of Title 5).  
 19 (2) ~~Any~~ *In addition to any appeals authorized by subdivision*  
 20 *(c) of Section 21151 of the Public Resources Code, any planning*  
 21 *function approved by a nonprofit public benefit corporation shall*

1 be able to be appealed to the legislative body of the city if both of  
2 the following apply:

3 (A) The planning function results in approval of a project that  
4 is not exempt from Division 13 (commencing with Section 21000)  
5 of the Public Resources Code.

6 (B) The planning function pertains to a project that includes  
7 any of the following:

8 (i) No less than 50 residential units.

9 (ii) No less than 50 hotel rooms.

10 (iii) No less than 25,000 square feet of commercial space.

11 (c) (1) On or before July 1, 2016, and annually thereafter for  
12 as long as the planning functions continue to be delegated or an  
13 authorizing contract is in effect pursuant to subdivision (a), a  
14 nonprofit public benefit corporation shall report to the legislative  
15 body of the city on the planning functions it has undertaken in the  
16 previous calendar year that includes, but is not limited to, a detailed  
17 description of each planning function and an explanation of how  
18 it is consistent with the city's charter, municipal code, ordinances,  
19 and any applicable parts of a general plan, community plan, specific  
20 plan or other plan, and all applicable local and state laws.

21 (2) Each report shall be reviewed and approved by the legislative  
22 body of the city at a noticed public hearing.

23 (d) For purposes of this section, the following definitions shall  
24 apply:

25 (1) "Ministerial" means a plain and mandatory duty involving  
26 the execution of a set task that is to be performed without the  
27 exercise of discretion.

28 (2) "Planning function" includes, but is not limited to, enactment  
29 of a zoning regulation, amendment of a general plan, specific plan,  
30 ~~and all or any~~ other planning documents, issuance of a tentative  
31 map, development permit, planned development permit, site  
32 development permit, coastal development permit, ~~and a~~ variance  
33 or any other land use permit, determination of consistency with a  
34 general plan, specific plan, and all other applicable planning  
35 documents, ~~imposition of conditions of approval and mitigation~~  
36 ~~measures, adoption of findings pursuant to the California~~  
37 ~~Environmental Quality Act (CEQA)(Division 13 (commencing~~  
38 ~~with Section 21000) of the Public Resources Code), certification~~  
39 ~~of an environmental impact report pursuant to CEQA, approval~~  
40 ~~of a negative declaration or mitigated negative declaration pursuant~~

1 to CEQA, determination that a project is not subject to CEQA,  
2 adoption of a statement of overriding considerations pursuant to  
3 CEQA, adoption of a mitigation monitoring and reporting program  
4 pursuant to CEQA, and any other actions or determinations made  
5 pursuant to CEQA. documents.

6 (e) Nothing in this section shall affect the requirements of  
7 Division 13 (commencing with Section 21000) of the Public  
8 Resources Code.

9 SEC. 2. The Legislature hereby finds and declares that  
10 maintaining uniformity in the planning responsibilities of cities  
11 within this state, including charter cities, has a direct impact on  
12 the well-being of all residents of this state. Therefore, the  
13 Legislature finds and declares that authorizing a city to delegate  
14 to, or authorize pursuant to a contract with, a nonprofit public  
15 benefit corporation the performance of planning responsibilities  
16 within the State of California, is an issue of statewide concern and  
17 not a municipal affair, as that term is used in Section 5 of Article  
18 XI of the California Constitution. Therefore, this act shall apply  
19 to every city in this state, including a charter city and charter city  
20 and county.