

AMENDED IN SENATE APRIL 26, 2005

**SENATE BILL**

**No. 1087**

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**Introduced by Senator Florez**

February 22, 2005

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An act to amend Section 65589.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as amended, Florez. Housing elements: services.

(1) The Planning and Zoning 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. That law also requires that the housing element adopted by the legislative body of the city, county, or city and county and any amendments made to that element be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body.

The Planning and Zoning Law also requires each public agency or private entity providing these services to grant a priority for the provision of available and future resources or services to proposed housing developments that help meet the legislative body's share of the regional housing need for lower income households as identified in the housing element and any amendments to the housing element.

This bill would require that the adopted housing element and any amendments be delivered immediately *to all public agencies or private entities that provide water resources or services at retail or sewer resources or services*, as specified, *would* apply these provisions to ~~the legislative body's share of the regional housing need~~

~~for very low and low-income proposed developments that include housing units affordable to lower income households, and would require, within 60 days of the adoption or amendment of the housing element on or before July 1, 2006,~~ that these public agencies or private entities adopt a policy for the allocation of these services in conformance with these provisions. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

This bill would also provide that a provider of water or sewer services may not deny or condition the approval of an application for services, or reduce the amount of the services applied for, if the proposed development includes housing affordable to lower income households and would require the local planning agency or the legislative body to deny an application for any residential or nonresidential development if it ~~finds, based on substantial evidence,~~ *makes a written determination* that these provisions have not been complied with.

*The bill would make these provisions applicable to charter cities.*

(2) 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.

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:*

- 1 SECTION 1. Section 65589.7 of the Government Code is
- 2 amended to read:
- 3 65589.7. (a) The housing element adopted by the legislative
- 4 body and any amendments made to that element shall be
- 5 immediately delivered to all public agencies or private entities
- 6 that provide water ~~services at retail or sewer resources or~~
- 7 *services at retail or sewer resources or* services within the
- 8 territory of the legislative body. When allocating or making plans
- 9 for the allocation of available and future resources or services

1 designated for residential use, each public agency or private  
2 entity providing water ~~services at retail or sewer~~ *resources or*  
3 *services at retail or sewer resources* or services, shall grant a  
4 priority for the provision of these available and future ~~resources~~  
5 ~~or services to proposed housing developments to meet the city's,~~  
6 ~~county's, or city and county's share of the regional housing need~~  
7 ~~for very low and low income households as identified, pursuant~~  
8 ~~to paragraph(1) of subdivision (a) of Section 65583, in the~~  
9 ~~housing element adopted by the legislative body and any~~  
10 ~~amendments made to that element.~~ *resources or services to*  
11 *proposed developments that include housing units affordable to*  
12 *lower income households.*

13 (b) ~~Within 60 days of the adoption of the housing element or~~  
14 ~~any amendments by the legislative body, the public agency, or~~  
15 ~~On or before July 1, 2006, the public agency, or private entity~~  
16 ~~providing services as provided in subdivision (a), shall adopt a~~  
17 ~~policy for allocation of services in conformance with this section.~~  
18 ~~The priority established in subdivision (a) shall mean a priority~~  
19 ~~over all other applicants for existing as well as future resources to~~  
20 ~~proposed housing developments.~~ *future resources or services.*

21 (c) The provider of water or sewer *resources or services* as  
22 provided in subdivision (a) shall not deny or condition the  
23 approval of an application for services, or reduce the amount of  
24 services applied for, if the denial, condition, or reduction is based  
25 in whole or in part ~~on the inclusion of housing affordable to~~  
26 ~~lower income households in the proposed development.~~  
27 ~~However, the approval of an application may be conditioned on~~  
28 ~~the developer including housing affordable to lower income~~  
29 ~~households in the development. The provider of water or sewer~~  
30 ~~services shall reserve sufficient available existing and future~~  
31 ~~resources or services to meet the requirement as provided in~~  
32 ~~subdivision (a) of the city's, county's, or city and county's share~~  
33 ~~of the regional housing need for very low and low income~~  
34 ~~households, as defined in subdivision (a).~~ *part on the inclusion of*  
35 *housing units affordable to lower income households.*

