

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JULY 12, 1999

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 amend Sections ~~51238, 51238.5~~, 65580, 65583, and 65950 of, ~~and to add Section 51282.4 to~~, the Government 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 conveyed to a nonprofit organization, city, county, or city and county, or the state and used for agricultural laborer housing for at least 30 years, as specified.~~

~~(2)~~

~~(1) Existing law sets forth matters to be included in the housing element of a local general plan.~~

~~This bill would require the element to identify adequate sites for farmworker housing, as specified, thereby creating a state-mandated local program by imposing new duties on local agencies.~~

~~(3)~~

~~(2) Existing law prescribes criteria for the disapproval of housing development projects by local agencies.~~

~~This bill would prescribe additional criteria relative to the time period for approving or disapproving housing for agricultural employees, thereby creating a state-mandated local program by imposing new duties on local agencies. These provisions would become operative only if SB 948 is not enacted in the first year of the 1999–2000 Regular Session.~~

~~(4)~~

~~(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 51238 of the Government Code~~
2 ~~is amended to read:~~

3 ~~51238. (a) (1) Notwithstanding any determination~~
4 ~~of compatible uses by the county or city pursuant to this~~
5 ~~article, unless the board or council after notice and~~
6 ~~hearing makes a finding to the contrary, the erection,~~
7 ~~construction, alteration, or maintenance of gas, electric,~~
8 ~~water, communication, or agricultural laborer housing~~
9 ~~facilities are hereby determined to be compatible uses~~
10 ~~within any agricultural preserve.~~

11 ~~(2) The agricultural laborer housing facilities~~
12 ~~authorized pursuant to paragraph (1) are determined to~~
13 ~~be compatible uses within any agricultural preserve~~
14 ~~when provided by either the owner of land or a city,~~
15 ~~county, city and county, the state, or a nonprofit~~
16 ~~organization under contract or grant by the owner of land~~
17 ~~to construct, alter, maintain, or operate the agricultural~~
18 ~~laborer housing facilities.~~

19 ~~(3) No land occupied by gas, electric, water,~~
20 ~~communication, or agricultural laborer housing facilities~~
21 ~~shall be excluded from an agricultural preserve by reason~~
22 ~~of that use.~~

23 ~~(b) The board of supervisors may impose conditions~~
24 ~~on lands or land uses to be placed within preserves to~~
25 ~~permit and encourage compatible uses in conformity~~
26 ~~with Section 51238.1, particularly public outdoor~~
27 ~~recreational uses.~~

28 ~~SEC. 2. Section 51238.5 of the Government Code is~~
29 ~~amended to read:~~

30 ~~51238.5. (a) If an owner of land agrees to permit the~~
31 ~~use of his or her land for free public recreation, the board~~



1 or council may agree to indemnify the owner against all
2 claims arising from that public use. The owner's
3 agreement that the land be used for free, public
4 recreation shall not be construed as an implied dedication
5 to that use.

6 (b) If an owner of land agrees to permit the use of his
7 or her land for agricultural laborer housing facilities
8 authorized pursuant to Section 51238, the city, county,
9 city and county, the state, or the nonprofit organization
10 may indemnify the owner against all claims arising from
11 that use.

12 SEC. 3. Section 51282.4 is added to the Government
13 Code, to read:

14 51282.4. (a) Notwithstanding Section 66474.4, and
15 subject to all of the conditions set forth in subdivision (b),
16 an owner of property under contract may set aside a
17 portion of the property not exceeding five acres for the
18 construction or rehabilitation and exclusive use of the
19 property as agricultural laborer housing, and during the
20 time the property is used exclusively for agricultural
21 laborer housing, the owner may convey the title of that
22 portion of the property to a nonprofit organization, city,
23 county, or city and county, or the state.

24 (b) A set aside and conveyance of title under
25 subdivision (a) shall be subject to all of the following
26 conditions:

27 (1) The portion of property set aside shall remain
28 under contract.

29 (2) The nonprofit organization, or city, county, city
30 and county, or state agency that develops the property as
31 agricultural laborer housing shall record a deed
32 restriction limiting the use of the property as agricultural
33 laborer housing for a period of at least 30 years.

34 (3) At the time the property ceases to be used as
35 agricultural laborer housing, the portion of the property
36 for which title was conveyed shall be merged with the
37 parcel from which it was set aside, and title to the
38 property shall revert to the owner of the parcel from
39 which it was set aside.



