

AMENDED IN SENATE JUNE 23, 2022

AMENDED IN ASSEMBLY MAY 2, 2022

AMENDED IN ASSEMBLY APRIL 21, 2022

AMENDED IN ASSEMBLY MARCH 29, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2295

**Introduced by Assembly Member Bloom
(Coauthor: Assembly Member Robert Rivas)**

February 16, 2022

An act to add and repeal Section 65914.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2295, as amended, Bloom. Local educational agencies: housing development projects.

(1) Existing law, the Planning and Zoning Law, requires that the legislative body of each county and each city adopt a comprehensive, long-term general plan for the physical development of the county and city, and specified land outside its boundaries, that includes, among other mandatory elements, a housing element. Existing law authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes. Existing law generally requires each local agency to comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated, but, among other things,

authorizes the governing board of a school district that has complied with specified law, by a $\frac{2}{3}$ vote of its members, to render a city or county zoning ordinance inapplicable to a proposed use of property by the school district, unless the proposed use of the property is for nonclassroom facilities, as provided.

This bill would deem a housing development project an allowable use on any real property owned by a local educational agency, as defined, if the housing development satisfies certain conditions, including other local objective zoning standards, objective subdivision standards, and objective design review standards, as described. The bill would deem a housing development that meets these requirements consistent, compliant, and in conformity with local development standards, zoning codes or maps, and the general plan. The bill, among other things, would authorize the land used for the development of the housing development to be jointly used or jointly occupied by the local educational agency and any other party, subject to specified requirements. The bill would exempt a housing development project subject to these provisions from various requirements regarding the disposal of surplus land. The bill would *make these provisions effective on January 1, 2024, except that the bill would require the Department of Housing and Community Development to provide a specified notice to the planning agency of each county and city on or before January 31, 2023. The bill would repeal its provisions on January 1, 2033.*

(2) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) By adding to the duties of local planning officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65914.7 is added to the Government
- 2 Code, to read:

1 65914.7. (a) Notwithstanding any law, a housing development
2 project shall be deemed an allowable use on any real property
3 owned by a local educational agency if the housing development
4 satisfies all of the following:

5 (1) The housing development consists of at least 10 housing
6 units.

7 (2) The housing development shall have a recorded deed
8 restriction that ensures, for a period of at least 55 years, that the
9 majority of the units of the housing development shall be set at an
10 affordable rent to lower income or moderate-income households.
11 However, at least 30 percent of the units shall be affordable to
12 lower income households.

13 (3) One hundred percent of the units of the housing development
14 shall be rented by local educational agency employees, local public
15 employees, and general members of the public pursuant to the
16 following procedures:

17 (A) A local educational agency shall first offer the units to the
18 agency's local educational agency employees.

19 (B) If the local educational agency receives an insufficient
20 number of local educational agency employees to apply for and
21 occupy the units, the unoccupied units may be offered to local
22 public employees who work for a local agency within the
23 jurisdiction of the local educational agency.

24 (C) If the local agency receives an insufficient number of local
25 public employees to apply for and occupy the units, the unoccupied
26 units may be offered to general members of the public.

27 (D) When units in the housing development become unoccupied
28 and available for rent, a local educational agency shall first offer
29 the units to the agency's local educational agency employees.

30 (4) The residential density for the housing development, as
31 measured on the development footprint, shall be the greater of the
32 following:

33 (A) The residential density allowed on the parcel by the city or
34 county, as applicable.

35 (B) The applicable density deemed appropriate to accommodate
36 housing for lower income households in that jurisdiction, as
37 specified in paragraph (3) of subdivision (c) of Section 65583.2.

38 (5) The height limit for the housing development shall be the
39 greater of the following:

1 (A) The height limit allowed on the parcel by the city or county,
 2 as applicable.
 3 (B) Thirty feet.
 4 (6) The property is adjacent to a property that permits residential
 5 ~~uses:~~ *uses as a principally permitted use.*
 6 (7) *The property is located on an infill site. For purposes of this*
 7 *section, “infill site” means a site in an urban area, as determined*
 8 *by the 2020 United States Census, that meets either of the following*
 9 *criteria:*
 10 (A) *The site has not been previously developed for urban uses*
 11 *and both of the following apply:*
 12 (i) *The site is immediately adjacent to parcels that are developed*
 13 *with qualified urban uses, or at least 75 percent of the perimeter*
 14 *of the site adjoins parcels that are developed with qualified urban*
 15 *uses, and the remaining 25 percent of the site adjoins parcels that*
 16 *have previously been developed for qualified urban uses.*
 17 (ii) *No parcel within the site has been created within the past*
 18 *10 years unless the parcel was created as a result of the plan of a*
 19 *redevelopment agency.*
 20 (B) *The site has been previously developed for qualified urban*
 21 *uses.*
 22 ~~(7)~~
 23 (8) (A) (i) The housing development shall satisfy other local
 24 objective zoning standards, objective subdivision standards, and
 25 objective design review standards that do not preclude the housing
 26 development from achieving the residential density permitted
 27 pursuant to paragraph (4) or the height permitted pursuant to
 28 paragraph (5).
 29 (ii) *If a local agency has not adopted objective standards as*
 30 *provided in clause (i) applicable to residential development on*
 31 *the parcel, the housing development shall be subject to local*
 32 *zoning, parking, design, and other ordinances, local code*
 33 *requirements, and procedures applicable to the processing and*
 34 *permitting of a housing development on the nearest parcel in a*
 35 *multifamily zone that meets or exceeds the density and height*
 36 *provided in paragraphs (4) and (5).*
 37 (B) For purposes of this section, the terms “objective zoning
 38 standards,” “objective subdivision standards,” and “objective
 39 design review standards” mean standards that involve no personal
 40 or subjective judgment by a public official and are uniformly

