



County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 8/13/02

August 8, 2002

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: SENATE BILL 910 - MODIFYING STATE HOUSING ELEMENT LAW

Dear Members of the Board:

Attached is a copy of a letter from DeAnn Baker, *of* the California State Association of Counties, requesting that our Board reiterate our opposition to Senate Bill 910, introduced by Senator Joe Dunn. As you recall, our Board adopted a resolution opposing the Bill last year. The Bill has been revised and is scheduled to be considered by the Assembly Housing Committee on August 14, 2002. Despite a year's work to resolve issues between the local jurisdictions and the Bill's proponents, a number of problems remain in the latest version of the proposed legislation.

As with the past version, the most recent version of Senate Bill 910 takes a very punitive approach to obtain city and county housing element compliance. The legislation would allow the Department of Housing and Community Development (HCD) to impose fines and penalties based on their determination of compliance which is a determination based on a tremendous amount of subjectivity and discretion. Local governments could be fined \$5,000 per month or \$.25 cents per month per person if the housing element fails to achieve certification. These fines are ongoing and uncapped. The legislation also provides unprecedented authority to the HCD to revoke housing elements.

16.1

August 8, 2002
Page 2

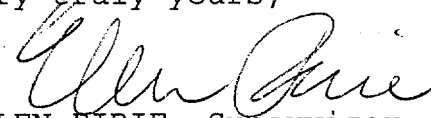
As you know, counties and cities often have conflicting mandates from the State to preserve open space, preserve endangered species, and grant public access to beach areas, all of which in one way or another require land to be set aside. Those conflicting mandates are of no interest to a single focus department, like HCD, which wants land zoned for housing.

This legislation is being opposed by the California League of Cities and the California State Association of Counties.

Accordingly, I recommend that the Board of Supervisors take the following actions:

1. Adopt the attached resolution opposing Senate Bill 910.
2. Direct the Chairperson of the Board to write our legislative representatives, asking that they oppose Senate Bill 910.
3. Direct the County Administrative Officer to place the Bill in our legislative tracking system.

Very truly yours,



ELLEN PIRIE, Supervisor
Second District

EP:lg
Attachment

1376K2

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO.

On the motion of Supervisor
Duly seconded by Supervisor
The following resolution is adopted

RESOLUTION REITERATING OPPOSITION TO SENATE BILL 910

WHEREAS, Senator Bill Dunn has introduced Senate Bill 910
into the California State Senate; and

WHEREAS, Senate Bill 910 would modify housing element law;
and

WHEREAS, Senate Bill 910 would allow the Department of
Housing and Community Development (HCD) to impose punitive fines
and penalties based on their determination of whether a city or
county housing element is in compliance; and

WHEREAS, Senate Bill 910 would provide unprecedented
authority to a single State department (HCD) over directly
elected local officials in the area of housing element law
compliance, which has been fraught with controversy and ambiguity
for many years; and

WHEREAS, these provisions have serious ramifications for all
cities and counties attempting to address other compelling State
policies and interests within their General Plans and policies.

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County
Board of Supervisors hereby reiterates its opposition to Senate
Bill 910.

PASSED AND ADOPTED by the Board of Supervisors of the County
of Santa Cruz, State of California, this _____ day of
_____, 2002, by the following vote:

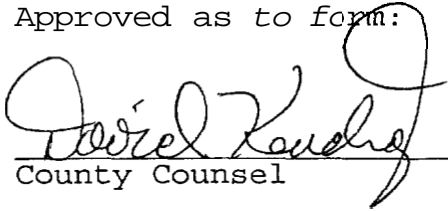
AYES : SUPERVISORS
NOES : SUPERVISORS
ABSENT: SUPERVISORS

JANET K. BEAUTZ, Chairperson
Board of Supervisors

ATTEST: _____
Clerk of said Board

RESOLUTION REITERATING OPPOSITION TO SENATE BILL 910
Page 2

Approved as to form:


County Counsel

DISTRIBUTION: Governor Gray Davis
Senator Bill Dunn
Senator Bruce McPherson
Assembly Member Fred Keeley
Assembly Member Simon Salinas
California State Association of Counties
California League of Cities

1377K2

5

August 1, 2002

TO: Members, Board of Supervisors
County Administrative Officers
County Planning Directors

FROM: DeAnn Baker, Legislative Representative

SUBJECT: **IMMEDIATE ACTION NEEDED ON SB 910 (Dunn)**

SB 910, by Senator Joe Dunn, was recently amended to contain a very punitive approach to obtain city and county housing element compliance with the law, despite a very reasonable approach provided by the opponents to ensure a neutral third party would make this very important decision. CSAC is adamantly opposed to SB 910 as recently amended. As you know, CSAC has been involved in negotiations regarding this bill for the last year. This bill as recently amended is expected to be heard on Wednesday, August 7 before the Assembly Housing Committee.

