

AMENDED IN SENATE AUGUST 25, 1999
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

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 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.

(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.

(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~~*no* more than
8 five 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. *A lessee that is a nonprofit organization shall*
12 *not sublease that parcel without the written consent of*
13 *the landowner.*

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

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

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



1 ~~(6) The design, location, and operation of the~~
2 ~~agricultural laborer housing facilities shall minimize the~~
3 ~~effects of the housing facilities on agricultural husbandry~~
4 ~~practices.~~

5 ~~(b)~~

6 *(b) The agricultural labor housing project shall be*
7 *designed to minimize impacts on adjacent landowners’*
8 *agricultural husbandry practices. The final plan for the*
9 *housing shall include an addendum that explains what*
10 *features will be included to meet this goal.*

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

15 ~~(e)~~

16 (d) Nothing in this section limits any agricultural
17 laborer housing facilities from being determined a
18 compatible use pursuant to Section 51238.

19 SEC. 2. Section 51238 of the Government Code is
20 amended to read:

21 51238. (a) (1) Notwithstanding any determination
22 of compatible uses by the county or city pursuant to this
23 article, unless the board or council after notice and
24 hearing makes a finding to the contrary, the erection,
25 construction, alteration, or maintenance of gas, electric,
26 water, communication, or agricultural laborer housing
27 facilities are hereby determined to be compatible uses
28 within any agricultural preserve.

29 (2) The agricultural laborer housing facilities
30 authorized pursuant to paragraph (1) are determined to
31 be compatible uses within any agricultural preserve
32 when provided by either the owner of land or a city,
33 ~~county, city and county, the state, or a nonprofit county,~~
34 *housing authority, state agency, or nonprofit* organization
35 under contract or grant by the owner of land to construct,
36 alter, maintain, or operate the agricultural laborer
37 housing facilities.

38 (3) No land occupied by gas, electric, water,
39 communication, or agricultural laborer housing facilities



1 shall be excluded from an agricultural preserve by reason
2 of that use.

3 (b) The board of supervisors may impose conditions
4 on lands or land uses to be placed within preserves to
5 permit and encourage compatible uses in conformity
6 with Section 51238.1, particularly public outdoor
7 recreational uses.

8 SEC. 3. Section 51238.5 of the Government Code is
9 amended to read:

10 51238.5. (a) If an owner of land agrees to permit the
11 use of his or her land for free public recreation, the board
12 or council may agree to indemnify the owner against all
13 claims arising from that public use. The owner's
14 agreement that the land be used for free, public
15 recreation shall not be construed as an implied dedication
16 to that use.

17 (b) If an owner of land agrees to permit the use of his
18 or her land for agricultural laborer housing facilities
19 authorized pursuant to Section 51238, the city, county,
20 ~~city and county, the state, or the nonprofit organization~~
21 *housing authority, state agency, or nonprofit organization*
22 may indemnify the owner against all claims arising from
23 that use.

24 SEC. 4. Section 65580 of the Government Code is
25 amended to read:

26 65580. The Legislature finds and declares as follows:

27 (a) The availability of housing is of vital statewide
28 importance, and the early attainment of decent housing
29 and a suitable living environment for every Californian,
30 including farmworkers, is a priority of the highest order.

31 (b) The early attainment of this goal requires the
32 cooperative participation of government and the private
33 sector in an effort to expand housing opportunities and
34 accommodate the housing needs of Californians of all
35 economic levels.

36 (c) The provision of housing affordable to low- and
37 moderate-income households requires the cooperation of
38 all levels of government.

39 (d) Local and state governments have a responsibility
40 to use the powers vested in them to facilitate the



1 improvement and development of housing to make
2 adequate provision for the housing needs of all economic
3 segments of the community.

4 (e) The Legislature recognizes that in carrying out
5 this responsibility, each local government also has the
6 responsibility to consider economic, environmental, and
7 fiscal factors and community goals set forth in the general
8 plan and to cooperate with other local governments and
9 the state in addressing regional housing needs.

10 SEC. 5. Section 65583 of the Government Code is
11 amended to read:

12 65583. The housing element shall consist of an
13 identification and analysis of existing and projected
14 housing needs and a statement of goals, policies,
15 quantified objectives, financial resources, and scheduled
16 programs for the preservation, improvement, and
17 development of housing. The housing element shall
18 identify adequate sites for housing, including rental
19 housing, factory-built housing, and mobilehomes, and
20 shall make adequate provision for the existing and
21 projected needs of all economic segments of the
22 community. The element shall contain all of the
23 following:

24 (a) An assessment of housing needs and an inventory
25 of resources and constraints relevant to the meeting of
26 these needs. The assessment and inventory shall include
27 the following:

28 (1) An analysis of population and employment trends
29 and documentation of projections and a quantification of
30 the locality's existing and projected housing needs for all
31 income levels. These existing and projected needs shall
32 include the locality's share of the regional housing need
33 in accordance with Section 65584.

34 (2) An analysis and documentation of household
35 characteristics, including level of payment compared to
36 ability to pay, housing characteristics, including
37 overcrowding, and housing stock condition.

