

ASSEMBLY BILL

No. 1019

Introduced by Assembly Member Blakeslee

February 22, 2007

An act to amend Section 65584.5 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1019, as introduced, Blakeslee. Land use: annexation: housing.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes local governments to annex portions of territory to other local governments, as specified.

The Planning and Zoning law requires local governments to adopt comprehensive general plans that address a number of elements, including the housing element. The Department of Housing and Community Development is required to assist local governments in the allocation of the regional housing needs. Existing law also authorizes a city or county to transfer a percentage of its share of the regional housing needs to another city or county, as specified.

This bill would require, where land proposed for annexation or incorporation to a city includes parcels that have been identified in a county's housing element as designated to meet its regional housing need goal, the maximum number of units that may be constructed on those parcels to be transferred to the annexing or incorporating city as part of its fair share regional housing need, as specified.

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 65584.5 of the Government Code is
2 amended to read:

3 65584.5. (a) A city or county may transfer a percentage of its
4 share of the regional housing needs to another city or county, if
5 all of the following requirements are met:

6 (1) Both the receiving city or county and the transferring city
7 or county comply with all of the conditions specified in subdivision
8 (b).

9 (2) The council of governments or the department reviews the
10 findings made pursuant to paragraph (2) of subdivision (c).

11 (3) The transfer does not occur more than once in a five-year
12 housing element interval pursuant to subdivision (b) of Section
13 65588.

14 (4) The procedures specified in subdivision (c) are met.

15 (b) (1) Except as provided in paragraph (5) of subdivision (c)
16 of Section 65584, a city or county transferring a share of its
17 regional housing needs shall first have met, in the current or
18 previous housing element cycle, at least 15 percent of its existing
19 share of the region’s affordable housing needs, as defined in
20 Section 65584, in the very low and lower income category of
21 income groups defined in Section 50052.5 of the Health and Safety
22 Code if it proposes to transfer not more than 15 percent. In no
23 event, however, shall the city or county transfer more than 500
24 dwelling units in a housing element cycle.

25 (2) A city or county shall transfer its regional housing needs in
26 the same proportion by income group as the jurisdiction has met
27 its regional housing needs.

28 (3) The transfer shall be only between jurisdictions that are
29 contiguously situated or between a receiving city or county that is
30 within 10 miles of the territory of the community of the donor city
31 or county. If both the donor community and receiving community
32 are counties, the donor county shall be adjacent to, in the same
33 council of governments region as, and in the same housing market
34 as, the receiving county. The sites on which any transferred housing
35 units will be constructed shall be in the receiving city or county,
36 and within the same housing market area as the jurisdiction of the
37 donor city or county.

1 (4) The transferring and receiving city or county shall have
2 adopted, and shall be implementing, a housing element in
3 substantial compliance with Section 65583.

4 (5) The transferring city or county and the receiving city or
5 county shall have completed, and provided to the department, the
6 annual report required by subdivision (b) of Section 65400.

7 (c) (1) The donor city or county and the receiving city or county
8 shall, at least 45 days prior to the transfer, hold a public hearing,
9 after providing notice pursuant to Section 6062, to solicit public
10 comments on the draft contract, including its terms, conditions,
11 and determinations.

12 (2) The transferring and the receiving city or county shall do
13 all of the following:

14 (A) Adopt a finding, based on substantial evidence on the record,
15 that the transfer of the regional housing need pursuant to the terms
16 of the agreement will not cause or exacerbate racial, ethnic, or
17 economic segregation and will not create a detrimental financial
18 impact upon the receiving city or county.

19 (B) Adopt a finding, based on substantial evidence on the record,
20 that the transfer of the regional housing need will result in the
21 construction of a greater number of similar type dwelling units
22 than if the transfer does not occur.

23 (3) (A) The transferring city or county and the receiving city
24 or county shall enter into an agreement to transfer units eligible
25 under subdivision (b). A copy of this agreement shall be sent to
26 the council of governments and the department to be kept on file
27 for public examination.

28 (B) The agreement shall include a plan and schedule for timely
29 construction of dwelling units, including, in addition to site
30 identification, identification of and timeframes for applying for
31 sufficient subsidy or mortgage financing if the units need a subsidy
32 or mortgage financing, and a finding that sufficient services and
33 public facilities will be provided.

34 (4) At least 60 days prior to the transfer, the receiving city or
35 county planning agency and the transferring city or county planning
36 agency shall submit to the department a draft amendment to reflect
37 the identified transferred units. A transferring agency may reduce
38 its housing needs only to the extent that it had not previously
39 reduced its housing needs pursuant to paragraph (2) of subdivision
40 (b) of Section 65583. A county planning agency that has its share

1 of the regional housing need reduced pursuant to paragraph (5) of
2 subdivision (c) of Section 65584 shall comply with this section.
3 A receiving city or county shall, in addition to any other provisions
4 of the article, identify in its housing element sufficient sites to
5 meet its initial low- and moderate-income housing needs and
6 sufficient sites to meet all transferred housing needs.

7 (5) The department shall review the draft amendment and report
8 its written findings to the planning agency within 45 days of its
9 receipt.

10 (6) The department’s review shall follow the same procedure,
11 requirements, and responsibilities of Sections 65583, 65585, 65587,
12 and 65589.3. The court shall consider any written findings
13 submitted by the department.

14 (d) No transfer made pursuant to this section shall affect the
15 plans for a development that have been submitted to a city or
16 county for approval 45 days prior to the adoption of the amendment
17 to the housing element.

18 (e) No transfer made pursuant to this section shall be counted
19 toward any ordinance or policy of a locality that specifically limits
20 the number of units that may be constructed.