36 (d) *The provider of water or sewer resources or services shall*  
37 *reserve sufficient available existing and future resources or*  
38 *services to meet the shares of the regional housing need for very*  
39 *low and low-income households, as identified pursuant to*  
40 *paragraph (1) of subdivision (a) of Section 65583, for each city,*

1 county, and city and county within its jurisdiction. Resources or  
2 services may only be allocated from this reserve for housing  
3 units affordable to lower income households.

4 ~~(d)~~

5 (e) When considering an application for any residential or  
6 nonresidential development that does not include housing  
7 affordable to lower income households, neither the local planning  
8 agency nor legislative body shall approve the application unless  
9 it finds, based on substantial evidence, that each public agency or  
10 private entity providing sewer or water services to the proposed  
11 development has complied with subdivision (a): affordable to  
12 lower income households, the public agency or private entity  
13 providing sewer or water resources or services to the proposed  
14 development shall not approve the application unless it makes a  
15 written determination that the provider has complied with this  
16 section.

17 ~~(e)~~

18 (f) The following definitions apply for purposes of this  
19 section:

20 (1) “Available existing and future resources ~~and or services~~”  
21 means those that are not irrevocably committed by legally  
22 enforceable agreement, including those that will become  
23 available as a result of expansion or increase in capacity or  
24 reduction of the provision of resources or services to existing  
25 recipients.

26 ~~(2) “Affordable to lower income households” means that at~~  
27 ~~least 20 percent of the total units shall be (A) sold or rented to~~  
28 ~~lower income households as defined in Section 50079.5 of the~~  
29 ~~Health and Safety Code, (B) made available at a monthly housing~~  
30 ~~cost that does not exceed 30 percent of 60 percent of the area~~  
31 ~~median income with adjustments for household size made in~~  
32 ~~accordance with the adjustment factors on which the lower~~  
33 ~~income eligibility limits are based, and (C) restricted by legally~~  
34 ~~sufficient commitments to ensure continued availability of units~~  
35 ~~to lower income households in accordance with the provisions of~~  
36 ~~this subdivision for 30 years.~~

37 (2) “Housing units affordable to lower income households”  
38 means dwelling units that are sold or rented to lower income  
39 households, as defined in Section 50079.5 of the Health and  
40 Safety Code, at an affordable housing cost, as defined in Section

1 50052.5 of the Health and Safety Code, or an affordable rent, as  
2 defined in Section 50053 of the Health and Safety Code, and  
3 restricted by legally sufficient commitments to ensure continued  
4 availability of units to lower income households in accordance  
5 with the provisions of this subdivision for at least 30 years.

6 ~~(f)~~

7 (g) This section is intended to neither enlarge nor diminish the  
8 existing authority of a city, county or city and county in adopting  
9 a housing element. Failure to deliver a housing element adopted  
10 by the legislative body or amendments made to that element, to a  
11 public agency or private entity providing water *resources or*  
12 services at retail or sewer *resources or* services shall not  
13 invalidate any action or approval of a development project. The  
14 special districts which provide water *resources or* services at  
15 retail or sewer *resources or* services related to development, as  
16 defined in subdivision (e) of Section 56426, are included within  
17 this section.

18 ~~(g)~~

19 (h) As used in this section, “water *resources or* services at  
20 retail” means supplying water directly to the end user or  
21 consumer of that water, and does not include sale by a water  
22 supplier to another water supplier for resale.

23 (i) *The Legislature finds and declares that this section shall be*  
24 *applicable to all cities and counties, including charter cities,*  
25 *because the Legislature finds that the lack of affordable housing*  
26 *is a matter of vital statewide importance.*

27 SEC. 2. If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.