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**AB-2887 Migrant farm labor centers.** (2017-2018)

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**Assembly Bill No. 2887**

**CHAPTER 999**

An act to amend Section 50710.1 of, and to add Sections 50710.2 and 50710.4 to, the Health and Safety Code, relating to housing.

[ Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2887, Aguiar-Curry. Migrant farm labor centers.

Existing law requires the Department of Housing and Community Development, through its Office of Migrant Services, to assist in the development, construction, reconstruction, rehabilitation, or operation of migrant farm labor centers, as provided. Existing law authorizes the Director of Housing and Community Development to contract with specified local public and private entities, including school districts and housing authorities, for the procurement or construction of housing or shelter and to obtain specified services for migratory agricultural workers.

This bill would require the department to allow in an operating contract the entity operating the contract to have flexibility in its opening date if needed to adjust for variable seasonal or climate changes and if certain requirements are met. The bill would authorize the department to enter into multiyear operating contracts with entities, and provide funding annually by making an amendment to that contract, as specified.

Existing law authorizes any entity operating a migrant farm labor center to establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents, as specified. Existing law prohibits the cumulative balance of the reserve account from exceeding 10% of the annual operating funds annually committed to the entity by the department.

This bill would instead require any entity operating a migrant farm labor center to establish a capital reserve account under the same conditions, as specified. The bill would permit the cumulative balance of the reserve account to exceed 10% of the annual operating funds annually committed to the entity by the department if authorized by the department, and would require the cumulative balance of the reserve account to be reported annually to the department.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 50710.1 of the Health and Safety Code is amended to read:

**50710.1.** (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center that are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2006 growing season, the department shall not increase rents for residents of any facility assisted by the Office of Migrant Services to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. Prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter shall establish a capital reserve account comprised of the excess funds provided through the annual operating contract received from the department if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department unless authorized by the department, and shall be reported annually to the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. An entity shall first use the available capital reserve funds for required improvements or repairs before requesting additional funding from the department for that use. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period prior to or beyond the standard 180-day period, as further provided in paragraph (8) below, after approval by the department, provided that all of the following conditions are satisfied:

(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods.

(2) Rents are not to be increased above the rents charged during the standard 180-day occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period.

(3) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the center, less any subsidy funds available pursuant to paragraph (1) or (2). With respect to an extended occupancy beyond the standard 180-day period, households representing at least 25 percent of the units in the center shall have indicated their desire and intention to remain in residency by signing a petition to the local entity to keep the center open for an extended period at rents that are the same or higher than rents during the regular period of occupancy. Each household shall receive a clear bilingual notice describing the extended occupancy options attached to the lease.

The Legislature finds and declares that because the number of residents may be substantially reduced during the extended occupancy period, a rent increase may be necessary to cover operating costs. It is the intent of the Legislature that the public sector, private sector, and farmworkers should each play an important role in ensuring the financial viability of this important source of needed housing.

(4) An extended occupancy period is requested by an entity operating the migrant farm labor center and received by the department no earlier than 30 days and no later than 15 days prior to the center's scheduled opening or closing date. The department shall notify the entity and petitioning residents of the final decision no later than seven days prior to the center's scheduled opening or closing date. During the extended occupancy period, occupancy shall be limited to migrant farmworkers and their families who resided or intended to reside at a migrant center during the regular period of occupancy.

(5) Before approving or denying an early opening or an extension and establishing the rents for the extended occupancy period, both of which shall be within the sole discretion of the department, the department shall take into consideration all of the following factors:

(A) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period.

(B) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities.

(C) Whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity.

(D) The climate during the extended occupancy period.

(E) The amount of subsidy funds available that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period.

(F) The extended occupancy period is deemed necessary for the health and safety of the migrant farmworkers and their families.

(G) Other relevant factors affecting the migrant farmworkers and their families and the operation of the centers.

(6) The rents collected during the extended occupancy period shall be remitted to the department. However, based on financial records to the satisfaction of the department, the department may reduce the amount to be remitted by an amount it determines the local entity has expended during the extended occupancy period that is not being reimbursed by department funds.

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Prior to the beginning of the extended occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of the beginning of the extended occupancy period and closure of the center. Prior to being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(8) Notwithstanding anything to the contrary contained in this section, the standard 180-day occupancy period combined with any extended occupancy periods shall not exceed a cumulative operating period of 275 days in any calendar year.

(d) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to open early or remain open up to a total of 275 days to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely or open late, the migrant farmworkers often must remain or reside in the areas to work. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

The Legislature therefore finds and declares that, for the purposes of any public or private right, obligation, or authorization related to the use of property and improvements thereon as a 180-day migrant center, an extended use of any housing center governed by this chapter pursuant to this section is deemed to be the same as the 180-day use generally authorized by this chapter.

(e) Because of the presumed income levels of the occupants of migrant farm labor centers, an entity operating a migrant farm labor center shall be deemed eligible for the California Alternative Rates for Energy program established pursuant to Sections 382 and 739.1 of the Public Utilities Code. Any savings from a reduction in energy rates shall be passed on to the occupants of the migrant farm labor center.

**SEC. 2.** Section 50710.2 is added to the Health and Safety Code, to read:

**50710.2.** The department shall allow, in an operating contract, the entity operating the contract to have flexibility in its opening date if needed to adjust for variable seasonal or climate changes if all of the following occur every operating year:

(a) A majority of the residents council, at the last meeting of the operating period, vote in favor of having a flexible opening date rather than a set opening date.

(b) The residents council, at the last meeting of the operating period, determines the amount of notice required before an opening date and the method of outreach to residents.

(c) The entity operating the migrant center outlines how the flexible opening date will interact with the admission priorities of the center.

(d) There are no competing demands for use of the center.

(e) At least 25 percent of the units will be occupied upon opening.

**SEC. 3.** Section 50710.4 is added to the Health and Safety Code, to read:

**50710.4.** (a) The department may enter into multiyear operating contracts with entities, and provide funding annually by making an amendment to that contract.

(b) The director shall consider the data contained in the annual reports, pursuant to Section 50717, to determine the needs of the residents served at the migrant farm labor centers and how to better serve those needs in operating contracts and annual amendments.

(c) This section shall not be interpreted to allow an operating period to exceed a term that is otherwise authorized by this chapter.