

AMENDED IN ASSEMBLY MAY 17, 1999

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1505

Introduced by Assembly Member Ducheny
(Coauthors: Assembly Members Ashburn, Cardoza, Florez,
Reyes, and Soto)
(Coauthor: Senator Polanco)

February 26, 1999

An act to ~~add Sections 51282.4 and 65863.13 to amend Sections 51238, 51238.5, and 65580 of, and to add Section 51282.4 to,~~ the Government Code, and to amend Section 21080.10 of the Public Resources Code, relating to farmworker housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, Ducheny. 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 the act and that contract. The act authorizes the landowner to petition the governing body of the relevant city or county for cancellation of a contract or portion thereof for agricultural laborer housing that is determined not to be a compatible use of the contracted lands. Prior to any tentative approval of the cancellation, the governing body of the relevant city or county is required to

certify to the county auditor the amount of a cancellation fee that the contracting landowner will pay as deferred taxes upon cancellation of the contract, as specified.

This bill would *specify that agricultural laborer housing is a compatible use within an agricultural preserve when provided by the landowner or a city, county, city and county, the state, or a nonprofit organization under contract or grant by the landowner. The bill would also authorize a landowner subject to a Williamson Act contract to set aside a portion not exceeding 5 acres of land under contract to be transferred conveyed to a nonprofit organization or municipal corporation, city, county, or city and county, or the state and used for agricultural laborer housing for at least 30 years, as specified. The bill would exempt the landowner and the subsequent nonprofit organization or municipal corporation titleholder of that land from the payment of any deferred taxes and cancellation fees.*

(2) The California Environmental Quality Act (~~CEQA~~) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposed to carry out or approved that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. The act exempts from its requirements development projects for agricultural employee housing that meet prescribed conditions, including ~~consistency with the applicable zoning designation use for a 15-year period~~ and that the project consists of not more than 45 or 20 units ~~on, respectively, in urbanized or 20 units on nonurbanized land areas~~ or housing for 45 or 20 or fewer workers ~~on urbanized or 20 or fewer workers on nonurbanized land~~, as specified.

This bill would ~~delete the requirement of consistency with the applicable zoning designation and apply that exemption to housing if the project consists of not more than 100 units on in urbanized areas or 20 or 50 units on in nonurbanized land areas~~ or housing for 100, 20 or 50, or fewer workers, ~~respectively,~~ as specified. The bill would ~~revise other conditions of that exemption relating to consistency with the jurisdiction's general plan, onsite services to accommodate~~



~~the project, and the effect of the project on historic structures. The bill would delete provisions making the act applicable if the lead agency determines that the project would have a significant effect on the environment for specified reasons apply the exemption to facilities converted for residential housing and would extend the required period of use to 30 years. The bill would impose a state-mandated local program by imposing new duties on local agencies with regard to determining the applicability of, and filing and posting notice of, the exemption.~~

~~The bill would provide that no city, county, or other local governmental agency shall disapprove a project that otherwise qualifies for that exemption solely on the basis that it is not consistent with the zoning designation specified in the agency's zoning ordinance.~~

(3) 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 51282.4 is added to the~~
2 ~~SECTION 1. Section 51238 of the Government Code~~
3 ~~is amended to read:~~
4 ~~51238. (a) (1) Notwithstanding any determination~~
5 ~~of compatible uses by the county or city pursuant to this~~
6 ~~article, unless the board or council after notice and~~
7 ~~hearing makes a finding to the contrary, the erection,~~
8 ~~construction, alteration, or maintenance of gas, electric,~~
9 ~~water, communication, or agricultural laborer housing~~
10 ~~facilities are hereby determined to be compatible uses~~
11 ~~within any agricultural preserve. No~~
12 ~~(2) The agricultural laborer housing facilities~~
13 ~~authorized pursuant to paragraph (1) are determined to~~
14 ~~be compatible uses within any agricultural preserve~~



1 when provided by either the owner of land or a city,
2 county, city and county, the state, or a nonprofit
3 organization under contract or grant by the owner of land
4 to construct, alter, maintain, or operate the agricultural
5 laborer housing facilities.

