

AMENDED IN SENATE SEPTEMBER 3, 1999

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, with respect to~~ agricultural laborer housing ~~that 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 51230.2. (a) Except as provided in Section 51238, and
6 notwithstanding Section 51222 or 66474.4, a landowner
7 may subdivide land that is currently designated as an
8 agricultural preserve if all of the following apply:
9 (1) The parcel to be sold or leased is no more than five
10 acres.
11 (2) The parcel shall be sold or leased to a nonprofit
12 organization, a city, a county, a housing authority, or a
13 state agency. A lessee that is a nonprofit organization shall
14 not sublease that parcel without the written consent of
15 the landowner.
16 (3) The parcel to be sold or leased shall be subject to
17 a deed restriction that limits the use of the parcel to
18 agricultural laborer housing facilities for not less than 30
19 years. That deed restriction shall also require that parcel
20 to be merged with the parcel from which it was
21 subdivided when the parcel ceases to be used for
22 agricultural laborer housing.
23 (4) There is a written agreement between the parties
24 to the sale or lease and their successors to operate the
25 parcel to be sold or leased under joint management of the
26 parties, subject to the terms and conditions and for the
27 duration of the contract executed pursuant to Article 3
28 (commencing with Section 51240).



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

6 *(5) The parcel to be sold or leased is (A) within a city*
 7 *or (B) in an unincorporated territory or sphere of*
 8 *influence that is contiguous to one or more parcels that*
 9 *are already zoned residential, commercial, or industrial*
 10 *and developed with existing residential, commercial, or*
 11 *industrial uses.*

12 (b) The agricultural labor housing project shall be
 13 designed to ~~minimize~~ *abate, to the extent practicable,*
 14 impacts on adjacent landowners' agricultural husbandry
 15 practices. The final plan for the housing shall include an
 16 addendum that explains what features will be included to
 17 meet this goal.

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

22 ~~(d) Nothing in this section limits any agricultural~~
 23 ~~laborer housing facilities from being determined a~~
 24 ~~compatible use pursuant to Section 51238.~~

25 SEC. 2. Section 51238 of the Government Code is
 26 amended to read:

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

35 ~~(2) The agricultural laborer housing facilities~~
 36 ~~authorized pursuant to paragraph (1) are determined to~~
 37 ~~be compatible uses within any agricultural preserve~~
 38 ~~when provided by either the owner of land or a city,~~
 39 ~~county, housing authority, state agency, or nonprofit~~
 40 ~~organization under contract or grant by the owner of land~~



1 ~~to construct, alter, maintain, or operate the agricultural~~
2 ~~laborer housing facilities.~~

3 ~~(3)~~

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

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

13 SEC. 3. Section 51238.5 of the Government Code is
14 amended to read:

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

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

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

30 65580. The Legislature finds and declares as follows:

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

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



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

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

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

15 SEC. 5. Section 65583 of the Government Code is
16 amended to read:

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

29 (a) An assessment of housing needs and an inventory
30 of resources and constraints relevant to the meeting of
31 these needs. The assessment and inventory shall include
32 the following:

33 (1) An analysis of population and employment trends
34 and documentation of projections and a quantification of
35 the locality's existing and projected housing needs for all
36 income levels. These existing and projected needs shall
37 include the locality's share of the regional housing need
38 in accordance with Section 65584.

39 (2) An analysis and documentation of household
40 characteristics, including level of payment compared to



1 ability to pay, housing characteristics, including
2 overcrowding, and housing stock condition.

3 (3) An inventory of land suitable for residential
4 development, including vacant sites and sites having
5 potential for redevelopment, and an analysis of the
6 relationship of zoning and public facilities and services to
7 these sites.

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

18 (5) An analysis of potential and actual
19 nongovernmental constraints upon the maintenance,
20 improvement, or development of housing for all income
21 levels, including the availability of financing, the price of
22 land, and the cost of construction.

23 (6) An analysis of any special housing needs, such as
24 those of the handicapped, elderly, large families,
25 farmworkers, families with female heads of households,
26 and families and persons in need of emergency shelter.

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

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



1 developments” shall also include multifamily rental units
2 that were developed pursuant to a local inclusionary
3 housing program or used to qualify for a density bonus
4 pursuant to Section 65916.

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

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

23 (C) The analysis shall identify public and private
24 nonprofit corporations known to the local government
25 which have legal and managerial capacity to acquire and
26 manage these housing developments.

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



1 be available for use in preserving assisted housing
2 developments.

3 (b) (1) A statement of the community's goals,
4 quantified objectives, and policies relative to the
5 maintenance, preservation, improvement, and
6 development of housing.

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

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

34 (1) (A) Identify adequate sites which will be made
35 available through appropriate zoning and development
36 standards and with services and facilities, including
37 sewage collection and treatment, domestic water supply,
38 and septic tanks and wells, needed to facilitate and
39 encourage the development of a variety of types of
40 housing for all income levels, including multifamily rental



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

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

30 (C) The requirements of this subdivision regarding
31 identification of sites for farmworker housing shall apply
32 commencing with the next revision of housing elements
33 required by Section 65588 following the enactment of this
34 subparagraph.

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

37 (3) Address and, where appropriate and legally
38 possible, remove governmental constraints to the
39 maintenance, improvement, and development of
40 housing.



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

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

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

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

28 (d) The analysis and program for preserving assisted
29 housing developments required by the amendments to
30 this section enacted by the Statutes of 1989 shall be
31 adopted as an amendment to the housing element by July
32 1, 1992.

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



1 (commencing with Section 50400) of Division 31 of the
2 Health and Safety Code.

3 SEC. 6. Section 65950 of the Government Code is
4 amended to read:

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

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

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

20 (i) The development project consists of the
21 development of housing for agricultural employees, as
22 defined in subdivision (b) of Section 1140.4 of the Labor
23 Code, and is affordable to very low or low-income
24 households, as defined pursuant to Sections 50105 and
25 50079.5 of the Health and Safety Code, respectively.

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



1 assistance is necessary for the project to be affordable as
2 required pursuant to clause (i).

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

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

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

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

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

25 *SEC. 7. It is the intent of the Legislature that when*
26 *reviewing a jurisdiction’s housing element for substantial*
27 *compliance with state law, the Department of Housing*
28 *and Community Development shall (a) consider*
29 *whether the sites identified for farmworker housing*
30 *pursuant to paragraph (1) of subdivision (c) of Section*
31 *65583 of the Government Code facilitate the*
32 *improvement and development of housing for*
33 *farmworkers while minimizing the development of*
34 *prime agricultural land to urban uses, and (b) recognize*
35 *and support efforts by cities and counties in agricultural*
36 *areas to work together cooperatively to identify their*
37 *respective share of the sites needed for farmworker*
38 *housing and to locate those sites, to the extent feasible,*
39 *within or adjacent to existing urbanized areas.*



1 *SEC.* 8. Notwithstanding Section 17610 of the
2 Government Code, if the Commission on State Mandates
3 determines that this act contains costs mandated by the
4 state, reimbursement to local agencies and school
5 districts for those costs shall be made pursuant to Part 7
6 (commencing with Section 17500) of Division 4 of Title
7 2 of the Government Code. If the statewide cost of the
8 claim for reimbursement does not exceed one million
9 dollars (\$1,000,000), reimbursement shall be made from
10 the State Mandates Claims Fund.

11 ~~*SEC.* 8.—~~

12 *SEC.* 9. Section 6 of this act shall become operative
13 only if SB 948 is not enacted in the first year of the
14 1999–2000 Regular Session of the Legislature.