SB 910 would provide unprecedented authority to a single state department (the Department of Housing and Community Development (HCD)) over directly elected local officials in the area of housing element law compliance, which has been fraught with controversy and ambiguity for many years. Under SB 910, the imposition of fines would be triggered by HCD over a body of law that has a tremendous amount of subjectivity and discretion involved regarding its interpretation and implementation.

Attached please find the most recent amendments, which contains unprecedented authority to the Department of Housing and Community Development (HCD) to revoke housing element compliance at any time (found in Section 9, Section 65585 k). This action would be based on any action by a city or county, as determined by HCD, to be critical to the availability of adequate sites or to address governmental constraints.

Further, the fines and penalties found in Section 65585.5 grants unprecedented authority to a single state department with the ability to impose fines based on their determination of compliance. SB 910 would fine local governments \$5,000 per month or \$.25 per month per person if the housing element is not in compliance. These fines are ongoing and are uncapped. The amendments to SB 910 also seem to provide that local governments could be fined twice: once by HCD over compliance, and again if a challenged by a third party in a court of law (Section 65587).

These provisions have major implications for all types of other compelling state policies and interests that local governments are attempting to address within their general plans and policies — not to mention the authority granted a single focused state department over directly elected local officials.

16.1

WE STRONGLY URGE ALL COUNTIES TO PERSONALLY CONTACT MEMBERS OF THE ASSEMBLY HOUSING COMMITTEE AND THE ASSEMBLY APPROPRIATIONS COMMITTEE TO CONVEY OPPOSITION TO THE PASSAGE OF THIS LEGISLATION.

We would welcome your testimony at the August 7th hearing and would appreciate any further comments you could provide regarding the implications these provisions would have on your county. Please send your comments to DeAnn Baker (dbaker@counties.org) or Jolena Voorhis (jvoorhis@counties.org) or feel free to call us if you have any questions (916.327.7500). Thank you in advance for your attention to this very important issue.

Below please find the members of both committees to contact with your opposition to SB 910.

Assembly Housing Committee Members:

Chair Alan Lowenthal, Vice Chair Dave Cogdill

Assembly Members Dutra, Kehoe, Runner, Salinas, Steinberg, and Wayne.

Assembly Appropriations Committee Members:

Chair Darryl Steinberg, Vice Chair Patricia Bates

Assembly Members Alquist, Aroner, Ashburn, Cohn, Corbett, Correa, Daucher, Diaz, Firebaugh, Goldberg, Maldonado, Negrete McLeod, Robert Pacheco, Papan, Pavley, Runner, Simitian, Washington, Wiggins, Wright, and Zettel.

BILL NUMBER: SB 910 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY AUGUST 1, 2002
AMENDED IN ASSEMBLY MAY 30, 2002
AMENDED IN SENATE MAY 24, 2001
AMENDED IN SENATE MAY 8, 2001
AMENDED IN SENATE APRIL 24, 2001
AMENDED IN SENATE MARCH 27, 2001

INTRODUCED BY Senator Dunn
(Principal coauthors: Assembly Members Lowenthal and Wiggins)
(Coauthors: Senators Burton, Haynes, Kuehl, and Monteith)

FEBRUARY 23, 2001

An act to amend Sections 65582, 65585, ~~and 65588~~
65587, 65588, and 65589.3 of, to add Sections
~~65584.1, 65584.2, 65584.3, 65584.4, 65584.5, and 65585.5 to,~~
~~and to~~ 65584.01, 65584.02, 65584.03, 65584.09,
65584.05, and 65585.5 to, and to repeal and add Section 65584
of, the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 910, as amended, Dunn. General plans: housing elements.

(1) Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of regional housing needs. That share is determined by the appropriate council of governments, subject to revision by the Department of Housing and Community Development.

This bill would revise the procedures for determining shares of regional housing needs.

(2) Under existing law, a city, county, or city and county is required to submit a draft housing element or draft amendment to its housing element to the Department of Housing and Community Development for a determination of whether the draft complies with state law governing housing elements. In an action brought by any party to review the conformity of a housing element with applicable state law, a court review shall extend to whether the housing element, or portion thereof or revision thereto, substantially complies with that law.

This bill would require a court on a finding that there is not substantial compliance to levy a fine and award attorney fees as specified. The bill would revise the procedures for the submission and review of the draft housing element. It would also require the Controller to levy a fine of ~~an unspecified amount~~ \$5,000 per month or \$0.25 per month per person in the jurisdiction, whichever is greater, upon a city, county, or city and county if specified conditions are met. The bill would provide that all ~~penalties~~ fines shall accrue to the Housing Supply Account, which the bill would create in the Housing Rehabilitation Loan Fund, and that no money in

that account shall be expended except upon appropriation by the Legislature. By imposing additional duties upon local officials this bill would ~~impose~~ create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65582 of the Government Code is amended to read:

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Existing and projected regional housing need" means a projection developed for regional and local planning purposes to represent the reasonably anticipated demand for housing within a region during the planning period.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Low- and moderate-income households" means persons and families of low or moderate incomes as defined by Section 50093 of the Health and Safety Code.

