

ASSEMBLY BILL

No. 494

Introduced by Assembly Member Caballero

February 24, 2009

An act to amend Sections 51230.2 and 66474.4 of, and to add Section 65852.12 to, the Government Code relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 494, as introduced, Caballero. Local planning: farmworker housing.

(1) The Williamson Act authorizes any city or county to enter into a contract with the owner of agricultural land for the purpose of preserving that land in accordance with the conditions established by that contract and the act. The act authorizes a landowner subject to a Williamson Act contract to subdivide not more than 5 acres of land under contract to be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency and used for farmworker housing for at least 30 years, as specified, and the parcel is within a city or is in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses.

This bill instead would authorize a landowner subject to a Williamson Act contract to subdivide not more than 10 acres of land under a Williamson Act contract to be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency and used for farmworker housing for at least 30 years, as specified, and the parcel is within a city or in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned

residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses, or has access to existing water and sewer service.

(2) The Planning and Zoning Law provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by a city, county, or city and county.

This bill would prohibit a city, county, or city and county, when an applicant proposes to subdivide land for the purposes of developing farmworker housing, as specified, from enforcing or imposing any local ordinance, regulation, or development standard that requires a minimum parcel size. The development of farmworker housing on a parcel created pursuant to this section would be required to be considered an agricultural use of the land, provided the density is consistent with specified densities.

(3) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map or a parcel map for land subject to an open-space easement, an agricultural conservation easement, or conservation easement if the resulting parcels would be too small to sustain their restricted agricultural use.

This bill would exempt from these provisions farmworker housing on agricultural land that is subject to a Williamson Act contract or farmworker housing that meets specified conditions. By adding to the duties of local officials, this bill would impose a state-mandated local program.

(4) 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 no reimbursement is required by this act for a specified reason.

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 51230.2 of the Government Code is
2 amended to read:
3 51230.2. (a) Except as provided in Section 51238, and
4 notwithstanding Section 51222 or 66474.4, a landowner may
5 subdivide land that is currently designated as an agricultural
6 preserve if all of the following apply:

1 (1) The parcel to be sold or leased is no more than ~~five~~ 10 acres.

2 (2) The parcel shall be sold or leased to a nonprofit organization,
3 a city, a county, a housing authority, or a state agency. A lessee
4 that is a nonprofit organization shall not sublease that parcel
5 without the written consent of the landowner.

6 (3) The parcel to be sold or leased shall be subject to a deed
7 restriction that limits the use of the parcel to agricultural laborer
8 housing facilities for not less than 30 years. That deed restriction
9 shall also require that parcel to be merged with the parcel from
10 which it was subdivided when the parcel ceases to be used for
11 agricultural laborer housing.

12 (4) There is a written agreement between the parties to the sale
13 or lease and their successors to operate the parcel to be sold or
14 leased under joint management of the parties, subject to the terms
15 and conditions and for the duration of the contract executed
16 pursuant to Article 3 (commencing with Section 51240).

17 (5) The parcel to be sold or leased is (A) within a city or (B) in
18 an unincorporated territory or sphere of influence that is contiguous
19 to one or more parcels that are already zoned residential,
20 commercial, or industrial and developed with existing residential,
21 commercial, or industrial uses, *or the parcel has access to existing*
22 *water and sewer service.*

23 (b) The agricultural labor housing project shall be designed to
24 abate, to the extent practicable, impacts on adjacent landowners'
25 agricultural husbandry practices. The final plan for the housing
26 shall include an addendum that explains what features will be
27 included to meet this goal.

28 (c) A subdivision of land pursuant to this section shall not affect
29 any contract executed pursuant to Article 3 (commencing with
30 Section 51240). The parcel to be sold or leased shall remain subject
31 to that contract.

32 SEC. 2. Section 65852.12 is added to the Government Code,
33 to read:

34 65852.12. (a) When an applicant proposes to subdivide land
35 for the purposes of developing farmworker housing that meets the
36 requirements of subdivision (b), the city, county, or city and county
37 shall not enforce or impose any local ordinance, regulation, or
38 development standard that requires a minimum parcel size.

39 (b) Farmworker housing proposed pursuant to subdivision (a)
40 shall meet all of the following:

1 (1) The parcel to be created is on land currently zoned for
2 agricultural use or on land zoned for open space but currently in
3 agricultural use.

4 (2) The parcel to be sold or leased is 10 acres or smaller.

5 (3) The parcel shall be sold or leased to a nonprofit organization,
6 a city, a county, a housing authority, or a state agency. A lessee
7 that is a nonprofit organization shall not sublease that parcel
8 without the written consent of the landowner.

9 (4) The parcel to be sold or leased shall be subject to a deed
10 restriction that limits the use of the parcel to farmworker housing
11 facilities for not less than 30 years. That deed restriction also shall
12 require that parcel to be merged with the parcel from which it was
13 subdivided when the parcel ceases to be used for farmworker
14 housing.

15 (c) The development of farmworker housing on a parcel created
16 pursuant to this section shall be considered an agricultural use of
17 the land, provided the density is consistent with the densities
18 specified in clause (i) of subparagraph (B) of paragraph (3) of
19 subdivision (c) of Section 65583.2.

