

Assembly Bill No. 654

Passed the Assembly August 22, 2011

Chief Clerk of the Assembly

Passed the Senate August 18, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 50281, 50281.1, 50282, 50284, and 50287 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 654, Hueso. Local government: historical property.

(1) Existing law authorizes an owner of any qualified historical property, as defined, to contract with the legislative body of a city, county, or city and county, to restrict the use of the property in exchange for lowered assessment values. Existing law requires contracts under these provisions to include, among other things, where applicable, a provision for the periodic examination of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization whenever necessary, and a provision that requires the owner to notify the Office of Historic Preservation of the contract.

This bill would instead require these contracts, where applicable, to include an inspection of the interior and exterior of the premises by the city, county, or city and county prior to a new agreement, and every 5 years thereafter. This bill would delete from the list of required contract provisions the requirement that the owner notify the Office of Historic Preservation, and would instead require that the contract include a provision that requires the owner to record the contract with the county in which the property is located.

(2) Existing law authorizes the legislative body to, upon entering into a contract, require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

This bill would, instead, require that the fee shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

(3) Existing law specifies that the initial contract term is 10 years and provides that on the anniversary date of the contract, a year is automatically added to the initial term of the contract unless notice of nonrenewal is given, as specified.

This bill would also require each contract to provide that after 5 years, and every 5 years thereafter, the legislative body of the local agency shall require an inspection to be conducted, by a party appointed by the legislative body, to determine the owner's continued compliance with the contract.

(4) Existing law authorizes the legislative body to cancel a contract if the legislative body determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, and authorizes the legislative body or any landowner to, as an alternative to canceling the contract, bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

This bill would require the legislative body to either cancel the contract or bring an action in court to enforce the contract, if the legislative body determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. This bill would also provide that, as an alternative to canceling the contract, a landowner that is a party to the contract may bring any action in court necessary to enforce the contract.

The people of the State of California do enact as follows:

SECTION 1. Section 50281 of the Government Code is amended to read:

50281. Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

(2) For an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

(c) The owner or agent of an owner shall record the contract with the county in which the property is located within six months of entering into the contract.

SEC. 2. Section 50281.1 of the Government Code is amended to read:

50281.1. The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

SEC. 3. Section 50282 of the Government Code is amended to read:

50282. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner's continued compliance with the contract. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

SEC. 4. Section 50284 of the Government Code is amended to read:

50284. If the legislative body determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the legislative body shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.

(b) Bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

SEC. 5. Section 50287 of the Government Code is amended to read:

50287. As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract may bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

Approved _____, 2011

Governor