SEC. 2. Section 65584 of the Government Code is repealed.

SEC. 3. Section 65584 is added to the Government Code, to read:

65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county. While it is the intent of the Legislature that cities, counties, and ~~city and county~~ cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal regional housing needs established for planning purposes.

(b) The Department of Housing and Community Development, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.1 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments,

or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections ~~65584.4 and 65584.5~~ 65584.04 and 65584.05 with the advice of the department. Notwithstanding any other provision of law, the due dates for the determinations of the department or for the councils of governments, respectively, regarding the regional housing need may be extended by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(c) During the period between the final acceptance of a regional housing need allocation plan by the department and the due date of the subsequent allocation plan for the next planning cycle, the council of governments, or the department ~~or~~ for cities and counties without a council of governments, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.

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

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

(4) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria that were used to make the initial allocation of the county's share.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number or location, the population or population growth rate, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium pursuant to Section 65858 on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision ~~pursuant to subdivision (c)~~ request, adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to ~~Sections 65584.1, 65584.2, 65584.4, or 65584.5~~

Section 65584.01, 65584.02, 65584.04, or 65584.05

shall be exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 4. Section ~~65584.1~~ 65584.01 is added to the Government Code, to read:

~~65584.1.~~

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the Department of Housing and Community Development, in consultation with each council of governments, shall determine the existing and projected need for housing for each region in the following manner:

~~(b) The Department of Finance and each council of governments shall both prepare population forecasts for the region. The council of governments shall use the population forecast developed for the preparation of regional transportation plans prorated to the appropriate planning period. If the total~~

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecast used in preparing regional transportation plans, and consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments ~~, in consultation with the Department of Finance,~~ shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population forecast for the region prepared by the Department of Finance as modified by the ~~Department of Finance~~ department as a result of discussions with the ~~department and the~~ council of governments.

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

(A) Anticipated household growth associated with projected population ~~increase~~ increases .

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

16.1

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions ~~and~~ for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1) and the methodology it will use ~~including the assumptions for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1), and~~ shall provide these determinations to the council of governments.

~~(d) (1) The department shall develop a draft of the region's existing and projected housing needs based upon the assumptions and methodology determined pursuant to subdivision (b) and shall thereafter notify the council of governments. After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing needs.~~

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing needs based upon the assumptions and methodology determined pursuant to subdivision (c). Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision ~~(a)~~ (b).

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision ~~(b)~~ (c).

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

(e) The determinations of the department pursuant to this section shall be subject to judicial review ~~pursuant to Section _____ of the Code of Civil Procedure.~~

(f) With respect to determinations of existing and projected regional housing need for the third housing element revision, the department shall comply with Section 65584 as it existed prior to January 1, 2003.

SEC. 5. Section ~~65584.2~~ 65584.02 is added to the Government Code, to read:
~~65584.2.~~

65584.02. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584.1 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards

of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county, possess the capability and resources and agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing needs, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing needs shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth towards incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The distribution of the regional housing need shall seek to reduce the concentration of additional capacity for lower income households allocated to cities or counties that already have disproportionately high proportions of lower income households.

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

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

(2) If the department does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

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

(4) The date of the hearing shall be at least 30 days from the date of the notification.

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

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



(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the 60-day period.

(g) The determination of the department shall be subject to ~~review pursuant to Section _____ of the Code of Civil Procedure~~ *judicial review.*

SEC. 6. Section ~~65584.3~~ 65584.03 is added to the Government Code, to read:

~~65584.3~~
65584.03. (a) At least two years prior to the scheduled revision required by Section 65588, cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section ~~65584.4~~ 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county, or any other combination of geographically contiguous local governments, and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or as provided for in rules adopted by the local governments comprising the subregion. Upon formation of the subregional entity, the entity shall notify the council of governments of this formation.

(b) Following the determination of regional housing needs pursuant to Section ~~65584~~ 65584.01, the council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity formed pursuant to subdivision (a), a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional entity established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility. *Each council of governments shall ensure that each subregion within its jurisdiction fully allocates its delegated share of the regional housing need in accordance with Section 65584.05.*

SEC. 7. Section ~~65584.4~~ 65584.04 is added to the Government Code, to read:

~~65584.4~~
65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and subregions, where applicable pursuant to this section.

(b) (1) ~~Each~~ *No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each* council of governments shall conduct a survey of each of its member jurisdictions to request, at a minimum, information on both of the following:

(A) The jurisdiction's existing jobs and housing relationship.

