

AMENDED IN SENATE AUGUST 17, 1999  
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**

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

February 26, 1999

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An act to amend Sections 51238, 51238.5, 65580, 65583, and 65950 of, and to add Section 51230.2 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, and would authorize indemnification of the owner against claims arising from that use. The bill would also authorize 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, city, county, housing authority, or state agency and used for agricultural laborer housing for at least 30 years, as specified.

(2) 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.

~~(2)~~

(3) 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.

~~(3)~~

(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, 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 51230.2 is added to the  
2 Government Code, to read:

3 51230.2. (a) Notwithstanding Section 51222 or  
4 66474.4 or any provision of this chapter, a landowner may  
5 subdivide land that is currently designated as an  
6 agricultural preserve if all of the following apply:

7 (1) The parcel to be sold or leased is not more than five  
8 acres.

9 (2) The parcel shall be sold or leased to a nonprofit  
10 organization, a city, a county, a housing authority, or a  
11 state agency.

12 (3) The parcel to be sold or leased shall be subject to  
13 a deed restriction that limits the use of the parcel to  
14 agricultural laborer housing facilities for not less than 30  
15 years. That deed restriction shall also require that parcel  
16 to be merged with the parcel from which it was  
17 subdivided when the parcel ceases to be used for  
18 agricultural laborer housing.

19 (4) There is a written agreement between the parties  
20 to the sale or lease and their successors to operate the  
21 parcel to be sold or leased under joint management of the  
22 parties, subject to the terms and conditions and for the  
23 duration of the contract executed pursuant to Article 3  
24 (commencing with Section 51240).

25 (5) The parcel to be sold or leased is: (A) within a city,  
26 (B) within a city's sphere of influence, or (C) in an  
27 unincorporated territory and contiguous to one or more  
28 parcels that are already developed with existing  
29 residential or commercial uses.

30 (6) The design, location, and operation of the  
31 agricultural laborer housing facilities shall minimize the



1 effects of the housing facilities on agricultural husbandry  
2 practices.

3 (b) A subdivision of land pursuant to this section shall  
4 not affect any contract executed pursuant to Article 3  
5 (commencing with Section 51240). The parcel to be sold  
6 or leased shall remain subject to that contract.

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

10 SEC. 2. Section 51238 of the Government Code is  
11 amended to read:

12 51238. (a) (1) Notwithstanding any determination  
13 of compatible uses by the county or city pursuant to this  
14 article, unless the board or council after notice and  
15 hearing makes a finding to the contrary, the erection,  
16 construction, alteration, or maintenance of gas, electric,  
17 water, communication, or agricultural laborer housing  
18 facilities are hereby determined to be compatible uses  
19 within any agricultural preserve. ~~No~~

20 (2) The agricultural laborer housing facilities  
21 authorized pursuant to paragraph (1) are determined to  
22 be compatible uses within any agricultural preserve  
23 when provided by either the owner of land or a city,  
24 county, city and county, the state, or a nonprofit  
25 organization under contract or grant by the owner of land  
26 to construct, alter, maintain, or operate the agricultural  
27 laborer housing facilities.

28 (3) No land occupied by gas, electric, water,  
29 communication, or agricultural laborer housing facilities  
30 shall be excluded from an agricultural preserve by reason  
31 of that use.

32 ~~The~~

33 (b) The board of supervisors may impose conditions  
34 on lands or land uses to be placed within preserves to  
35 permit and encourage compatible uses in conformity  
36 with Section 51238.1, particularly public outdoor  
37 recreational uses.

38 SEC. 3. Section 51238.5 of the Government Code is  
39 amended to read:



1 51238.5. (a) If an owner of land agrees to permit the  
2 use of his *or her* land for free public recreation, the board  
3 or council may agree to indemnify—~~such~~ *the* owner against  
4 all claims arising from ~~such~~ *that* public use. The owner's  
5 agreement that ~~his~~ *the* land be used for free, public  
6 recreation shall not be construed as an implied dedication  
7 to ~~such~~ *that* use.

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

14 SEC. 4. Section 65580 of the Government Code is  
15 amended to read:

16 65580. The Legislature finds and declares as follows:

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

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

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

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

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

40 ~~SEC. 2.—~~



1 SEC. 5. Section 65583 of the Government Code is  
2 amended to read:

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

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

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

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

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

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



1 governmental constraints that hinder the locality from  
2 meeting its share of the regional housing need in  
3 accordance with Section 65584.

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

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

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

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

31 (A) The analysis shall include a listing of each  
32 development by project name and address, the type of  
33 governmental assistance received, the earliest possible  
34 date of change from low-income use and the total number  
35 of elderly and nonelderly units that could be lost from the  
36 locality’s low-income housing stock in each year during  
37 the 10-year period. For purposes of state and federally  
38 funded projects, the analysis required by this  
39 subparagraph need only contain information available on  
40 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 services and facilities, including  
22 sewage collection and treatment and domestic water  
23 supply, needed to facilitate and encourage the  
24 development of a variety of types of housing for all  
25 income levels, including multifamily rental housing,  
26 factory-built housing, mobilehomes, emergency shelters,  
27 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 in  
30 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. 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 For purposes of this paragraph, “farmworker housing”  
20 may include housing with support services, including, but  
21 not limited to, day care, job training, health services,  
22 youth programs, and adult education for the use of  
23 residents of the proposed project.

24 (C) The requirements of this subdivision regarding  
25 identification of sites for farmworker housing shall apply  
26 commencing with the next revision of housing elements  
27 required by Section 65588 following the enactment of this  
28 subparagraph.

