

Assembly Bill No. 2295

CHAPTER 652

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

[Approved by Governor September 28, 2022. Filed with
Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2295, 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.

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

SECTION 1. Section 65914.7 is added to the Government Code, to read: 65914.7. (a) Notwithstanding any law, a housing development project shall be deemed an allowable use on any real property owned by a local educational agency if the housing development satisfies all of the following:

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

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

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

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

(B) If the local educational agency receives an insufficient number of local educational agency employees to apply for and occupy the units, the unoccupied units may be offered to employees of directly adjacent local educational agencies.

(C) If the local educational agency receives an insufficient number of employees of directly adjacent local educational agencies to apply for and occupy the units, the unoccupied units may be offered to public employees who work for a local agency within the jurisdiction of the local educational agency.

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

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

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

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

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

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

(A) The height limit allowed on the parcel by the city or county, as applicable.

(B) Thirty-five feet.

(6) The property is adjacent to a property that permits residential uses as a principally permitted use.

(7) The property is located on an infill site. For purposes of this section, “infill site” means a site in an urban area, as determined by the 2020 United States Census, that meets either of the following criteria:

(A) The site has not been previously developed for urban uses and both of the following apply:

(i) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(ii) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(B) The site has been previously developed for qualified urban uses.

(C) For purposes of this paragraph, “qualified urban use” has the same meaning as defined in Section 21072 of the Public Resources Code.

(8) (A) (i) The housing development shall satisfy other local objective zoning standards, objective subdivision standards, and objective design review standards that do not preclude the housing development from achieving the residential density permitted pursuant to paragraph (4) or the height permitted pursuant to paragraph (5).

(ii) If a local agency has not adopted objective standards as provided in clause (i) applicable to residential development on the parcel, the housing development shall be subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development on the nearest parcel in a multifamily zone that meets or exceeds the density and height provided in paragraphs (4) and (5).

(B) For purposes of this section, the terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development

applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the city or county, as applicable, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(9) The property is located entirely within any applicable urban limit line or urban growth boundary established by local ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. The Legislature finds and declares that Section 1 of this act adding Section 65914.7 to the Government Code addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities, including charter cities.

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