

Assembly Bill No. 504

Passed the Assembly September 10, 2015

Chief Clerk of the Assembly

Passed the Senate September 9, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL’S DIGEST

AB 504, 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 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.

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

SECTION 1. Section 65108 is added to the Government Code, to read:

65108. (a) Notwithstanding any other law, a city may delegate to, or authorize pursuant to a contract with, a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) the performance of ministerial planning functions. A city shall retain all nonministerial planning functions.

(b) (1) A nonprofit public benefit corporation performing ministerial planning functions shall comply with the city's charter, contracting rules, municipal code, ordinances, and any other applicable parts of a general plan, community plan, specific plan or other plan, and all applicable local and state laws, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(2) In addition to any appeals authorized by subdivision (c) of Section 21151 of the Public Resources Code, any planning function approved by a nonprofit public benefit corporation shall be able to be appealed to the legislative body of the city if both of the following apply:

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

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

- (i) No less than 50 residential units.
- (ii) No less than 50 hotel rooms.
- (iii) No less than 25,000 square feet of commercial space.

(c) (1) On or before July 1, 2016, and annually thereafter for as long as the planning functions continue to be delegated or an authorizing contract is in effect pursuant to subdivision (a), a nonprofit public benefit corporation shall report to the legislative body of the city on the planning functions it has undertaken in the previous calendar year that includes, but is not limited to, a detailed description of each planning function and an explanation of how

it is consistent with the city's charter, municipal code, ordinances, and any applicable parts of a general plan, community plan, specific plan or other plan, and all applicable local and state laws.

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

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

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

(2) "Planning function" includes, but is not limited to, enactment of a zoning regulation, amendment of a general plan, specific plan, or any other planning documents, issuance of a tentative map, development permit, planned development permit, site development permit, coastal development permit, variance or any other land use permit, determination of consistency with a general plan, specific plan, and all other applicable planning documents.

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

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

Approved _____, 2015

Governor