1 verifiable by reference to an external and uniform benchmark or
2 criterion available and knowable by both the development applicant
3 or proponent and the public official prior to submittal. These
4 standards may be embodied in alternative objective land use
5 specifications adopted by the city or county, as applicable, and
6 may include, but are not limited to, housing overlay zones, specific
7 plans, inclusionary zoning ordinances, and density bonus
8 ordinances.

9 *(9) Development of the subject property is consistent with any*
10 *urban limit line or urban growth boundary requirements*
11 *established by local ordinance.*

12 *(10) The housing development complies with all*
13 *infrastructure-related requirements, including impact fees that*
14 *are existing or pending at the time the application is submitted,*
15 *imposed by a city or county or a special district that provides*
16 *service to the parcel.*

17 (b) Notwithstanding ~~other~~ any local law, a housing development
18 that meets the requirements of this section shall be deemed
19 consistent, compliant, and in conformity with local development
20 standards, zoning codes or maps, and the general plan.

21 (c) The local educational agency shall maintain ownership of a
22 housing development that meets the requirements of this section
23 for the length of the 55-year affordability requirement described
24 in paragraph (2) of subdivision (a).

25 (d) Subject to the requirements of Article 8 (commencing with
26 Section 17515) and Article 9 (commencing with Section 17527)
27 of Chapter 4 of Part 10.5 of Division 1 of Title 1 of the Education
28 Code, any land used for the development of a housing development
29 that meets the requirements of this section may be jointly used or
30 jointly occupied by the local educational agency and any other
31 party.

32 (e) Any land used for the development of a housing development
33 that meets the requirements of this section shall be exempt from
34 the requirements of all of the following:

35 (1) Article 8 (commencing with Section 54220) of Chapter 5
36 of Part 1 of Division 2 of Title 5.

37 (2) Article 2 (commencing with Section 17230) of Chapter 1
38 of Part 10.5 of Division 1 of Title 1 of the Education Code.

39 (3) Article 4 (commencing with Section 17455) of Chapter 4
40 of Part 10.5 of Division 1 of Title 1 of the Education Code.

1 (f) For purposes of this section, the following definitions shall
2 apply:

3 (1) “Affordable rent” has the same meaning as in Section 50053
4 of the Health and Safety Code.

5 (2) “Development footprint” means the portion of the property
6 that is developed for the housing development, inclusive of parking
7 and roadways developed internal to the site to serve the housing
8 development, and other aboveground improvements developed to
9 serve the housing development.

10 (3) “Local agency” means a city, county, city and county, charter
11 city, charter county, charter city and county, special district, or
12 any combination thereof.

13 (4) “Local educational agency” means a school district or county
14 office of education.

15 (5) “Local educational agency employee” has the same meaning
16 as “teacher or school district employee,” as defined in subdivision
17 (c) of Section 53572 of the Health and Safety Code.

18 (6) “Local public employee” has the same meaning as defined
19 in subdivision (b) of Section 53572 of the Health and Safety Code.

20 (7) “Lower income households” has the same meaning as in
21 Section 50079.5 of the Health and Safety Code.

22 (8) “Moderate-income households” has the same meaning as
23 in Section 50093 of the Health and Safety Code.

24 (9) “Real property owned by a local educational agency” means
25 real property owned by a local education agency as of January 1,
26 2023.

27 (g) (1) *Except for the requirements imposed on the Department*
28 *of Housing and Community Development pursuant to paragraph*
29 *(2), this section shall become effective on January 1, 2024.*

30 (2) *On or before January 31, 2023, the Department of Housing*
31 *and Community Development shall provide written notice to the*
32 *planning agency of each county and city that this section becomes*
33 *effective on January 1, 2024.*

34 ~~(g)~~

35 (h) This section shall remain in effect only until January 1, 2033,
36 and as of that date is repealed.

37 SEC. 2. The Legislature finds and declares that Section 1 of
38 this act adding Section 65914.7 to the Government Code addresses
39 a matter of statewide concern rather than a municipal affair as that
40 term is used in Section 5 of Article XI of the California

1 Constitution. Therefore, Section 1 of this act applies to all cities,
2 including charter cities.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 a local agency or school district has the authority to levy service
6 charges, fees, or assessments sufficient to pay for the program or
7 level of service mandated by this act, within the meaning of Section
8 17556 of the Government Code.

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