16.1

(B) Opportunities and constraints to developing additional housing and job opportunities in the jurisdiction.

(2) The information provided by a local government pursuant to this section, shall be used, to the extent possible, by the council of governments as source information for the development of the methodology developed pursuant to this section. *The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to 65584.01.*

(3) If the council of governments does not issue the survey required pursuant to this section, a city, county, or city and county may submit information related to the items listed in paragraph (1).

(c) The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information gathered from local governments pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in this subdivision is incorporated into the methodology shall be distributed to all cities, counties, subregions, and members of the public who have made a written request for the proposed methodology. A council of governments for a region with a population of 1,000,000 or more shall conduct three public hearings over a period of no less than 90 days to receive oral and written comments on the proposed methodology. A council of governments for a region with a population of less than 1,000,000 shall conduct at least one public hearing to receive oral and written comments on the proposed methodology. To the extent that sufficient data is available from local governments or other sources, each council of governments shall include the following factors to develop the methodology that allocates regional housing needs while continuing to take into consideration the information submitted pursuant to subdivision (b):

(1) The share of regional housing needs allocated to the local government in previous planning periods, and the ~~number~~ *relative share* of housing units in each income category approved in the prior planning period. Information developed from this factor shall be used to promote a fair distribution between those jurisdictions that have historically approved housing development applications in conformance with their share of the regional *housing* need, and those jurisdictions that have not.

(2) The promotion of an intraregional balance between jobs and housing.

(3) The distribution of household growth assumed for purposes of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. *The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality but must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.*

(5) The market demand for housing.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the

15

housing needs of farmworkers.

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

(8) Federal or state laws, regulations, or regulatory actions that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(9) Agreements between a county and cities in a county to direct growth towards incorporated areas of the county.

(10) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(11) Any other factors adopted by the council of governments.

(d) The council of governments shall assign the factors in subdivision (c) a numerical weight in accordance with the priorities of the council of governments. The distribution shall seek to reduce overconcentrations of lower income households in cities or counties that already have disproportionately high proportions of lower income households. Any ordinance, policy, or standard of a city or county that directly limits, by number or location, the population or population growth rate, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(e) In addition to the factors identified pursuant to subdivision (c), the council of ~~government~~ *governments* shall identify any existing local, regional, or state incentives, such as a priority for funding, or other incentives, available to those local governments that are willing to accept a share of the regional housing need that exceeds the share that would be otherwise allocated to those local governments pursuant to the methodology established by the council of governments.

(f) Following the conclusion of the 90-day public comment period on the proposed allocation methodology, *and after making any revisions deemed appropriate by the council of governments as a result of comments received during the public comment period*, each council of governments shall adopt a final regional housing need allocation methodology within 60 days *and provide notice of the adoption of the methodology to the jurisdictions within the region*

SEC. 8. Section ~~65584.5~~ 65584.05 is added to the Government Code, to read:

~~65584.5.~~

65584.05. (a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments shall distribute a draft allocation of regional housing needs to each local government and subregion, where applicable , *based on the methodology adopted pursuant to Section 65584.04*

. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the

intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities *and subregions, if any*, within the region the entire regional share of housing need determined pursuant Section ~~65584.1~~

65584.01 .

(b) Within 60 days following receipt of the draft allocation, a

16.1

16

local government that is not part of a subregion, or the subregion, as applicable, may request a revision of its share of the regional housing need in accordance with the factors ~~and information described in subdivision (c) of Section 65584.4~~

described in paragraphs (1) to (11), inclusive, of subdivision (c) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.4, why the proposed revision is inconsistent with the regional housing need.

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

(1) The council of governments failed to adequately consider the information submitted pursuant to subdivision (b) of Section ~~65584.4~~ 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established by the council of ~~government pursuant to Section 65584.4~~ governments pursuant to Section 65584.04.

(e) The council of governments shall conduct public hearings to hear all appeals within 60 days of the date established by the council of ~~government~~ governments to file appeals. The city or county, or subregion if applicable, shall be notified within 15 days by certified mail, return receipt requested, of at least one public hearing ~~regarding the determination~~ on its appeal. The date of the hearing shall be at least 30 days from the date of the notification. Before taking action on an appeal, the council of governments shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The council of ~~government's~~ governments' final action on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with the provisions of this article. The council of ~~government's~~ governments' final action on an appeal may require the council of governments to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments shall issue a proposed final allocation within 45 days of the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons ~~for~~ any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments shall adjust allocations to subregions and to local governments based upon the results of the appeals process specified

16.1

17

in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section ~~65584.1~~

65584.01 , then the council of governments shall distribute the adjustments proportionally to all subregions or local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the ~~adjustments that are~~ amount greater than the 7 percent ~~that has been distributed proportionally~~ to local governments and subregions. In no event shall the total distribution of housing needs equal less than the regional housing need, as determined pursuant to Section ~~65584.1~~ 65584.01 .

Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. *If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.*

(h) Within 60 days of the issuance of the proposed final allocation plan pursuant to subdivision (g), each subregion established pursuant to, Section ~~65584.3~~ 65584.03 , shall provide the council of governments with its allocation of regional housing needs within the subregion adopted by the county and the majority of cities within the region with the majority of the population. Allocations agreed to within a subregion may differ from the draft allocations assigned local governments pursuant to this section, but in no event shall the total allocation in the subregion equal less than the total housing need allocated to the subregion pursuant to subdivision (a) of Section ~~65584.5~~

65584.05 . If the council of governments finds that the proposed allocation plan submitted by the subregion does not equal the total housing need allocated to the subregion, or if the subregion has not submitted an allocation within 60 days, then the council of governments shall allocate the housing needs to the individual local governments within the subregion to ensure that total regional housing need is allocated.

(i) Within 45 days of receiving proposed subregional allocations pursuant to subdivision (h), the council of governments shall hold a public hearing to adopt a final allocation plan. The council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section ~~65584.1~~ 65584.01 .

Within 60 days of adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section ~~65584.1~~

65584.01 . The department may revise the determination of the council of governments if necessary to obtain this consistency. The determination of the council of governments shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

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

SEC. 9. Section 65585 of the Government Code is amended to read:

65585. (a) A city, county, or city and county shall make a

16.1

diligent effort to achieve public participation of all economic segments of the community, including persons with special housing needs, in the development of the housing element. At least 180 days prior to the submission of a draft housing element or amendment to the department, a city, county, or city and county shall issue a notice of preparation and a request for public participation and, at a minimum, shall distribute the notice to all of the following:

(1) Any person or organization that has requested notice.

(2) Any person or organization that is on the department's list for distribution of correspondence.

(3) Any person or organization that, if known to the city, county, or city and county, is likely to help achieve the public participation of all economic segments of the community, including persons with special housing needs.

(b) During the preparation of the draft housing element or amendment, the city, county, or city and county shall hold at least two public workshops, at least one of which is held on an evening or weekend, and conduct any other outreach activities necessary to achieve the public participation of all economic segments of the community and of persons with special housing needs, including, but not limited to, task forces, forums, and surveys.

(c) At least 90 days prior to the submission of a draft element or amendment to the department, the city, county, or city and county shall issue a notice of completion of the proposed draft, requesting comments from all interested parties within 30 days. The city, county, or city and county shall make copies of the proposed draft available to the public for loan upon request and, if the city, county, or city and county maintains a Web site, on the Internet. After the comment period, the city, county, or city and county shall consider all comments and issue a revised draft ~~and~~

that includes a response to comments and a notice of public hearing on the proposed draft at least 15 days prior to the hearing for consideration of the adoption of the draft housing element.

(d) At least 120 days prior to adoption of its housing element, or at least 90 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The city, county, or city and county shall attach an explanation of the efforts to obtain public participation, a summary of all comments received, and the response of the city, county, or city and county to the comments when it submits the draft element or amendment to the department for review. The department shall review the draft and report its written findings to the planning agency within 120 days of its receipt of the draft in the case of an adoption or within 90 days of its receipt in the case of a draft amendment.

(e) The department shall include in its report the information that supports and explains each of its written findings. If the city, county, or city and county proposes changes to the draft element or draft amendment while either is under review by the department, the city, county, or city and county shall immediately send copies of the proposed changes in writing to all parties who commented orally at a public forum or hearing or in writing on the draft element or amendment. In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with the requirements of this article.

(f) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft element or amendment under

19

review, but if the jurisdiction has complied with all the requirements of this section, the department shall not consider comments from any public agency, group, or person unless the comments directly relate to comments that were raised to the jurisdiction prior to the submission of the draft element or amendment, the comments concern changes to the draft element or amendments that were made after the public hearing, or the comments are made as a result of new information that was not publicly available prior to the public hearing. The department shall provide the city, county, or city and county with a copy of any comments received and a list of persons or agencies consulted by the department.

(g) Prior to the adoption of its element or amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may ~~act without them. The department shall provide the city, county, or city and county with a copy of any comments received and a list of who was consulted by the department.~~ act without them.

(h) If the department finds that the draft element or draft amendment does not substantially comply with the requirements of this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with the requirements of this article. The legislative body shall hold a public hearing on the proposed changes and consider and respond to comments received on any proposed changes to the draft element or amendment. At least 21 days prior to this hearing, the jurisdiction shall circulate any proposed changes to the draft element or amendment to all parties who commented on the development of the draft element or amendment or who have requested notice of proposed changes. The city, county, or city and county shall attach a copy of any comments received and its response when it submits the element or amendment to the department for review.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall consider and respond to comments received from the public on the element or amendment or the department's findings and shall attach a copy of any comments received and the response of the city, county, or city and county when it submits the element or amendment to the department for review. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.

