

AMENDED IN SENATE MAY 11, 2005  
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

proposed developments that include housing units affordable to lower income households, and would require, 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 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.~~

~~(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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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:

1 65589.7. (a) The housing element adopted by the legislative  
2 body and any amendments made to that element shall be  
3 immediately delivered to all public agencies or private entities  
4 that provide water resources or services at retail or sewer  
5 resources or services within the territory of the legislative body.  
6 When allocating or making plans for the allocation of available  
7 and future resources or services designated for residential use,  
8 each public agency or private entity providing water resources or  
9 services at retail or sewer resources or services, shall grant a  
10 priority for the provision of these available and future resources  
11 or services to proposed developments that include housing units  
12 affordable to lower income households.

13 (b) On or before July 1, 2006, the public agency, or private  
14 entity providing services as provided in subdivision (a), shall  
15 adopt a policy for allocation of services in conformance with this  
16 section. The priority established in subdivision (a) shall mean a  
17 priority over all other applicants for existing as well as future  
18 resources or services.

19 (c) The provider of water or sewer resources or services as  
20 provided in subdivision (a) shall not deny or condition the  
21 approval of an application for services, or reduce the amount of  
22 services applied for, if the denial, condition, or reduction is based  
23 in whole or in part on the inclusion of housing units affordable to  
24 lower income households.

25 (d) The provider of water or sewer resources or services shall  
26 reserve sufficient available existing and future resources or  
27 services to meet the shares of the regional housing need for very  
28 low and low-income households, as identified pursuant to  
29 paragraph (1) of subdivision (a) of Section 65583, for each city,  
30 county, and city and county within its jurisdiction. Resources or  
31 services may only be allocated from this reserve for housing  
32 units affordable to lower income households.

33 (e) When considering an application for any residential or  
34 nonresidential development that does not include housing  
35 affordable to lower income households, the public agency or  
36 private entity providing sewer or water resources or services to  
37 the proposed development shall not approve the application  
38 unless it makes a written determination that the provider has  
39 complied with this section.

1 (f) The following definitions apply for purposes of this  
2 section:

3 (1) “Available existing and future resources or services”  
4 means those that are not irrevocably committed by legally  
5 enforceable agreement, including those that will become  
6 available as a result of expansion or increase in capacity or  
7 reduction of the provision of resources or services to existing  
8 recipients.

9 (2) “Housing units affordable to lower income households”  
10 means dwelling units that are sold or rented to lower income  
11 households, as defined in Section 50079.5 of the Health and  
12 Safety Code, at an affordable housing cost, as defined in Section  
13 50052.5 of the Health and Safety Code, or an affordable rent, as  
14 defined in Section 50053 of the Health and Safety Code, and  
15 restricted by legally sufficient commitments to ensure continued  
16 availability of units to lower income households in accordance  
17 with the provisions of this subdivision for at least 30 years.

18 (g) This section is intended to neither enlarge nor diminish the  
19 existing authority of a city, county or city and county in adopting  
20 a housing element. Failure to deliver a housing element adopted  
21 by the legislative body or amendments made to that element, to a  
22 public agency or private entity providing water resources or  
23 services at retail or sewer resources or services shall not  
24 invalidate any action or approval of a development project. The  
25 special districts which provide water resources or services at  
26 retail or sewer resources or services related to development, as  
27 defined in subdivision (e) of Section 56426, are included within  
28 this section.

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

33 (i) The Legislature finds and declares that this section shall be  
34 applicable to all cities and counties, including charter cities,  
35 because the Legislature finds that the lack of affordable housing  
36 is a matter of vital statewide importance.

37 ~~SEC. 2.— If the Commission on State Mandates determines that~~  
38 ~~this act contains costs mandated by the state, reimbursement to~~  
39 ~~local agencies and school districts for those costs shall be made~~

1 pursuant to Part 7 (commencing with Section 17500) of Division  
2 4 of Title 2 of the Government Code.

3 *SEC. 2. The Legislature finds and declares that Sections*  
4 *65104 and 66014 of the Government Code provide local*  
5 *agencies with authority to levy fees sufficient to pay for the*  
6 *program or level of service mandated by this act.*

7 *SEC. 3. No reimbursement is required by this act pursuant to*  
8 *Section 6 of Article XIII B of the California Constitution because*  
9 *a local agency or school district has the authority to levy service*  
10 *charges, fees, or assessments sufficient to pay for the program or*  
11 *level of service mandated by this act, within the meaning of*  
12 *Section 17556 of the Government Code.*

13 *However, if the Commission on State Mandates determines that*  
14 *this act contains other costs mandated by the state,*  
15 *reimbursement to local agencies and school districts for those*  
16 *costs shall be made pursuant to Part 7 (commencing with Section*  
17 *17500) of Division 4 of Title 2 of the Government Code.*