1 ~~(4) The agricultural laborer housing project shall be~~
2 ~~consistent with the jurisdiction's general plan and zoning~~
3 ~~ordinance.~~

4 ~~(5) The property proposed to be set aside shall be~~
5 ~~within the sphere of influence of an incorporated city or~~
6 ~~city and county or adjacent to existing urban~~
7 ~~development and services in an unincorporated area.~~

8 ~~(e) Nothing in this section limits any agricultural~~
9 ~~laborer housing from being determined a compatible use~~
10 ~~pursuant to Section 51238.~~

11 ~~SEC. 4.—~~

12 *SECTION 1.* Section 65580 of the Government Code
13 is amended to read:

14 65580. The Legislature finds and declares as follows:

15 (a) The availability of housing is of vital statewide
16 importance, and the early attainment of decent housing
17 and a suitable living environment for every Californian,
18 including farmworkers, is a priority of the highest order.

19 (b) The early attainment of this goal requires the
20 cooperative participation of government and the private
21 sector in an effort to expand housing opportunities and
22 accommodate the housing needs of Californians of all
23 economic levels.

24 (c) The provision of housing affordable to low- and
25 moderate-income households requires the cooperation of
26 all levels of government.

27 (d) Local and state governments have a responsibility
28 to use the powers vested in them to facilitate the
29 improvement and development of housing to make
30 adequate provision for the housing needs of all economic
31 segments of the community.

32 (e) The Legislature recognizes that in carrying out
33 this responsibility, each local government also has the
34 responsibility to consider economic, environmental, and
35 fiscal factors and community goals set forth in the general
36 plan and to cooperate with other local governments and
37 the state in addressing regional housing needs.

38 ~~SEC. 5.—~~

39 *SEC. 2.* Section 65583 of the Government Code is
40 amended to read:



1 65583. The housing element shall consist of an
2 identification and analysis of existing and projected
3 housing needs and a statement of goals, policies,
4 quantified objectives, financial resources, and scheduled
5 programs for the preservation, improvement, and
6 development of housing. The housing element shall
7 identify adequate sites for housing, including rental
8 housing, factory-built housing, and mobilehomes, and
9 shall make adequate provision for the existing and
10 projected needs of all economic segments of the
11 community. The element shall contain all of the
12 following:

13 (a) An assessment of housing needs and an inventory
14 of resources and constraints relevant to the meeting of
15 these needs. The assessment and inventory shall include
16 the following:

17 (1) An analysis of population and employment trends
18 and documentation of projections and a quantification of
19 the locality's existing and projected housing needs for all
20 income levels. These existing and projected needs shall
21 include the locality's share of the regional housing need
22 in accordance with Section 65584.

23 (2) An analysis and documentation of household
24 characteristics, including level of payment compared to
25 ability to pay, housing characteristics, including
26 overcrowding, and housing stock condition.

27 (3) An inventory of land suitable for residential
28 development, including vacant sites and sites having
29 potential for redevelopment, and an analysis of the
30 relationship of zoning and public facilities and services to
31 these sites.

32 (4) An analysis of potential and actual governmental
33 constraints upon the maintenance, improvement, or
34 development of housing for all income levels, including
35 land use controls, building codes and their enforcement,
36 site improvements, fees and other exactions required of
37 developers, and local processing and permit procedures.
38 The analysis shall also demonstrate local efforts to remove
39 governmental constraints that hinder the locality from



1 meeting its share of the regional housing need in
2 accordance with Section 65584.

3 (5) An analysis of potential and actual
4 nongovernmental constraints upon the maintenance,
5 improvement, or development of housing for all income
6 levels, including the availability of financing, the price of
7 land, and the cost of construction.

8 (6) An analysis of any special housing needs, such as
9 those of the handicapped, elderly, large families,
10 farmworkers, families with female heads of households,
11 and families and persons in need of emergency shelter.

12 (7) An analysis of opportunities for energy
13 conservation with respect to residential development.