6 (3) No land occupied by gas, electric, water,
7 communication, or agricultural laborer housing facilities
8 shall be excluded from an agricultural preserve by reason
9 of that use.

10 The

11 (b) The board of supervisors may impose conditions
12 on lands or land uses to be placed within preserves to
13 permit and encourage compatible uses in conformity
14 with Section 51238.1, particularly public outdoor
15 recreational uses.

16 SEC. 2. Section 51238.5 of the Government Code is
17 amended to read:

18 51238.5. (a) If an owner of land agrees to permit the
19 use of his or her land for free public recreation, the board
20 or council may agree to indemnify—~~such~~ the owner against
21 all claims arising from ~~such~~ that public use. The owner's
22 agreement that ~~his~~ the land be used for free, public
23 recreation shall not be construed as an implied dedication
24 to ~~such~~ that use.

25 (b) If an owner of land agrees to permit the use of his
26 or her land for agricultural laborer housing facilities
27 authorized pursuant to Section 51238, the city, county,
28 city and county, the state, or the nonprofit organization
29 may indemnify the owner against all claims arising from
30 that use.

31 SEC. 3. Section 51282.4 is added to the Government
32 Code, to read:

33 51282.4. (a) Notwithstanding Section 66474.4, and
34 subject to all of the conditions set forth in subdivision (b),
35 an owner of property under contract may set aside a
36 portion of the property not exceeding five acres for the
37 construction or rehabilitation and exclusive use of the
38 property as agricultural laborer housing, and during the
39 time the property is used exclusively for agricultural
40 laborer housing, the owner may convey the title of that



1 *portion of the property to a nonprofit organization, city,*
2 *county, or city and county, or the state.*

3 *(b) A set aside and conveyance of title under*
4 *subdivision (a) shall be subject to all of the following*
5 *conditions:*

6 *(1) The portion of property set aside shall remain*
7 *under contract.*

8 *(2) The nonprofit organization, or city, county, city*
9 *and county, or state agency that develops the property as*
10 *agricultural laborer housing shall record a deed*
11 *restriction limiting the use of the property as agricultural*
12 *laborer housing for a period of at least 30 years.*

13 *(3) At the time the property ceases to be used as*
14 *agricultural laborer housing, the portion of the property*
15 *for which title was conveyed shall be merged with the*
16 *parcel from which it was set aside, and title to the*
17 *property shall revert to the owner of the parcel from*
18 *which it was set aside.*

19 *(4) The agricultural laborer housing project shall be*
20 *consistent with the jurisdiction's general plan and zoning*
21 *ordinance.*

22 *(5) The property proposed to be set aside shall be*
23 *within the sphere of influence of an incorporated city or*
24 *city and county or adjacent to existing urban*
25 *development and services in an unincorporated area.*

26 *(c) Nothing in this section limits any agricultural*
27 *laborer housing from being determined a compatible use*
28 *pursuant to Section 51238.*

29 *SEC. 4. Section 65580 of the Government Code is*
30 *amended to read:*

31 *65580. The Legislature finds and declares as follows:*

32 *(a) The availability of housing is of vital statewide*
33 *importance, and the early attainment of decent housing*
34 *and a suitable living environment for every—California*
35 *family Californian, including farmworkers, is a priority of*
36 *the highest order.*

37 *(b) The early attainment of this goal requires the*
38 *cooperative participation of government and the private*
39 *sector in an effort to expand housing opportunities and*



1 accommodate the housing needs of Californians of all
2 economic levels.

3 (c) The provision of housing affordable to low- and
4 moderate-income households requires the cooperation of
5 all levels of government.

6 (d) Local and state governments have a responsibility
7 to use the powers vested in them to facilitate the
8 improvement and development of housing to make
9 adequate provision for the housing needs of all economic
10 segments of the community.

11 (e) The Legislature recognizes that in carrying out
12 this responsibility, each local government also has the
13 responsibility to consider economic, environmental, and
14 fiscal factors and community goals set forth in the general
15 plan and to cooperate with other local governments and
16 the state in addressing regional housing needs.

