

AMENDED IN SENATE MAY 20, 2020

SENATE BILL

No. 1120

**Introduced by ~~Senator Atkins~~ *Senators Atkins, Caballero, and Wiener*
(Principal coauthor: Senator McGuire)
*(Coauthors: Senators Lena Gonzalez, Hill, Roth, and Rubio)***

February 19, 2020

An act to amend Section 66452.6 ~~of~~ *of*, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1120, as amended, Atkins. Subdivisions: tentative maps.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill would require a proposed housing development containing 2 residential units to be considered ministerially, without discretionary review or hearing, in zones where allowable uses are limited to single-family residential development if the proposed housing development meets certain requirements, including that the proposed housing development would not require demolition or alteration requiring evacuation or eviction of an existing housing unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing

of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval, or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill would require a city or county to ministerially approve a parcel map for an urban lot split that meets certain requirements, including that the parcel does not contain housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

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The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months, and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

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.

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: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 *SECTION 1. Section 65852.21 is added to the Government*
2 *Code, to read:*

3 65852.21. (a) *A proposed housing development containing*
4 *two residential units shall be considered ministerially, without*
5 *discretionary review or a hearing, in zones where allowable uses*
6 *are limited to single-family residential development, if the proposed*
7 *housing development meets all of the following requirements:*

8 (1) *The parcel subject to the proposed housing development is*
9 *located within a city the boundaries of which include some portion*
10 *of either an urbanized area or urban cluster, as designated by the*
11 *United States Census Bureau, or, for unincorporated areas, a legal*
12 *parcel wholly within the boundaries of an urbanized area or urban*
13 *cluster, as designated by the United States Census Bureau.*

14 (2) *The parcel satisfies the requirements specified in*
15 *subparagraphs (B) to (K), inclusive, of paragraph (6) of*
16 *subdivision (a) of Section 65913.4.*

17 (3) *The proposed housing development would not require*
18 *demolition or alteration requiring evacuation or eviction of an*
19 *existing housing unit of any of the following types of housing:*

20 (A) *Housing that is subject to a recorded covenant, ordinance,*
21 *or law that restricts rents to levels affordable to persons and*
22 *families of moderate, low, or very low income.*

23 (B) *Housing that is subject to any form of rent or price control*
24 *through a public entity's valid exercise of its police power.*

25 (C) *A parcel on which an owner of residential real property*
26 *has exercised the owner's rights under Chapter 12.75 (commencing*
27 *with Section 7060) of Division 7 of Title 1 to withdraw*
28 *accommodations from rent or lease within 15 years before the*
29 *date that the development proponent submits an application*
30 *pursuant to Section 65913.4.*

31 (D) *Housing that has been occupied by a tenant in the last three*
32 *years.*

33 (4) *The development is not located on a site that has been placed*
34 *on a national, state, or local historic register.*

35 (b) (1) *Notwithstanding any local law and except as provided*
36 *in paragraph (2), a city or county may impose objective zoning*
37 *and design standards that do not conflict with this section.*

1 (2) *The city or county shall not require the development project*
2 *to comply with an objective design standard that would prohibit*
3 *the development from including up to two units.*

4 (c) (1) *Except as provided in paragraph (2), subject to a local*
5 *ordinance that provides for a lower standard of parking, the*
6 *proposed development shall provide offstreet parking of up to one*
7 *space per unit.*

8 (2) *A local agency shall not impose parking requirements if any*
9 *of the following is true:*

10 (A) *The parcel is located within one-half mile walking distance*
11 *of public transit.*

12 (B) *The parcel is located within an architecturally and*
13 *historically significant historic district.*

14 (C) *There is a car share vehicle located within one block of the*
15 *parcel.*

16 (d) (1) *Except as provided in paragraphs (2) and (3), the*
17 *proposed housing development described in subdivision (a) shall*
18 *not require the demolition of more than one existing exterior wall.*

19 (2) *A proposed housing development may require the demolition*
20 *of more than one existing exterior wall if a local ordinance so*
21 *allows.*

22 (3) *A proposed housing development may require the demolition*
23 *of more than one existing exterior wall if the site has not been*
24 *occupied by a tenant in the last three years.*

25 (e) *Notwithstanding Section 65852.2, a local agency shall not*
26 *be required to permit an accessory dwelling unit on parcels that*
27 *use both the authority contained within this section and the*
28 *authority contained in Section 66411.7.*