14 (8) An analysis of existing assisted housing
15 developments that are eligible to change from
16 low-income housing uses during the next 10 years due to
17 termination of subsidy contracts, mortgage prepayment,
18 or expiration of restrictions on use. “Assisted housing
19 developments,” for the purpose of this section, shall mean
20 multifamily rental housing that receives governmental
21 assistance under federal programs listed in subdivision
22 (a) of Section 65863.10, state and local multifamily
23 revenue bond programs, local redevelopment programs,
24 the federal Community Development Block Grant
25 Program, or local in-lieu fees. “Assisted housing
26 developments” shall also include multifamily rental units
27 that were developed pursuant to a local inclusionary
28 housing program or used to qualify for a density bonus
29 pursuant to Section 65916.

30 (A) The analysis shall include a listing of each
31 development by project name and address, the type of
32 governmental assistance received, the earliest possible
33 date of change from low-income use and the total number
34 of elderly and nonelderly units that could be lost from the
35 locality’s low-income housing stock in each year during
36 the 10-year period. For purposes of state and federally
37 funded projects, the analysis required by this
38 subparagraph need only contain information available on
39 a statewide basis.



1 (B) The analysis shall estimate the total cost of
2 producing new rental housing that is comparable in size
3 and rent levels, to replace the units that could change
4 from low-income use, and an estimated cost of preserving
5 the assisted housing developments. This cost analysis for
6 replacement housing may be done aggregately for each
7 five-year period and does not have to contain a project by
8 project cost estimate.

9 (C) The analysis shall identify public and private
10 nonprofit corporations known to the local government
11 which have legal and managerial capacity to acquire and
12 manage these housing developments.

13 (D) The analysis shall identify and consider the use of
14 all federal, state, and local financing and subsidy
15 programs which can be used to preserve, for lower
16 income households, the assisted housing developments,
17 identified in this paragraph, including, but not limited to,
18 federal Community Development Block Grant Program
19 funds, tax increment funds received by a redevelopment
20 agency of the community, and administrative fees
21 received by a housing authority operating within the
22 community. In considering the use of these financing and
23 subsidy programs, the analysis shall identify the amounts
24 of funds under each available program which have not
25 been legally obligated for other purposes and which could
26 be available for use in preserving assisted housing
27 developments.

28 (b) (1) A statement of the community's goals,
29 quantified objectives, and policies relative to the
30 maintenance, preservation, improvement, and
31 development of housing.

32 (2) It is recognized that the total housing needs
33 identified pursuant to subdivision (a) may exceed
34 available resources and the community's ability to satisfy
35 this need within the content of the general plan
36 requirements outlined in Article 5 (commencing with
37 Section 65300). Under these circumstances, the
38 quantified objectives need not be identical to the total
39 housing needs. The quantified objectives shall establish
40 the maximum number of housing units by income



1 category that can be constructed, rehabilitated, and
2 conserved over a five-year time period.

3 (c) A program which sets forth a five-year schedule of
4 actions the local government is undertaking or intends to
5 undertake to implement the policies and achieve the
6 goals and objectives of the housing element through the
7 administration of land use and development controls,
8 provision of regulatory concessions and incentives, and
9 the utilization of appropriate federal and state financing
10 and subsidy programs when available and the utilization
11 of moneys in a Low and Moderate Income Housing Fund
12 of an agency if the locality has established a
13 redevelopment project area pursuant to the Community
14 Redevelopment Law (Division 24 (commencing with
15 Section 33000) of the Health and Safety Code). In order
16 to make adequate provision for the housing needs of all
17 economic segments of the community, the program shall
18 do all of the following:

19 (1) (A) Identify adequate sites which will be made
20 available through appropriate zoning and development
21 standards and with ~~public services and facilities~~ *services*
22 *and facilities, including sewage collection and treatment*
23 *and domestic water supply,* needed to facilitate and
24 encourage the development of a variety of types of
25 housing for all income levels, including multifamily rental
26 housing, factory-built housing, mobilehomes, emergency
27 shelters, and transitional housing in order to meet the
28 community's housing goals as identified in subdivision
29 (b), *and housing for agricultural employees, as defined*
30 *in subdivision (b) of Section 1140.4 of the Labor Code to*
31 *meet the community's need for farmworker housing as*
32 *determined by the analysis required by paragraph (6) of*
33 *subdivision (a).* Where the inventory of sites, pursuant to
34 paragraph (3) of subdivision (a), does not identify
35 adequate sites to accommodate the need for groups of all
36 household income levels pursuant to Section 65584, the
37 program shall provide for sufficient sites with zoning that
38 permits owner-occupied and rental multifamily
39 residential use by right, including density and
40 development standards that could accommodate and



