

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2100

Introduced by Assembly Member Campos
(Principal coauthor: Assembly Member Brown)

February 20, 2014

An act to amend Section 4735 of the Civil Code, and to add Section 50034 to the Government Code, relating to drought relief.

LEGISLATIVE COUNSEL'S DIGEST

AB 2100, as amended, Campos. Common interest developments: local governments: yard maintenance: fines: drought.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments and requires that a development be managed by an association. That act provides that a provision of the governing documents of a development is void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group, or if it has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure, as specified.

This bill would prohibit an association from imposing a fine or assessment ~~on separate interest owners~~ *against a member of a separate interest* for reducing or eliminating watering of vegetation or lawns during any period for which the Governor has declared a state of emergency, or a local government has declared a local emergency, due to drought.

Existing law provides for the creation and powers of cities, counties, and cities and counties.

This bill would prohibit a city, county, or city and county from imposing a fine or assessment against a landowner for reducing or eliminating watering of vegetation or lawns during any period for which the Governor has declared a state of emergency due to drought. This bill would find and declare that these provisions are an issue of statewide concern and not a municipal or county affair, as specified.

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

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

1 SECTION 1. Section 4735 of the Civil Code is amended to
2 read:

3 4735. (a) Notwithstanding any other law, a provision of the
4 governing documents shall be void and unenforceable if it does
5 any of the following:

6 (1) Prohibits, or includes conditions that have the effect of
7 prohibiting, the use of low water-using plants as a group.

8 (2) Has the effect of prohibiting or restricting compliance with
9 either of the following:

10 (A) A water-efficient landscape ordinance adopted or in effect
11 pursuant to subdivision (c) of Section 65595 of the Government
12 Code.

13 (B) Any regulation or restriction on the use of water adopted
14 pursuant to Section 353 or 375 of the Water Code.

15 (b) This section shall not prohibit an association from applying
16 landscaping rules established in the governing documents, to the
17 extent the rules fully conform with the requirements of subdivision

18 (a).

19 (c) Notwithstanding any other provision of this part, an
20 association shall not impose a fine or assessment against ~~an owner~~
21 *a member* of a separate interest for reducing or eliminating watering
22 of vegetation or lawns during any period for which either of the
23 following have occurred:

24 (1) The Governor has declared a state of emergency due to
25 drought pursuant to subdivision (b) of Section 8558 of the
26 Government Code.

1 (2) A local government has declared a local emergency due to
2 drought pursuant to subdivision (c) of Section 8558 of the
3 Government Code.

4 SEC. 2. Section 50034 is added to the Government Code, to
5 read:

6 50034. Notwithstanding any other law, a city, county, or city
7 and county shall not impose a fine or assessment against a
8 landowner for reducing or eliminating watering of vegetation or
9 lawns during any period for which the Governor has declared a
10 state of emergency due to drought pursuant to subdivision (b) of
11 Section 8558 of the Government Code.

12 SEC. 3. The Legislature finds and declares that the prohibition
13 of fines or assessments against landowners for reducing or
14 eliminating watering of vegetation or lawns during any period for
15 which the Governor has declared a state of emergency due to
16 drought is a matter of statewide concern and not a municipal affair,
17 as that term is used in Section 5 of Article XI of the California
18 Constitution, or a county affair described in Section 4 of Article
19 XI of the California Constitution. Therefore, Section 2 of the act
20 applies to a charter city or county.