

AMENDED IN ASSEMBLY JULY 1, 2005
AMENDED IN ASSEMBLY JUNE 23, 2005
AMENDED IN SENATE MAY 31, 2005
AMENDED IN SENATE MAY 11, 2005
AMENDED IN SENATE APRIL 26, 2005

SENATE BILL

No. 1087

Introduced by Senator Florez

February 22, 2005

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 services or connections at retail or sewer services or connections, 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 written policy with specific objective standards for the allocation of these services in conformance with these provisions if these public agencies or private entities operate under a policy or legislative action that limits the amount of services or connections available in any given period. 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 or connections may not deny or condition the approval of an application for services or connections, or reduce the amount of the services or connections applied for, if the proposed development includes housing affordable to lower income households ~~and would authorize an appropriate civil action to enforce the provisions of the bill, as specified.~~

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 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 services or connections at retail or sewer
5 services or connections *for residential or municipal and*
6 *industrial uses* within the territory of the legislative body. When
7 allocating or making plans for the allocation of services or
8 connections designated for residential use, each public agency or
9 private entity providing water services or connections at retail or
10 sewer services or connections, shall grant a priority for the
11 provision of these services or connections to proposed
12 developments that include housing units affordable to lower
13 income households.

14 (b) (1) (A) On or before July 1, 2006, the public agency or
15 private entity providing services or connections as provided in
16 subdivision (a) that is operating under a policy or legislative
17 action that in any way limits the amount of services or
18 connections available in any given time period shall adopt a
19 written policy with specific objective standards for allocation of
20 services in conformance with this section.

21 (B) If a public agency or private entity begins to operate under
22 a policy or legislative action that is adopted after July 1, 2006,
23 and that limits the amount of services or connections available in
24 any given time period and if that public agency or private entity
25 has not adopted a written policy as required by paragraph (1),
26 that public agency or private entity shall, within six months of
27 the effective date of that policy or legislative action, adopt a
28 written policy with specific objective standards for the allocation
29 of services or connection in conformance with this section.

30 (2) (A) A public agency or private entity shall update the
31 written policy adopted pursuant to this subdivision every five
32 years from the date of its adoption.

33 (B) If a public agency or private entity receives a housing
34 element or amendments to a housing element from a jurisdiction
35 within which the public agency or private entity provides
36 services before the five year update is due, it shall update its
37 written policy within six months of the receipt of that housing
38 element or those amendments.

39 (3) The policy shall address, but not be limited to, each of the
40 following issues:

1 (A) How the need for housing for all income groups will be
2 met.

3 (B) How water or sewer services or connections will be
4 increased if necessary to meet the need for housing units
5 affordable to lower income households.

6 (C) The methodology used to determine or establish the
7 restricted services or connections.

8 (D) The procedures by which the applicant for a development
9 containing units affordable to lower income households may
10 obtain services or connections.

11 (c) The provider of water or sewer services or connections as
12 provided in subdivision (a) shall not deny or condition the
13 approval of an application for services or connections, or reduce
14 the amount of services or connections applied for, if the denial,
15 condition, or reduction is based in whole or in part on the
16 inclusion of housing units affordable to lower income
17 households.

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

20 (1) “Proposed developments that include housing units
21 affordable to lower income households” means that at least 25
22 percent of the total dwelling units shall be sold or rented to lower
23 income households, as defined in Section 50079.5 of the Health
24 and Safety Code, at an affordable housing cost, as defined in
25 Section 50052.5 of the Health and Safety Code, or an affordable
26 rent, as defined in Section 50053 of the Health and Safety Code;
27 ~~and restricted by legally sufficient commitments to ensure~~
28 ~~continued availability of units to lower income households in~~
29 ~~accordance with the provisions of this subdivision for at least 10~~
30 ~~years for units that are sold and 30 years for units that are rented..~~

31 (2) “Water services or connections at retail” means supplying
32 water directly to the end user or consumer of that water, and does
33 not include sale by a water supplier to another water supplier for
34 resale.

35 (e) This section is intended to neither enlarge nor diminish the
36 existing authority of a city, county or city and county in adopting
37 a housing element. Failure to deliver a housing element adopted
38 by the legislative body or amendments made to that element, to a
39 public agency or private entity providing water services or
40 connections at retail or sewer services or connections shall

1 neither invalidate any action or approval of a development
2 project nor exempt a public agency, private entity, or special
3 district from the obligations under this section. The special
4 districts which provide water services or connections at retail or
5 sewer services or connections related to development, as defined
6 in subdivision (e) of Section 56426, are included within this
7 section.

8 ~~(f) Any beneficially interested party may bring an action~~
9 ~~pursuant to Section 1085 or 1094.5 of the Code of Civil~~
10 ~~Procedure, as appropriate, to enforce the provisions of this~~
11 ~~section. Relief granted pursuant to an action shall include, but is~~
12 ~~not limited to, injunctive relief and damages.~~

13 ~~(g)~~

14 (f) The Legislature finds and declares that this section shall be
15 applicable to all cities and counties, including charter cities,
16 because the Legislature finds that the lack of affordable housing
17 is a matter of vital statewide importance.

18 SEC. 2. The Legislature finds and declares that Sections
19 65104 and 66014 of the Government Code provide local agencies
20 with authority to levy fees sufficient to pay for the program or
21 level of service mandated by this act.

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act, within the meaning of
27 Section 17556 of the Government Code.

28 However, if the Commission on State Mandates determines
29 that this act contains other costs mandated by the state,
30 reimbursement to local agencies and school districts for those
31 costs shall be made pursuant to Part 7 (commencing with Section
32 17500) of Division 4 of Title 2 of the Government Code.