1 facilitate the feasibility of housing for very low and
2 low-income households. ~~For~~ *Where the inventory of sites*
3 *pursuant to paragraph (3) of subdivision (a) does not*
4 *identify adequate sites to accommodate the need for*
5 *farmworker housing, the program shall provide for*
6 *sufficient sites to meet the need with zoning that permits*
7 *farmworker housing or multifamily residential use by*
8 *right, including density and development standards that*
9 *could accommodate and facilitate the feasibility of the*
10 *development of farmworker housing for low and very low*
11 *income households.*

12 (B) For purposes of this paragraph, the phrase “use by
13 right” shall mean the use does not require a conditional
14 use permit, except when the proposed project is a
15 mixed-use project involving both commercial *or*
16 *industrial uses* and residential uses. Use by right for all
17 rental multifamily residential housing shall be provided
18 in accordance with subdivision (f) of Section 65589.5.

19 ~~(B) Identify adequate sites with appropriate zoning~~
20 ~~and development standards and with public services and~~
21 ~~facilities, including sewage collection and treatment and~~
22 ~~domestic water supply, needed to facilitate and~~
23 ~~encourage the development of housing for agricultural~~
24 ~~employees, as defined in subdivision (b) of Section 1140.4~~
25 ~~of the Labor Code, in order to meet the jurisdiction’s~~
26 ~~need for farmworker housing as determined by the~~
27 ~~analysis required by paragraph (6) of subdivision (a).~~
28 ~~Where the inventory of sites pursuant to paragraph (3)~~
29 ~~of subdivision (a) does not identify adequate sites to~~
30 ~~accommodate the need for farmworker housing, the~~
31 ~~program shall provide for sufficient sites to meet the need~~
32 ~~for farmworker housing with zoning that permits~~
33 ~~farmworker owner-occupied and farmworker rental~~
34 ~~residential or other residential use by right, including~~
35 ~~density and development standards that facilitate and~~
36 ~~make feasible the development of farmworker housing.~~
37 ~~For purposes of this subparagraph, “use by right” means~~
38 ~~that the use does not require a conditional use permit,~~
39 ~~except when the proposed project is a mixed-use project~~
40 ~~involving commercial or industrial uses and farmworker~~



1 ~~housing. For purposes of this subparagraph, “farmworker~~
2 ~~housing” may include housing with support services,~~
3 ~~including, but not limited to, day care, job training, health~~
4 ~~services, youth programs, and adult education for the use~~
5 ~~of residents of the proposed project. The requirements of~~
6 ~~this subparagraph shall apply commencing in the next~~
7 ~~housing element planning period following the~~
8 ~~enactment of this subparagraph.~~

9 *For purposes of this paragraph, “farmworker housing”*
10 *may include housing with support services, including, but*
11 *not limited to, day care, job training, health services,*
12 *youth programs, and adult education for the use of*
13 *residents of the proposed project.*

14 *(C) The requirements of this subdivision regarding*
15 *identification of sites for farmworker housing shall apply*
16 *commencing with the next revision of housing elements*
17 *required by Section 65588 following the enactment of this*
18 *subparagraph.*

19 (2) Assist in the development of adequate housing to
20 meet the needs of low- and moderate-income households.

21 (3) Address and, where appropriate and legally
22 possible, remove governmental constraints to the
23 maintenance, improvement, and development of
24 housing.

25 (4) Conserve and improve the condition of the
26 existing affordable housing stock, which may include
27 addressing ways to mitigate the loss of dwelling units
28 demolished by public or private action.

29 (5) Promote housing opportunities for all persons
30 regardless of race, religion, sex, marital status, ancestry,
31 national origin, or color.

32 (6) (A) Preserve for lower income households the
33 assisted housing developments identified pursuant to
34 paragraph (8) of subdivision (a). The program for
35 preservation of the assisted housing developments shall
36 utilize, to the extent necessary, all available federal, state,
37 and local financing and subsidy programs identified in
38 paragraph (8) of subdivision (a), except where a
39 community has other urgent needs for which alternative
40 funding sources are not available. The program may



1 include strategies that involve local regulation and
2 technical assistance.