38 (3) An inventory of land suitable for residential
39 development, including vacant sites and sites having
40 potential for redevelopment, and an analysis of the



1 relationship of zoning and public facilities and services to
2 these sites.

3 (4) An analysis of potential and actual governmental
4 constraints upon the maintenance, improvement, or
5 development of housing for all income levels, including
6 land use controls, building codes and their enforcement,
7 site improvements, fees and other exactions required of
8 developers, and local processing and permit procedures.
9 The analysis shall also demonstrate local efforts to remove
10 governmental constraints that hinder the locality from
11 meeting its share of the regional housing need in
12 accordance with Section 65584.

13 (5) An analysis of potential and actual
14 nongovernmental constraints upon the maintenance,
15 improvement, or development of housing for all income
16 levels, including the availability of financing, the price of
17 land, and the cost of construction.

18 (6) An analysis of any special housing needs, such as
19 those of the handicapped, elderly, large families,
20 farmworkers, families with female heads of households,
21 and families and persons in need of emergency shelter.

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

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



1 (A) The analysis shall include a listing of each
2 development by project name and address, the type of
3 governmental assistance received, the earliest possible
4 date of change from low-income use and the total number
5 of elderly and nonelderly units that could be lost from the
6 locality's low-income housing stock in each year during
7 the 10-year period. For purposes of state and federally
8 funded projects, the analysis required by this
9 subparagraph need only contain information available on
10 a statewide basis.

11 (B) The analysis shall estimate the total cost of
12 producing new rental housing that is comparable in size
13 and rent levels, to replace the units that could change
14 from low-income use, and an estimated cost of preserving
15 the assisted housing developments. This cost analysis for
16 replacement housing may be done aggregately for each
17 five-year period and does not have to contain a project by
18 project cost estimate.

19 (C) The analysis shall identify public and private
20 nonprofit corporations known to the local government
21 which have legal and managerial capacity to acquire and
22 manage these housing developments.

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

38 (b) (1) A statement of the community's goals,
39 quantified objectives, and policies relative to the



1 maintenance, preservation, improvement, and
2 development of housing.

3 (2) It is recognized that the total housing needs
4 identified pursuant to subdivision (a) may exceed
5 available resources and the community's ability to satisfy
6 this need within the content of the general plan
7 requirements outlined in Article 5 (commencing with
8 Section 65300). Under these circumstances, the
9 quantified objectives need not be identical to the total
10 housing needs. The quantified objectives shall establish
11 the maximum number of housing units by income
12 category that can be constructed, rehabilitated, and
13 conserved over a five-year time period.

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

30 (1) (A) Identify adequate sites which will be made
31 available through appropriate zoning and development
32 standards and with services and facilities, including
33 sewage collection and treatment ~~and domestic water~~
34 ~~supply~~, *domestic water supply, and septic tanks and*
35 *wells*, needed to facilitate and encourage the
36 development of a variety of types of housing for all
37 income levels, including multifamily rental housing,
38 factory-built housing, mobilehomes, *housing for*
39 *agricultural employees*, emergency shelters, and
40 transitional housing in order to meet the community's



1 housing goals as identified in subdivision (b), ~~and housing~~
2 ~~for agricultural employees, as defined in subdivision (b)~~
3 ~~of Section 1140.4 of the Labor Code to meet the~~
4 ~~community's need for farmworker housing as~~
5 ~~determined by the analysis required by paragraph (6) of~~
6 ~~subdivision (a) (b).~~ Where the inventory of sites,
7 pursuant to paragraph (3) of subdivision (a), does not
8 identify adequate sites to accommodate the need for
9 groups of all household income levels pursuant to Section
10 65584, the program shall provide for sufficient sites with
11 zoning that permits owner-occupied and rental
12 multifamily residential use by right, including density
13 and development standards that could accommodate and
14 facilitate the feasibility of housing for very low and
15 low-income households. Where the inventory of sites
16 pursuant to paragraph (3) of subdivision (a) does not
17 identify adequate sites to accommodate the need for
18 farmworker housing, the program shall provide for
19 sufficient sites to meet the need with zoning that permits
20 farmworker housing ~~or multifamily residential~~ use by
21 right, including density and development standards that
22 could accommodate and facilitate the feasibility of the
23 development of farmworker housing for low and very low
24 income households.

25 (B) For purposes of this paragraph, the phrase “use by
26 right” shall mean the use does not require a conditional
27 use permit, except when the proposed project is a
28 mixed-use project involving both commercial or
29 industrial uses and residential uses. Use by right for all
30 rental multifamily residential housing shall be provided
31 in accordance with subdivision (f) of Section 65589.5.

32 ~~For purposes of this paragraph, “farmworker housing”~~
33 ~~may include housing with support services, including, but~~
34 ~~not limited to, day care, job training, health services,~~
35 ~~youth programs, and adult education for the use of~~
36 ~~residents of the proposed project.~~

37 (C) The requirements of this subdivision regarding
38 identification of sites for farmworker housing shall apply
39 commencing with the next revision of housing elements



1 required by Section 65588 following the enactment of this
2 subparagraph.