17 *SEC. 5. Section 21080.10 of the Public Resources Code*
18 *is amended to read:*

19 21080.10. This division does not apply to any of the
20 following:

21 (a) An extension of time, granted pursuant to Section
22 65361 of the Government Code, for the preparation and
23 adoption of one or more elements of a city or county
24 general plan.

25 (b) Actions taken by the Department of Housing and
26 Community Development or the California Housing
27 Finance Agency to provide financial assistance or
28 insurance for the development and construction of
29 residential housing for persons and families of low or
30 moderate income, as defined in Section 50093 of the
31 Health and Safety Code, if the project which is the subject
32 of the application for financial assistance or insurance will
33 be reviewed pursuant to this division by another public
34 agency.

35 (c) (1) Any development project ~~which~~ *that* consists
36 of the construction, conversion, or use of residential
37 housing, *or that consists of the conversion of any facility*
38 *for use as residential housing, if that housing is* for
39 agricultural employees, as defined in paragraph (2), that
40 is affordable to lower-income households, as defined in



1 Section 50079.5 of the Health and Safety Code, if there is
2 no public financial assistance for the development project
3 and the developer of the development project provides
4 sufficient legal commitments to the appropriate local
5 agency to ensure the continued availability and use of the
6 housing units for lower-income households for a period of
7 at least ~~15~~ 30 years, or any development project that
8 consists of the construction, conversion, or use of
9 residential housing for agricultural employees, as defined
10 in paragraph (2) that is affordable to low- and
11 moderate-income households, as defined in paragraph
12 (2) of subdivision (h) of Section 65589.5 of the
13 Government Code, if there is public financial assistance
14 for the development project and the developer of the
15 development project provides sufficient legal
16 commitments to the appropriate local agency to ensure
17 the continued availability and use of the housing units for
18 low- and moderate-income households for a period of at
19 least ~~15~~ 30 years, if either type of development project
20 meets all of the following requirements:

21 (A) (i) If the development project is proposed for an
22 urbanized area, it is located on a project site which is
23 adjacent, on at least two sides, to land that has been
24 developed, and consists of not more than ~~45~~ 100 units, or
25 is housing for a total of ~~45~~ 100 or fewer agricultural
26 employees if the housing consists of dormitories, barracks,
27 or other group living facilities-, *or*

28 (ii) If the development project is proposed for a
29 nonurbanized area, *it is located on a project site that is*
30 *adjacent, on at least one side, to land that has been*
31 *developed*, it is located on a project site zoned for general
32 agricultural use, and consists of not more than 20 units, or
33 is housing for a total of 20 or fewer agricultural workers
34 if the housing consists of dormitories, barracks, or other
35 group living facilities-, *or*

36 (iii) *If the development project is proposed for a*
37 *nonurbanized area, it is located on a project site that is*
38 *adjacent, on at least one side, to land that has been*
39 *developed, it is located on a project site zoned for general*
40 *residential use, and consists of not more than 50 units, or*



1 *is housing for a total of 50 or fewer agricultural workers*
2 *if the housing consists of dormitories, barracks, or other*
3 *group living facilities.*

4 (B) The development project is consistent with the
5 jurisdiction's general plan as it existed on the date that the
6 application was deemed complete.

7 (C) The development project is consistent with the
8 zoning designation, as specified in the zoning ordinance
9 as it existed on the date that the application was deemed
10 complete, unless the zoning is inconsistent with the
11 general plan because the local agency has not rezoned the
12 property to bring it into conformity with the general plan.

13 (D) The development project site is not more than
14 five acres in area, except that a project site located in an
15 area with a population density of at least 1,000 persons per
16 square mile shall not be more than two acres in area.

17 (E) The development project site can be adequately
18 served by utilities.

19 (F) The development project site has no value as a
20 wildlife habitat.

21 (G) The development project site is not included on
22 any list of facilities and sites compiled pursuant to Section
23 65962.5 of the Government Code.