21 (f) The Attorney General or any other interested person shall
22 have authority to enforce the terms of the agreement and the
23 provisions of this section.

24 (g) For a period of five years after the transfer occurs, the report
25 required by subdivision (b) of Section 65400 shall include
26 information on the status of transferred units, implementation of
27 the terms and conditions of the transfer contract, and information
28 on any dwelling units actually constructed, including the number,
29 type, location, and affordability requirements in place for these
30 units.

31 (h) (1) At least 60 days prior to the proposed transfer, the donor
32 city or county shall submit the proposed agreement to the council
33 of governments, or to the department if there is no council of
34 governments that serves the city or county, for review. The
35 governing board of the council or the director shall determine
36 whether there is substantial evidence to support the terms,
37 conditions, and determinations of the agreement and whether the
38 agreement complies with the substantive and procedural
39 requirements of this section. If the council or the director finds
40 that there is substantial evidence to support the terms, conditions,

1 and determinations of the agreement, and that the agreement
2 complies with the substantive and procedural requirements of this
3 section, the participating jurisdictions may proceed with the
4 agreement. If the governing board or the director finds that there
5 is not substantial evidence to support the terms, conditions, and
6 findings of the agreement, or that the agreement does not comply
7 with the substantive and procedural requirements of this section,
8 the board or the director may make recommendations for revising
9 or terminating the agreement. The participating jurisdictions shall
10 then include those revisions, if any, or terminate the agreement.

11 (2) The council or the director may convene a committee to
12 advise the council or the director in conducting this review. The
13 donor city or county and the receiving community shall pay the
14 council's or the department's costs associated with the committee.
15 Neither the donor city or county, nor the receiving city or county,
16 may expend moneys in its Low and Moderate Income Housing
17 Fund of its redevelopment agency for costs associated with the
18 committee.

19 (3) Membership of the committee appointed pursuant to
20 paragraph (2) shall include all of the following:

- 21 (A) One representative appointed by the director.
- 22 (B) One representative appointed by the donor agency.
- 23 (C) One representative appointed by the receiving community.
- 24 (D) Two low- and moderate-income housing advocates,
25 appointed by the director, who represent those persons in that
26 region.

27 (i) (1) The receiving city or county shall construct the housing
28 units within three years of the date that the transfer contract is
29 entered into pursuant to this section. This requirement shall be met
30 by documenting that a building permit has been issued and all fees
31 have been paid.

32 (2) Any portion of a regional share allocation that is transferred
33 to another jurisdiction, and that is not constructed within the
34 three-year deadline set forth in paragraph (1), shall be reallocated
35 by the council of governments to the transferring city or county,
36 and the transferring city or county shall modify its zoning
37 ordinance, if necessary, and amend its housing element to reflect
38 the reallocated units.

39 (3) If, at the end of the five-year housing element planning
40 period, any portion of a regional share allocation that is transferred

1 to another jurisdiction is not yet constructed, the council of
2 governments shall add the unbuilt units to the normal regional fair
3 share allocation and reallocate that amount to either of the
4 following:

5 (A) The receiving city, if the three-year deadline for construction
6 has not yet occurred; or

7 (B) The transferring city, if the three-year deadline for
8 construction has occurred.

9 (4) If the transferred units are not constructed within three years,
10 the nonperforming jurisdictions participating in the transfer of
11 regional share allocations shall be precluded from transferring
12 their regional shares, pursuant to this section, for the planning
13 period of the next periodic update of the housing element.

14 (j) On or after January 1, 2000, no transferring city or county
15 shall enter into an agreement pursuant to this section unless a later
16 enacted statute, which is enacted before January 1, 2000, deletes
17 or extends that date.

18 (k) If Article XXXIV of the California Constitution is applicable,
19 the receiving city or county shall certify that it has sufficient
20 authority under Article XXXIV of the California Constitution to
21 allow development of units transferred pursuant to this section.

22 (l) The receiving city or county shall not, within three years of
23 the date of the transfer agreement entered into pursuant to this
24 section, or until transferred units are constructed, whichever is
25 longer, enter into a contract to transfer units outside the territorial
26 jurisdiction of the agency pursuant to this section.

27 (m) Communities that have transferred a portion of their share
28 of the regional housing need to another city or county pursuant to
29 this section shall comply with all other provisions of law for
30 purposes of meeting the remaining regional housing need not
31 transferred, including compliance with the provisions of Section
32 65589.5.

33 (n) As used in this section, “housing market area” means the
34 area determined by a council of governments or the department
35 pursuant to Section 65584, and based upon market demand for
36 housing, employment opportunities, the availability of suitable
37 sites and public facilities, and commuting patterns.

38 (o) *Notwithstanding the requirements of subdivision (a), if land*
39 *proposed for annexation or incorporation to a city, pursuant to*
40 *the Cortese-Knox-Hertzberg Local Government Reorganization*

1 *Act of 2000 (commencing with Section 56000) of Chapter 1 of Part*
2 *1 of Division 3 of Title 5), includes parcels that have been identified*
3 *in a county's housing element as designated to meet the county's*
4 *state-defined regional housing need goal as specified in paragraph*
5 *(1) of subdivision (c) of Section 65583.2, the maximum number of*
6 *housing units that may be constructed on those parcels shall be*
7 *transferred to the annexing or incorporating city as part of its fair*
8 *share regional housing need, and the county shall be relieved of*
9 *an equal portion of its defined housing need.*

10 ~~(p)~~

11 *(p)* This section shall not be construed to interfere with the right
12 of counties to transfer shares of regional housing needs pursuant
13 to paragraph (5) of subdivision (c) of Section 65584.

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