

ASSEMBLY BILL

No. 2348

Introduced by Assembly Member Mullin

February 19, 2004

An act to amend Section 65584 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2348, as introduced, Mullin. Housing.

Existing law prescribes procedures for determining a city or county's share of the regional housing needs of persons at all income levels.

This bill would allow a city, county, or city and county to reduce its share of the regional housing needs by 15% for each income group under prescribed conditions.

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 65584 of the Government Code is
2 amended to read:
3 65584. (a) For purposes of subdivision (a) of Section 65583,
4 the share of a city or county of the regional housing needs includes
5 that share of the housing need of persons at all income levels within
6 the area significantly affected by a general plan of the city or
7 county. The distribution of regional housing needs shall, based
8 upon available data, take into consideration market demand for
9 housing, employment opportunities, the availability of suitable
10 sites and public facilities, commuting patterns, type and tenure of

1 housing need, the loss of units contained in assisted housing
2 developments, as defined in paragraph (8) of subdivision (a) of
3 Section 65583, that changed to non-low-income use through
4 mortgage prepayment, subsidy contract expirations, or
5 termination of use restrictions, and the housing needs of
6 farmworkers. The distribution shall seek to reduce the
7 concentration of lower income households in cities or counties that
8 already have disproportionately high proportions of lower income
9 households. Based upon population projections produced by the
10 Department of Finance and regional population forecasts used in
11 preparing regional transportation plans, and in consultation with
12 each council of governments, the Department of Housing and
13 Community Development shall determine the regional share of the
14 statewide housing need at least two years prior to the second
15 revision, and all subsequent revisions as required pursuant to
16 Section 65588. Based upon data provided by the department
17 relative to the statewide need for housing, each council of
18 governments shall determine the existing and projected housing
19 need for its region. Within 30 days following notification of this
20 determination, the department shall ensure that this determination
21 is consistent with the statewide housing need. The department may
22 revise the determination of the council of governments if
23 necessary to obtain this consistency. The appropriate council of
24 governments shall determine the share for each city or county
25 consistent with the criteria of this subdivision and with the advice
26 of the department subject to the procedure established pursuant to
27 subdivision (c) at least one year prior to the second revision, and
28 at five-year intervals following the second revision pursuant to
29 Section 65588. The council of governments shall submit to the
30 department information regarding the assumptions and
31 methodology to be used in allocating the regional housing need.
32 As part of the allocation of the regional housing need, the council
33 of governments, or the department pursuant to subdivision (b),
34 shall provide each city and county with data describing the
35 assumptions and methodology used in calculating its share of the
36 regional housing need. The department shall submit to each
37 council of governments information regarding the assumptions
38 and methodology to be used in allocating the regional share of the
39 statewide housing need. As part of its determination of the regional
40 share of the statewide housing need, the department shall provide



1 each council of governments with data describing the assumptions
2 and methodology used in calculating its share of the statewide
3 housing need. The council of governments shall provide each city
4 and county with the department's information. The council of
5 governments shall provide a subregion with its share of the
6 regional housing need, and delegate responsibility for providing
7 allocations to cities and a county or counties in the subregion to a
8 subregional entity if this responsibility is requested by a county
9 and all cities in the county, a joint powers authority established
10 pursuant to Chapter 5 (commencing with Section 6500) of
11 Division 7 of Title 1, or the governing body of a subregional
12 agency established by the council of governments, in accordance
13 with an agreement entered into between the council of
14 governments and the subregional entity that sets forth the process,
15 timing, and other terms and conditions of that delegation of
16 responsibility.

17 (b) For areas with no council of governments, the department
18 shall determine housing market areas and define the regional
19 housing need for cities and counties within these areas pursuant to
20 the provisions for the distribution of regional housing needs in
21 subdivision (a). If the department determines that a city or county
22 possesses the capability and resources and has agreed to accept the
23 responsibility, with respect to its jurisdiction, for the identification
24 and determination of housing market areas and regional housing
25 needs, the department shall delegate this responsibility to the cities
26 and counties within these areas.

27 (c) (1) Within 90 days following a determination of a council
28 of governments pursuant to subdivision (a), or the department's
29 determination pursuant to subdivision (b), a city or county may
30 propose to revise the determination of its share of the regional
31 housing need in accordance with the considerations set forth in
32 subdivision (a). The proposed revised share shall be based upon
33 available data and accepted planning methodology, and supported
34 by adequate documentation.

35 (2) Within 60 days after the time period for the revision by the
36 city or county, the council of governments or the department, as
37 the case may be, shall accept the proposed revision, modify its
38 earlier determination, or indicate, based upon available data and
39 accepted planning methodology, why the proposed revision is
40 inconsistent with the regional housing need.