24 (H) The development project will not involve the
25 demolition of, or any substantial adverse change, in any
26 structure that is listed, or is determined to be eligible for
27 listing, in the California Register of Historic Resources.

28 (2) As used in paragraph (1), "residential housing for
29 agricultural employees" means housing accommodations
30 for an agricultural employee, as defined in subdivision
31 (b) of Section 1140.4 of the Labor Code.

32 (3) As used paragraph (1), "urbanized area" means
33 either of the following:

34 (A) An area with a population density of at least 1,000
35 persons per square mile.

36 (B) An area with a population density of less than 1,000
37 persons per square mile that is identified as an urban area
38 in a general plan adopted by a local government, and was
39 not designated, on the date that the application was



1 deemed complete, as an area reserved for future urban
2 growth.

3 (4) This division shall apply to any development
4 project described in this subdivision if a public agency
5 ~~which~~ *that* is carrying out or approving the development
6 project determines that there is a reasonable possibility
7 that the project, if completed, would have a significant
8 effect on the environment due to unusual circumstances,
9 or that the cumulative impact of successive projects of the
10 same type in the same area over time would be
11 significant.

12 ~~Government Code, to read:~~

13 ~~51282.4. Notwithstanding Section 51282.3, all of the~~
14 ~~following shall apply:~~

15 ~~(a) A landowner may at any time serve written notice~~
16 ~~on the county, city, or city and county of his or her desire~~
17 ~~to set aside a portion not exceeding five acres of land~~
18 ~~under contract, and to convey the title to that portion of~~
19 ~~land to a nonprofit organization or municipal~~
20 ~~corporation, for the purpose of constructing, or~~
21 ~~rehabilitating property for use as, and to use the property~~
22 ~~exclusively for, agricultural laborer housing.~~

23 ~~(b) If the title to that portion of land under contract is~~
24 ~~transferred to a nonprofit organization or municipal~~
25 ~~corporation that agrees to use the land for a purpose~~
26 ~~specified in subdivision (a), the landowner or the~~
27 ~~nonprofit entity shall not be liable for the amount of~~
28 ~~deferred taxes and cancellation fees that would otherwise~~
29 ~~have been imposed pursuant to Sections 51283 and~~
30 ~~51283.1.~~

31 ~~(c) The county, city, or city and county shall issue a~~
32 ~~certificate of cancellation of contract for the portion of~~
33 ~~the land under contract that is transferred and no lien~~
34 ~~shall be created in favor of the county, city, or city and~~
35 ~~county in the amount of the fees and taxes that would~~
36 ~~otherwise have been imposed pursuant to Sections 51283~~
37 ~~and 51283.1.~~

38 ~~(d) As used in this section, "nonprofit organization"~~
39 ~~means any organization qualifying under Section~~
40 ~~501(c)(3) of the Internal Revenue Code.~~



1 ~~SEC. 2. Section 65863.13 is added to the Government~~
2 ~~Code, to read:~~

3 ~~65863.13. A city, county, or other local governmental~~
4 ~~agency shall not disapprove a project that otherwise~~
5 ~~qualifies for the exemption in subdivision (e) of Section~~
6 ~~21080.10 of the Public Resources Code solely on the basis~~
7 ~~that the project is not consistent with the zoning~~
8 ~~designation, as specified in the zoning ordinance of the~~
9 ~~local agency.~~

10 ~~SEC. 3. Section 21080.10 of the Public Resources Code~~
11 ~~is amended to read:~~

12 ~~21080.10. This division does not apply to any of the~~
13 ~~following:~~

14 ~~(a) An extension of time, granted pursuant to Section~~
15 ~~65361 of the Government Code, for the preparation and~~
16 ~~adoption of one or more elements of a city or county~~
17 ~~general plan.~~

18 ~~(b) Actions taken by the Department of Housing and~~
19 ~~Community Development or the California Housing~~
20 ~~Finance Agency to provide financial assistance or~~
21 ~~insurance for the development and construction of~~
22 ~~residential housing for persons and families of low or~~
23 ~~moderate income, as defined in Section 50093 of the~~
24 ~~Health and Safety Code, if the project which is the subject~~
25 ~~of the application for financial assistance or insurance will~~
26 ~~be reviewed pursuant to this division by another public~~
27 ~~agency.~~