(i) Within 14 days of the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(j) The department shall, within 60 days, review adopted housing elements or amendments and report its findings to the city, county, or city and county. In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the adopted element or amendment under review, but if the jurisdiction has complied with all the requirements of this section, the department shall not consider comments from any public agency, group, or person unless the comments directly relate to comments that were raised to the jurisdiction prior to the adoption of the element or amendment, the comments concern changes to the element or amendment that were not circulated at least 21 days prior to adoption, or the comments are made as a

16.1

20

result of new information that was not publicly available prior to adoption of the element or amendment. In its written findings, the department shall determine whether the element or amendment substantially complies with the requirements of this article. The department shall include in its report the information that supports and explains each of its written findings.

(k) (1) A city, county, or city and county shall implement, by the date specified in the housing element, each action included in the housing element's schedule of actions as required by subdivision (c) of Section 65583. The city, county, or city and county shall report on the status of all of these actions in the annual general plan implementation report required pursuant to Section 65400.

~~Except as provided in paragraph (2), and after providing at least 60 days written notice to the city, county, or city and county, the department may rescind any earlier finding of substantial compliance of a housing element or amendment if the annual~~ Upon the occurrence of either of the following, the department may notify, in writing, the city, county, or city and county that an amendment to its housing element is necessary to ensure substantial compliance with the requirements of this article:

(A) The city, county, or city and county takes any action that nullifies or renders ineffective or infeasible any existing program, policy, ordinance, or regulation determined by the department to be critical to the availability of adequate sites or to addressing governmental constraints.

(B) The annual general plan implementation report required pursuant to Section 65400 fails to demonstrate, in the report or by the absence of a report, that each action included in the housing element's schedule of actions that is critical to the availability of adequate sites or to addressing governmental constraints and upon which the department has conditioned a finding of substantial compliance has been fully implemented within 90 days of the date specified in the adopted element.

~~(2) The department shall not rescind any earlier finding of~~

(2) Within 60 days of receipt of notice pursuant to paragraph (1), the city, county, or city and county shall amend its element to address the actions taken, or actions included in the element and not taken, as specified in the notice, in conformance with the requirements of this article. The amendment shall be subject to the department's review and findings as provided in this section. If the notice from the department specifies a failure to adopt a scheduled action, the department shall issue a finding of substantial compliance if the city, county, or city and county demonstrates, and the department accepts, based on substantial evidence, that the city, county, or city and county has taken alternative actions that make the implementation of the original actions unnecessary to meet the requirements of this article ~~and these~~ alternative actions substantially achieve the same objectives of the original actions. ~~The annual report submitted by the city, county, or city and county shall identify those specific actions that demonstrate compliance with this subdivision of the original actions.~~

(1) Within 45 days of the department's report of its findings to city, county, or city and county pursuant to subdivision ~~(h)~~ or a rescission of a determination of substantial compliance pursuant to subdivision ~~(i)~~ (j) or (k), the city, county, or city and county may ~~subject the finding or determination to judicial review pursuant to Section _____ of the Code of Civil Procedure~~ file an action seeking judicial

16.1

21

review of the department's determination . At the same time that the city, county, or city and county serves the department with the action, the city, county, or city and county shall simultaneously serve by mail, pursuant to Section 1013 of the Code of Civil Procedure, a copy of the action on all parties who are on the department's list for distribution of correspondence and on all parties who commented on the element or amendment. The hearing on the action shall be held within 90 days of the date of the filing of the petition, and the court shall issue a final decision within 30 days of the conclusion of the hearing. Any interested party may intervene in the action. If in any action brought pursuant to this subdivision, a court finds for the plaintiff, the court shall issue an order or judgment compelling the department to revise its finding or determination in compliance with this article within 60 days.

~~If the court upholds the department's finding or determination, the court shall order the city, county, or city and county to adopt within 120 days a housing element or amendment that the department determines to be in substantial compliance with this article. The~~ The court shall retain jurisdiction to ensure that its order or judgment is carried out. Actions filed pursuant to Section 65587 or 65751 shall be consolidated with the action authorized by this section.

SEC. 10. Section 65585.5 is added to the Government Code, to read:

65585.5. (a) ~~The~~ *On or after January 1, 2004, 45 days after the department sends notice to a city, county, or city and county that the jurisdiction is subject to fines pursuant to this section, the department shall request and the* Controller shall levy a fine on a city, county, or city and county if *the city, county, or city and county, during the previous housing element cycle, did not adopt a housing element that the department determined pursuant to Section 65585 to be in substantial compliance with the requirements of this article and, with respect to the third or subsequent revision of its housing element, any* of the following conditions are met:

(1) The city, county, or city and county has failed to submit an adopted housing element or amendment to the department within six months of the deadline established by Section 65588.