3 (B) The program shall include an identification of the
4 agencies and officials responsible for the implementation
5 of the various actions and the means by which consistency
6 will be achieved with other general plan elements and
7 community goals. The local government shall make a
8 diligent effort to achieve public participation of all
9 economic segments of the community in the
10 development of the housing element, and the program
11 shall describe this effort.

12 (d) The analysis and program for preserving assisted
13 housing developments required by the amendments to
14 this section enacted by the Statutes of 1989 shall be
15 adopted as an amendment to the housing element by July
16 1, 1992.

17 (e) Failure of the department to review and report its
18 findings pursuant to Section 65585 to the local
19 government between July 1, 1992, and the next periodic
20 review and revision required by Section 65588,
21 concerning the housing element amendment required
22 by the amendments to this section by the Statutes of 1989,
23 shall not be used as a basis for allocation or denial of any
24 housing assistance administered pursuant to Part 2
25 (commencing with Section 50400) of Division 31 of the
26 Health and Safety Code.

27 ~~SEC. 6.—~~

28 *SEC. 3.* Section 65950 of the Government Code is
29 amended to read:

30 65950. (a) Any public agency that is the lead agency
31 for a development project shall approve or disapprove
32 the project within whichever of the following periods is
33 applicable:

34 (1) (A) One hundred eighty days from the date of
35 certification by the lead agency of the environmental
36 impact report if an environmental impact report is
37 prepared pursuant to Section 21100 or 21151 of the Public
38 Resources Code for the development project.

39 (B) Ninety days from the date of certification by the
40 lead agency of the environmental impact report, if an



1 environmental impact report is prepared pursuant to
2 Section 21100 or 21151 of the Public Resources Code for
3 the development project and all of the following
4 conditions are met:

5 (i) The development project consists of the
6 development of housing for agricultural employees, as
7 defined in subdivision (b) of Section 1140.4 of the Labor
8 Code, and is affordable to very low or low-income
9 households, as defined pursuant to Sections 50105 and
10 50079.5 of the Health and Safety Code, respectively.

11 (ii) Prior to the application being deemed complete
12 for the development project pursuant to Article 3
13 (commencing with Section 65940), the lead agency
14 received written notice from the project applicant that
15 an application has been made or will be made for an
16 allocation or commitment of financing, tax credits, bond
17 authority, or other financial assistance from a public
18 agency or federal agency, and the notice specifies the
19 financial assistance that has been applied for or will be
20 applied for and the deadline for application for that
21 assistance, the requirement that one of the approvals of
22 the development project by the lead agency is a
23 prerequisite to the application for or approval of the
24 application for financial assistance, and that the financial
25 assistance is necessary for the project to be affordable as
26 required pursuant to clause (i).

27 (iii) There is confirmation that the application
28 pursuant to clause (i) has been made to the public agency
29 or federal agency prior to certification of the
30 environmental impact report.

31 (2) Sixty days from the date of adoption by the lead
32 agency of the negative declaration if a negative
33 declaration is completed and adopted for the
34 development project.

35 (3) Sixty days from the determination by the lead
36 agency that the project is exempt from the California
37 Environmental Quality Act (Division 13 (commencing
38 with Section 21000) of the Public Resources Code) if the
39 project is exempt from the California Environmental
40 Quality Act.



1 (b) Nothing in this section precludes a project
2 applicant and a public agency from mutually agreeing in
3 writing to an extension of any time limit provided by this
4 section pursuant to Section 65957.

5 (c) For purposes of this section, “lead agency” and
6 “negative declaration” shall have the same meaning as
7 those terms are defined in Sections 21067 and 21064 of the
8 Public Resources Code, respectively.

9 ~~SEC. 7.—~~

10 *SEC. 4.* Notwithstanding Section 17610 of the
11 Government Code, if the Commission on State Mandates
12 determines that this act contains costs mandated by the
13 state, reimbursement to local agencies and school
14 districts for those costs shall be made pursuant to Part 7
15 (commencing with Section ~~eee17500~~ 17500) of Division
16 4 of Title 2 of the Government Code. If the statewide cost
17 of the claim for reimbursement does not exceed one
18 million dollars (\$1,000,000), reimbursement shall be
19 made from the State Mandates Claims Fund.

20 ~~SEC. 8.—Section 6~~

21 *SEC. 5.* Section 3 of this act shall become operative
22 only if SB 948 is not enacted in the first year of the
23 1999–2000 Regular Session of the Legislature.