- 1 (A) If the council of governments or the department, as the case
2 may be, does not accept the proposed revision, then the city or
3 county shall have the right to request a public hearing to review the
4 determination within 30 days.
- 5 (B) The city or county shall be notified within 30 days by
6 certified mail, return receipt requested, of at least one public
7 hearing regarding the determination.
- 8 (C) The date of the hearing shall be at least 30 days from the
9 date of the notification.
- 10 (D) Before making its final determination, the council of
11 governments or the department, as the case may be, shall consider
12 comments, recommendations, available data, accepted planning
13 methodology, and local geological and topographical restraints on
14 the production of housing.
- 15 (3) If the council of governments or the department accepts the
16 proposed revision or modifies its earlier determination, the city or
17 county shall use that share. If the council of governments or the
18 department grants a revised allocation pursuant to paragraph (1),
19 the council of governments or the department shall ensure that the
20 current total housing need is maintained. If the council of
21 governments or the department indicates that the proposed
22 revision is inconsistent with the regional housing need, the city or
23 county shall use the share that was originally determined by the
24 council of governments or the department.
- 25 (4) The determination of the council of governments or the
26 department, as the case may be, shall be subject to judicial review
27 pursuant to Section 1094.5 of the Code of Civil Procedure.
- 28 (5) The council of governments or the department shall reduce
29 the share of regional housing needs of a county if all of the
30 following conditions are met:
- 31 (A) One or more cities within the county agree to increase its
32 share or their shares in an amount that will make up for the
33 reduction.
- 34 (B) The transfer of shares shall only occur between a county
35 and cities within that county.
- 36 (C) The county's share of low-income and very low income
37 housing shall be reduced only in proportion to the amount by
38 which the county's share of moderate- and above
39 moderate-income housing is reduced.



1 (D) The council of governments or the department, whichever
2 assigned the county's share, shall have authority over the approval
3 of the proposed reduction, taking into consideration the criteria of
4 subdivision (a).

5 (6) *A city, county, or city and county may reduce its share of the*
6 *regional housing needs by 15 percent for each income group if all*
7 *of the following conditions are met:*

8 (A) *It has met at least 30 percent of its housing needs.*

9 (B) *It has met 30 percent more of its housing needs than the*
10 *region as a whole.*

11 (C) *The department has determined that it was in substantial*
12 *compliance with the last revision of its housing element.*

13 (7) The housing element shall contain an analysis of the factors
14 and circumstances, with all supporting data, justifying the
15 revision. All materials and data used to justify any revision shall
16 be made available upon request by any interested party within
17 seven days upon payment of reasonable costs of reproduction
18 unless the costs are waived due to economic hardship.

19 (d) (1) In the event an incorporation of a new city occurs after
20 the council of governments, or the department for areas with no
21 council of governments, has made its final allocation under this
22 section, the city and county may reach a mutually acceptable
23 agreement on a revised determination and report the revision to the
24 council of governments and the department, or to the department
25 for areas with no council of governments. If the affected parties
26 cannot reach a mutually acceptable agreement, then either party
27 may request the council of governments, or the department for
28 areas with no council of governments, to consider the facts, data,
29 and methodology presented by both parties and make the revised
30 determination. The revised determination shall be made within
31 one year of the incorporation of the new city based upon the
32 methodology described in subdivision (a) and shall reallocate a
33 portion of the affected county's share of regional housing needs to
34 the new city. The revised determination shall neither reduce the
35 total regional housing need nor change the previous allocation of
36 the regional housing needs assigned by the council of governments
37 or the department, where there is no council of governments, to
38 other cities within the affected county.

39 (2) Except as provided in paragraph (3), any ordinance, policy,
40 or standard of a city or county that directly limits, by number, the



1 building permits that may be issued for residential construction, or
2 limits for a set period of time the number of buildable lots that may
3 be developed for residential purposes, shall not be a justification
4 for a determination or a reduction in the share of a city or county
5 of the regional housing need.

6 (3) Paragraph (2) does not apply to any city or county that
7 imposes a moratorium on residential construction for a specified
8 period of time in order to preserve and protect the public health and
9 safety. If a moratorium is in effect, the city or county shall, prior
10 to a revision pursuant to subdivision (c), adopt findings that
11 specifically describe the threat to the public health and safety and
12 the reasons why construction of the number of units specified as
13 its share of the regional housing need would prevent the mitigation
14 of that threat.

15 (e) Any authority to review and revise the share of a city or
16 county of the regional housing need granted under this section
17 shall not constitute authority to revise, approve, or disapprove the
18 manner in which the share of the city or county of the regional
19 housing need is implemented through its housing program.

20 (f) A fee may be charged to interested parties for any additional
21 costs caused by the amendments made to subdivision (c) by
22 Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days
23 the time within which materials and data shall be made available
24 to interested parties.

25 (g) Determinations made by the department, a council of
26 governments, or a city or county pursuant to this section are
27 exempt from the California Environmental Quality Act, Division
28 13 (commencing with Section 21000) of the Public Resources
29 Code.