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

31 (3) Address and, where appropriate and legally  
32 possible, remove governmental constraints to the  
33 maintenance, improvement, and development of  
34 housing.

35 (4) Conserve and improve the condition of the  
36 existing affordable housing stock, which may include  
37 addressing ways to mitigate the loss of dwelling units  
38 demolished by public or private action.



1 (5) Promote housing opportunities for all persons  
2 regardless of race, religion, sex, marital status, ancestry,  
3 national origin, or color.

4 (6) (A) Preserve for lower income households the  
5 assisted housing developments identified pursuant to  
6 paragraph (8) of subdivision (a). The program for  
7 preservation of the assisted housing developments shall  
8 utilize, to the extent necessary, all available federal, state,  
9 and local financing and subsidy programs identified in  
10 paragraph (8) of subdivision (a), except where a  
11 community has other urgent needs for which alternative  
12 funding sources are not available. The program may  
13 include strategies that involve local regulation and  
14 technical assistance.

15 (B) The program shall include an identification of the  
16 agencies and officials responsible for the implementation  
17 of the various actions and the means by which consistency  
18 will be achieved with other general plan elements and  
19 community goals. The local government shall make a  
20 diligent effort to achieve public participation of all  
21 economic segments of the community in the  
22 development of the housing element, and the program  
23 shall describe this effort.

24 (d) The analysis and program for preserving assisted  
25 housing developments required by the amendments to  
26 this section enacted by the Statutes of 1989 shall be  
27 adopted as an amendment to the housing element by July  
28 1, 1992.

29 (e) Failure of the department to review and report its  
30 findings pursuant to Section 65585 to the local  
31 government between July 1, 1992, and the next periodic  
32 review and revision required by Section 65588,  
33 concerning the housing element amendment required  
34 by the amendments to this section by the Statutes of 1989,  
35 shall not be used as a basis for allocation or denial of any  
36 housing assistance administered pursuant to Part 2  
37 (commencing with Section 50400) of Division 31 of the  
38 Health and Safety Code.

39 ~~SEC. 3.—~~



1 SEC. 6. Section 65950 of the Government Code is  
2 amended to read:

3 65950. (a) Any public agency that is the lead agency  
4 for a development project shall approve or disapprove  
5 the project within whichever of the following periods is  
6 applicable:

7 (1) (A) One hundred eighty days from the date of  
8 certification by the lead agency of the environmental  
9 impact report if an environmental impact report is  
10 prepared pursuant to Section 21100 or 21151 of the Public  
11 Resources Code for the development project.

12 (B) Ninety days from the date of certification by the  
13 lead agency of the environmental impact report, if an  
14 environmental impact report is prepared pursuant to  
15 Section 21100 or 21151 of the Public Resources Code for  
16 the development project and all of the following  
17 conditions are met:

18 (i) The development project consists of the  
19 development of housing for agricultural employees, as  
20 defined in subdivision (b) of Section 1140.4 of the Labor  
21 Code, and is affordable to very low or low-income  
22 households, as defined pursuant to Sections 50105 and  
23 50079.5 of the Health and Safety Code, respectively.

24 (ii) Prior to the application being deemed complete  
25 for the development project pursuant to Article 3  
26 (commencing with Section 65940), the lead agency  
27 received written notice from the project applicant that  
28 an application has been made or will be made for an  
29 allocation or commitment of financing, tax credits, bond  
30 authority, or other financial assistance from a public  
31 agency or federal agency, and the notice specifies the  
32 financial assistance that has been applied for or will be  
33 applied for and the deadline for application for that  
34 assistance, the requirement that one of the approvals of  
35 the development project by the lead agency is a  
36 prerequisite to the application for or approval of the  
37 application for financial assistance, and that the financial  
38 assistance is necessary for the project to be affordable as  
39 required pursuant to clause (i).



1 (iii) There is confirmation that the application  
2 pursuant to clause (i) has been made to the public agency  
3 or federal agency prior to certification of the  
4 environmental impact report.

5 (2) Sixty days from the date of adoption by the lead  
6 agency of the negative declaration if a negative  
7 declaration is completed and adopted for the  
8 development project.

9 (3) Sixty days from the determination by the lead  
10 agency that the project is exempt from the California  
11 Environmental Quality Act (Division 13 (commencing  
12 with Section 21000) of the Public Resources Code) if the  
13 project is exempt from the California Environmental  
14 Quality Act.

15 (b) Nothing in this section precludes a project  
16 applicant and a public agency from mutually agreeing in  
17 writing to an extension of any time limit provided by this  
18 section pursuant to Section 65957.

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

23 ~~SEC. 4.—~~

24 *SEC. 7.* Notwithstanding Section 17610 of the  
25 Government Code, if the Commission on State Mandates  
26 determines that this act contains costs mandated by the  
27 state, reimbursement to local agencies and school  
28 districts for those costs shall be made pursuant to Part 7  
29 (commencing with Section 17500) of Division 4 of Title  
30 2 of the Government Code. If the statewide cost of the  
31 claim for reimbursement does not exceed one million  
32 dollars (\$1,000,000), reimbursement shall be made from  
33 the State Mandates Claims Fund.

34 ~~SEC. 5.—Section 3~~

35 *SEC. 8.* *Section 6* of this act shall become operative  
36 only if SB 948 is not enacted in the first year of the  
37 1999–2000 Regular Session of the Legislature.

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