28 ~~(c) (1) Any development project which consists of~~
29 ~~the construction, conversion, or use of residential housing~~
30 ~~for agricultural employees, as defined in paragraph (2),~~
31 ~~that is affordable to lower income households, as defined~~
32 ~~in Section 50079.5 of the Health and Safety Code, if there~~
33 ~~is no public financial assistance for the development~~
34 ~~project and the developer of the development project~~
35 ~~provides sufficient legal commitments to the appropriate~~
36 ~~local agency to ensure the continued availability and use~~
37 ~~of the housing units for lower income households for a~~
38 ~~period of at least 15 years, or any development project~~
39 ~~that consists of the construction, conversion, or use of~~
40 ~~residential housing for agricultural employees, as defined~~



1 in paragraph (2) that is affordable to low- and
2 moderate-income households, as defined in paragraph
3 (2) of subdivision (h) of Section 65589.5 of the
4 Government Code, if there is public financial assistance
5 for the development project and the developer of the
6 development project provides sufficient legal
7 commitments to the appropriate local agency to ensure
8 the continued availability and use of the housing units for
9 low- and moderate-income households for a period of at
10 least 15 years, if either type of development project meets
11 all of the following requirements:

12 (A) (i) If the development project is proposed for an
13 urbanized area, it is located on a project site which is
14 adjacent, on at least two sides, to land that has been
15 developed, and consists of not more than 100 units, or is
16 housing for a total of 100 or fewer agricultural employees
17 if the housing consists of dormitories, barracks, or other
18 group living facilities.

19 (ii) If the development project is proposed for a
20 nonurbanized area, it is located on a project site zoned for
21 general agricultural use, and consists of not more than 50
22 units, or is housing for a total of 50 or fewer agricultural
23 workers if the housing consists of dormitories, barracks, or
24 other group living facilities.

25 (B) The development project is consistent with the
26 jurisdiction's general plan as it existed on the date that the
27 application was deemed complete, except that this
28 subdivision shall not apply where adequate sites to meet
29 the jurisdiction's need for farmworker housing, as
30 determined by the analysis required by paragraph (6) of
31 subdivision (a) of Section 65583 of the Government Code,
32 have not been identified in the jurisdiction's housing
33 element.

34 (C) The development project site is not more than five
35 acres in area, except that a project site located in an area
36 with a population density of at least 1,000 persons per
37 square mile shall not be more than two acres in area.

38 (D) The development project site can be adequately
39 served by utilities or other onsite services to
40 accommodate the project.



1 ~~(E) The development project site has no significant~~
2 ~~value as wildlife habitat.~~

3 ~~(F) The development project site is not included on~~
4 ~~any list of facilities and sites compiled pursuant to Section~~
5 ~~65962.5 of the Government Code.~~

6 ~~(G) The development project will not involve the~~
7 ~~demolition of, or any substantial adverse change, in any~~
8 ~~structure that is listed in the California Register of~~
9 ~~Historic Resources.~~

10 ~~(2) As used in paragraph (1), “residential housing for~~
11 ~~agricultural employees” means housing accommodations~~
12 ~~for an agricultural employee, as defined in subdivision~~
13 ~~(b) of Section 1140.4 of the Labor Code.~~

14 ~~(3) As used paragraph (1), “urbanized area” means~~
15 ~~either of the following:~~

16 ~~(A) An area with a population density of at least 1,000~~
17 ~~persons per square mile.~~

18 ~~(B) An area with a population density of less than 1,000~~
19 ~~persons per square mile that is identified as an urban area~~
20 ~~in a general plan adopted by a local government, and was~~
21 ~~not designated, on the date that the application was~~
22 ~~deemed complete, as an area reserved for future urban~~
23 ~~growth.~~

24 ~~SEC. 4.—~~

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