20 SEC. 3. Section 66474.4 of the Government Code is amended
21 to read:

22 66474.4. (a) ~~The Except as provided in Sections 51230.2 and~~
23 ~~65852.12, the~~ legislative body of a city or county shall deny
24 approval of a tentative map, or a parcel map for which a tentative
25 map was not required, if it finds that either the resulting parcels
26 following a subdivision of that land would be too small to sustain
27 their agricultural use or the subdivision will result in residential
28 development not incidental to the commercial agricultural use of
29 the land, and if the legislative body finds that the land is subject
30 to any of the following:

31 (1) A contract entered into pursuant to the California Land
32 Conservation Act of 1965 (Chapter 7 (commencing with Section
33 51200) of Part 1 of Division 1 of Title 5), including an easement
34 entered into pursuant to Section 51256.

35 (2) An open-space easement entered into pursuant to the
36 Open-Space Easement Act of 1974 (Chapter 6.6 (commencing
37 with Section 51070) of Part 1 of Division 1 of Title 5).

38 (3) An agricultural conservation easement entered into pursuant
39 to Chapter 4 (commencing with Section 10260) of Division 10.2
40 of the Public Resources Code.

1 (4) A conservation easement entered into pursuant to Chapter
2 4 (commencing with Section 815) of Part 2 of Division 2 of the
3 Civil Code.

4 (b) (1) For purposes of this section, land shall be conclusively
5 presumed to be in parcels too small to sustain their agricultural
6 use if the land is (A) less than 10 acres in size in the case of prime
7 agricultural land, or (B) less than 40 acres in size in the case of
8 land that is not prime agricultural land.

9 (2) For purposes of this section, agricultural land shall be
10 presumed to be in parcels large enough to sustain their agricultural
11 use if the land is (A) at least 10 acres in size in the case of prime
12 agricultural land, or (B) at least 40 acres in size in the case of land
13 that is not prime agricultural land.

14 (c) A legislative body may approve a subdivision with parcels
15 smaller than those specified in this section if the legislative body
16 makes either of the following findings:

17 (1) The parcels can nevertheless sustain an agricultural use
18 permitted under the contract or easement, or are subject to a written
19 agreement for joint management pursuant to Section 51230.1 and
20 the parcels that are jointly managed total at least 10 acres in size
21 in the case of prime agricultural land or 40 acres in size in the case
22 of land that is not prime agricultural land.

23 (2) One of the parcels contains a residence and is subject to
24 Section 428 of the Revenue and Taxation Code; the residence has
25 existed on the property for at least five years; the landowner has
26 owned the parcels for at least 10 years; and the remaining parcels
27 shown on the map are at least 10 acres in size if the land is prime
28 agricultural land, or at least 40 acres in size if the land is not prime
29 agricultural land.

30 (d) No other homesite parcels as described in paragraph (2) of
31 subdivision (c) may be created on any remaining parcels under
32 contract entered into pursuant to the California Land Conservation
33 Act of 1965 (Chapter 7 (commencing with Section 51200) of
34 Division 1 of Title 5) for at least 10 years following the creation
35 of a homesite parcel pursuant to this section.

36 (e) This section shall not apply to land that is subject to a
37 contract entered into pursuant to the California Land Conservation
38 Act of 1965 (Chapter 7 (commencing with Section 51200) of
39 Division 1 of Title 5) when any of the following has occurred:

1 (1) A local agency formation commission has approved the
2 annexation of the land to a city and the city will not succeed to the
3 contract as provided in Sections 51243 and 51243.5.

4 (2) Written notice of nonrenewal of the contract has been served,
5 as provided in Section 51245, and, as a result of that notice, there
6 are no more than three years remaining in the term of the contract.

7 (3) The board or council has granted tentative approval for
8 cancellation of the contract as provided in Section 51282.

9 (f) This section shall not apply during the three-year period
10 preceding the termination of a contract described in paragraph (1)
11 of subdivision (a).

12 (g) This section shall not be construed as limiting the power of
13 legislative bodies to establish minimum parcel sizes larger than
14 those specified in subdivision (a).

15 (h) This section does not limit the authority of a city or county
16 to approve a tentative or parcel map with respect to land subject
17 to an easement described in this section for which agriculture is
18 the primary purpose if the resulting parcels can sustain uses
19 consistent with the intent of the easement.

20 (i) This section does not limit the authority of a city or county
21 to approve a tentative or parcel map with respect to land subject
22 to an easement described in this section for which agriculture is
23 not the primary purpose if the resulting parcels can sustain uses
24 consistent with the purposes of the easement.

25 (j) Where an easement described in this section contains
26 language addressing allowable land divisions, the terms of the
27 easement shall prevail.

28 (k) The amendments to this section made in the 2002 portion
29 of the 2001–02 Regular Session of the Legislature shall apply only
30 with respect to contracts or easements entered into on or after
31 January 1, 2003.

32 SEC. 4. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 a local agency or school district has the authority to levy service
35 charges, fees, or assessments sufficient to pay for the program or
36 level of service mandated by this act, within the meaning of Section
37 17556 of the Government Code.