~~(2) The department has determined that the adopted housing element or amendment of the city, county, or city and county does not substantially comply with the requirements of this article and the city, county, or city and county has not subjected the determination to judicial review within 45 days as specified in subdivision (1) of Section 65585.~~

~~(3) The department has rescinded a determination of substantial compliance pursuant to subdivision (i) of Section 65585 and the city, county, or city and county has not subjected the rescission to judicial review within 45 days as specified in subdivision (j) of Section 65585.~~

~~(4) The city, county, or city and county has subjected the department's determination or rescission to judicial review pursuant to subdivision (j) of Section 65585, the court has upheld the department's determination or rescission and the city, county, or city and county has not adopted within 120 days a housing element that the department finds is in substantial compliance with this article. The filing of a notice of appeal of the court's decision shall not stay the levy or collection of the fine, provided that if the court of appeals overturns the trial court's decision, the fines collected shall be returned to the city, county, or city and county.~~

6.1

22

~~(5) A court has determined that the housing element or amendment does not substantially comply with the requirements of this article. The filing of a notice of appeal of the court's decision shall not stay the levy or collection of the fine. If the court of appeals overturns the trial court's decision the fine collected shall be returned to the city, county, or city and county.~~

~~(b) The fine levied by the Controller shall be \$ _____~~

~~(c) Any penalty _____~~

(2) The city, county, or city and county is required to amend its element pursuant to subdivision (k) of Section 65585 and the city, county, or city and county has failed to amend its element within 60 days.

(3) The department has determined that the adopted housing element or amendment of the city, county, or city and county does not substantially comply with the requirements of this article.

(b) If a city, county, or city and county subjects the department's determination to judicial review pursuant to subdivision (1) of Section 65585 or files a notice of appeal to such an action or an action filed pursuant to Section 65587 or 65751, the collection of fines shall be stayed pending the outcome of the action, provided that if the city, county, or city or county does not prevail in the action, the city, county, or city and county shall be liable for the total amount of fines that would have accrued had the action not been filed.

(c) The fine levied by the Controller shall be five thousand dollars (\$5,000) per month or twenty-five cents (\$0.25) per month per person based on the most recent official estimate of population for the jurisdiction as determined by the Department of Finance, whichever is greater. For the purposes of this section, the population of a county shall only include the population residing in unincorporated areas. The fine shall be levied each month until the city, county, or city and county has adopted a housing element or amendment that has been determined by the department pursuant to Section 65585 to be in substantial compliance with the requirements of this article.

(d) A court may reduce the fine based on mitigating factors if the department certifies that its finding of noncompliance for the community's adopted housing element or amendment is not based in whole or in part either on the unavailability of adequate sites or on a failure to analyze and address governmental constraints. A court may also defer the onset of fines if the city, county, or city and county can show that it was precluded from submitting an adopted housing element or amendment to the department due to a state of emergency in the community declared by the Governor or due to bankruptcy.

(e) Any fines shall accrue to the Housing Supply Account, which is hereby created in the Housing Rehabilitation Loan Fund established by Section 50661 of the Health and Safety Code. Notwithstanding Section 50661 of the Health and Safety Code, no money in the Housing Supply Account shall be expended except upon appropriation by the Legislature in the annual Budget Act or other legislation. Funds in the account shall be used for the purposes of providing assistance to multifamily rental

housing developments pursuant to the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code in the respective region which includes the fined jurisdiction.

~~(d)~~

(f) For purposes of this section, an adopted housing element that has been self-certified pursuant to Section 65585.1 shall be

16.1

23

deemed to have been approved by the department, unless a court finds that the jurisdiction's housing element does not substantially comply with this article.

~~(e)~~

(g) If a city, county, or city and county, fails to remit to the Controller the full amount of any fine levied pursuant to this section within 30 days, the ~~Controller shall deduct the unpaid amount~~ Controller's office shall offset from the subsequent monthly allocation of funds due to the city, county, or city and county pursuant to Section 11005 of the Revenue and Taxation Code.

~~(f)~~

(h) The remedies prescribed by this section are in addition to any other remedy provided under law.