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

5 (3) Address and, where appropriate and legally
6 possible, remove governmental constraints to the
7 maintenance, improvement, and development of
8 housing.

9 (4) Conserve and improve the condition of the
10 existing affordable housing stock, which may include
11 addressing ways to mitigate the loss of dwelling units
12 demolished by public or private action.

13 (5) Promote housing opportunities for all persons
14 regardless of race, religion, sex, marital status, ancestry,
15 national origin, or color.

16 (6) (A) Preserve for lower income households the
17 assisted housing developments identified pursuant to
18 paragraph (8) of subdivision (a). The program for
19 preservation of the assisted housing developments shall
20 utilize, to the extent necessary, all available federal, state,
21 and local financing and subsidy programs identified in
22 paragraph (8) of subdivision (a), except where a
23 community has other urgent needs for which alternative
24 funding sources are not available. The program may
25 include strategies that involve local regulation and
26 technical assistance.

27 (B) The program shall include an identification of the
28 agencies and officials responsible for the implementation
29 of the various actions and the means by which consistency
30 will be achieved with other general plan elements and
31 community goals. The local government shall make a
32 diligent effort to achieve public participation of all
33 economic segments of the community in the
34 development of the housing element, and the program
35 shall describe this effort.

36 (d) The analysis and program for preserving assisted
37 housing developments required by the amendments to
38 this section enacted by the Statutes of 1989 shall be
39 adopted as an amendment to the housing element by July
40 1, 1992.



1 (e) Failure of the department to review and report its
 2 findings pursuant to Section 65585 to the local
 3 government between July 1, 1992, and the next periodic
 4 review and revision required by Section 65588,
 5 concerning the housing element amendment required
 6 by the amendments to this section by the Statutes of 1989,
 7 shall not be used as a basis for allocation or denial of any
 8 housing assistance administered pursuant to Part 2
 9 (commencing with Section 50400) of Division 31 of the
 10 Health and Safety Code.

11 SEC. 6. Section 65950 of the Government Code is
 12 amended to read:

13 65950. (a) Any public agency that is the lead agency
 14 for a development project shall approve or disapprove
 15 the project within whichever of the following periods is
 16 applicable:

17 (1) (A) One hundred eighty days from the date of
 18 certification by the lead agency of the environmental
 19 impact report if an environmental impact report is
 20 prepared pursuant to Section 21100 or 21151 of the Public
 21 Resources Code for the development project.

22 (B) Ninety days from the date of certification by the
 23 lead agency of the environmental impact report, if an
 24 environmental impact report is prepared pursuant to
 25 Section 21100 or 21151 of the Public Resources Code for
 26 the development project and all of the following
 27 conditions are met:

28 (i) The development project consists of the
 29 development of housing for agricultural employees, as
 30 defined in subdivision (b) of Section 1140.4 of the Labor
 31 Code, and is affordable to very low or low-income
 32 households, as defined pursuant to Sections 50105 and
 33 50079.5 of the Health and Safety Code, respectively.

34 (ii) Prior to the application being deemed complete
 35 for the development project pursuant to Article 3
 36 (commencing with Section 65940), the lead agency
 37 received written notice from the project applicant that
 38 an application has been made or will be made for an
 39 allocation or commitment of financing, tax credits, bond
 40 authority, or other financial assistance from a public



1 agency or federal agency, and the notice specifies the
2 financial assistance that has been applied for or will be
3 applied for and the deadline for application for that
4 assistance, the requirement that one of the approvals of
5 the development project by the lead agency is a
6 prerequisite to the application for or approval of the
7 application for financial assistance, and that the financial
8 assistance is necessary for the project to be affordable as
9 required pursuant to clause (i).

10 (iii) There is confirmation that the application
11 pursuant to clause (i) has been made to the public agency
12 or federal agency prior to certification of the
13 environmental impact report.

14 (2) Sixty days from the date of adoption by the lead
15 agency of the negative declaration if a negative
16 declaration is completed and adopted for the
17 development project.

18 (3) Sixty days from the determination by the lead
19 agency that the project is exempt from the California
20 Environmental Quality Act (Division 13 (commencing
21 with Section 21000) of the Public Resources Code) if the
22 project is exempt from the California Environmental
23 Quality Act.

24 (b) Nothing in this section precludes a project
25 applicant and a public agency from mutually agreeing in
26 writing to an extension of any time limit provided by this
27 section pursuant to Section 65957.

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

32 SEC. 7. Notwithstanding Section 17610 of the
33 Government Code, if the Commission on State Mandates
34 determines that this act contains costs mandated by the
35 state, reimbursement to local agencies and school
36 districts for those costs shall be made pursuant to Part 7
37 (commencing with Section 17500) of Division 4 of Title
38 2 of the Government Code. If the statewide cost of the
39 claim for reimbursement does not exceed one million



1 dollars (\$1,000,000), reimbursement shall be made from
2 the State Mandates Claims Fund.

3 SEC. 8. Section 6 of this act shall become operative
4 only if SB 948 is not enacted in the first year of the
5 1999–2000 Regular Session of the Legislature.

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