SEC. 11. *Section 65587 of the Government Code is amended to read:*

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with ~~the provisions of~~ this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure ~~the~~. *The court's review of compliance with ~~the provisions of~~ this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article. If a court finds that any housing element or portion thereof does not substantially comply with the requirements of this article, the court, in addition to any other remedy allowed by law, shall (1) levy a fine consistent with Section 65585.5 and (2) award reasonable attorney's fees and costs of suit to a plaintiff who is a person of lower income, an organization representing persons of lower income as described in subdivision (b) of Section 65915, or who may be entitled to fees and costs pursuant to Section 1021.5 of the Code of Civil Procedure.*

(c) *If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.*

SEC. 12. *Section 65588 of the Government Code is amended to read:*

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) *The progress of the city, county, or city and county in*

16.1

24

implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every six years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, the dates of revisions for the housing element shall be as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, ~~2006~~, 2000, for the third revision, December 31, 2006, for the fourth revision, and every six years thereafter.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, ~~2008~~, 2001, for the third revision, December 31, 2008, for the fourth revision, and every six years thereafter.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council ~~of Governments the Association of Monterey Bay Area~~ of Governments and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, December 31, 2007, for the fourth revision, and every six years thereafter.

(4) Local governments within the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, December 31, 2007, for the fourth revision, and every six years thereafter.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, ~~2005~~, 1999, for the third revision, December 31, 2005, for the fourth revision, and every six years thereafter.

~~(5)~~

(6) All other local governments within a council of governments: December 31, 2003, for the fourth revision,

16.1

25

and every six years thereafter.

~~(6)~~

(7) All other local governments: December 31, 2004,
for the third revision, and every six years thereafter.

~~(7)~~

(8) Subsequent revisions shall be completed not less often than at six-year intervals following the fourth revision.

(f) It is the intent of the amendments made to this section in the 2001-02 Legislative Session to coordinate the determination of regional housing needs with the triennial update of the regional transportation plan pursuant to Section 134 of Title 23 of the United States Code. Any council of governments that is required by statute to update its transportation plan every four years, may elect to either (1) adopt the update to its transportation plan on a three-year basis, or (2) continue with the four-year update cycle, but adopt an amended update in mid-cycle to coordinate with the regional housing need update at six-year intervals.

~~SEC. 12.~~

SEC. 13. *Section 65589.3 of the Government Code is amended to read:*

65589.3. (a) In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment substantially complies with the requirements of this article.

(b) *In any action filed on or after January 1, 2003, taken to challenge the validity of a housing element or amendment, if, pursuant to Section 65585, the department has found that the element or amendment does not substantially comply with the requirements of this article, the findings of the department shall be entitled to deference and given great weight. This subdivision is declaratory of existing law.*

SEC. 14. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. **If** the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CORRECTIONS Text -- Pages 8 and

22.

16.1

26

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 126-2001

On the motion of Supervisor Wormhoudt
duly seconded by Supervisor Beautz
the following resolution is adopted:

RESOLUTION OPPOSING SENATE BILL NO. 910 RELATING TO PUNITIVE MEASURES
REGARDING THE HOUSING ELEMENT

WHEREAS, existing law requires each city and county to prepare a Housing Element as a component of its General Plan;

WHEREAS Housing Elements are required to identify the manner in which a community will accommodate growth projections as determined by the State of California;

WHEREAS the amount of growth which must be accommodated in the Housing Element are determined by the State Finance Department based on statewide population projections;

WHEREAS, local land use considerations are not adequately taken into account by the State Department of Finance when the State Department of Finance ascertains growth goals for each jurisdiction;

WHEREAS, local governments are responsible for making land use decisions, including zoning and General Plan designations, which determine the location, amount and rate of growth and development;

WHEREAS, given resource constraints in our community, the State-mandated growth targets allocated to Santa Cruz County by the State of California have been unattainable;

WHEREAS SB 910 would impose severe financial penalties on communities for not achieving the unattainably high growth goals imposed by the State Department of Finance;

WHEREAS, the Housing Element review by the Housing and Community Development Department is not predicated on the strict compliance with the State law, but rather on the interpretations of the laws by HCD staff; and

WHEREAS, because of the severity of the penalties including in SB 910, the State would effectively usurp localities role in making land use decisions,

13
88 /

161

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County Board of Supervisors hereby opposes the passage of Senate Bill 910 in order to preserve the local role in making land use decisions.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 17th day of April, 2001, by the following vote:

AYES: SUPERVISORS Beautz, Pirie, Wormhoudt, Almquist & Campos
 NOES: SUPERVISORS None
 ABSENT: SUPERVISORS None **TONY CAMPOS**

Chairperson of said Board

ATTEST: **GAIL T. BORKOWSKI**

Clerk of said Board

APPROVED AS TO FORM:

County Counsel

DISTRIBUTION:

Senator Bruce McPherson
 Assembly Speaker Pro Tem Fred Keeley
 Assembly Member Simon Salinas
 Assembly Member Mike Honda
 California State Association of Counties (CSAC)

STATE OF CALIFORNIA	1	ss
COUNTY OF SANTA CRUZ)	
I, SUSAN A. MAURIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of a resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on <u>4/18/2001</u>		
SUSAN A. MAURIELLO, County Administrative Officer		
By <u>Alicia Quinto</u>		Deputy

16.1 13 88-1