29 (f) *A local agency may adopt an ordinance to implement the*
30 *provisions of this section. An ordinance adopted to implement this*
31 *section shall not be considered a project under Division 13*
32 *(commencing with Section 21000) of the Public Resources Code.*

33 *SEC. 2. Section 66411.7 is added to the Government Code, to*
34 *read:*

35 *66411.7. (a) Notwithstanding any other provision of this*
36 *division and any local law, a city or county shall ministerially*
37 *approve a parcel map for an urban lot split that meets all the*
38 *following requirements:*

39 (1) *The parcel map subdivides an existing parcel to create two*
40 *new parcels of equal size.*

1 (2) (A) *Except as provided in subparagraph (B), both newly*
2 *created parcels are no smaller than 1,200 square feet.*

3 (B) *A local agency may by ordinance adopt a smaller minimum*
4 *lot size to approve ministerially under this subdivision.*

5 (3) *The parcel being subdivided meets all the following*
6 *requirements:*

7 (A) *The parcel is zoned for residential use.*

8 (B) *The parcel is located within an urbanized area or urban*
9 *cluster.*

10 (C) *The parcel satisfies the requirements specified in*
11 *subparagraphs (B) to (K), inclusive, of paragraph (6) of*
12 *subdivision (a) of Section 65913.4.*

13 (D) *The parcel does not contain any of the following types of*
14 *housing:*

15 (i) *Housing that is subject to a recorded covenant, ordinance,*
16 *or law that restricts rents to levels affordable to persons and*
17 *families of moderate, low, or very low income.*

18 (ii) *Housing that is subject to any form of rent or price control*
19 *through a public entity's valid exercise of its police power.*

20 (iii) *A parcel or parcels on which an owner of residential real*
21 *property has exercised the owner's rights under Chapter 12.75*
22 *(commencing with Section 7060) of Division 7 of Title 1 to*
23 *withdraw accommodations from rent or lease within 15 years*
24 *before the date that the development proponent submits an*
25 *application pursuant to Section 65913.4.*

26 (iv) *Housing that has been occupied by a tenant in the last three*
27 *years.*

28 (E) *The parcel is not located on a site that has been placed on*
29 *a national, state, or local historic register.*

30 (F) *The parcel has not been established through prior exercise*
31 *of an urban lot split as provided for in this section.*

32 (G) *The owner of the parcel being subdivided has not previously*
33 *subdivided an adjoining parcel using an urban lot split as provided*
34 *for in this section.*

35 (b) *An application for an urban lot split shall be approved in*
36 *accordance with the following requirements:*

37 (1) *A local agency shall approve or deny an application for an*
38 *urban lot split ministerially without discretionary review.*

39 (2) *Notwithstanding Section 66411.1, a local agency shall not*
40 *impose regulations that require dedications of rights-of-way or*

1 *the construction of reasonable offsite and onsite improvements for*
2 *the parcels being created as a condition of issuing a parcel map*
3 *for an urban lot split.*

4 *(c) A local agency may require any of the following conditions*
5 *when receiving a request for an urban lot split:*

6 *(1) Easements.*

7 *(2) A requirement that the parcels have access to, provide access*
8 *to, or adjoin the public right-of-way.*

9 *(3) Offstreet parking of up to one space per unit, except that a*
10 *local agency shall not impose parking requirements in any of the*
11 *following instances:*

12 *(A) The parcel is located within one-half mile walking distance*
13 *of public transit.*

14 *(B) The parcel is located within an architecturally and*
15 *historically significant historic district.*

16 *(C) There is a car share vehicle located within one block of the*
17 *parcel.*

18 *(d) (1) Except as provided in paragraph (2), notwithstanding*
19 *any local law, a city or county may impose objective zoning and*
20 *objective design standards applicable to a parcel created by an*
21 *urban lot split that do not conflict with this section.*

22 *(2) (A) A local agency shall not impose objective zoning or*
23 *objective design standards that reduce the buildable area on each*
24 *newly created parcel to less than 50 percent of the buildable area*
25 *on the parcel being subdivided.*

26 *(B) For the purposes of this paragraph, “buildable area” means*
27 *the area on the lot that remains after the application of zoning and*
28 *design standards and regulations that require dedications of*
29 *rights-of-way, easements, and the construction of reasonable offsite*
30 *and onsite improvements for the parcels being created.*

31 *(e) Notwithstanding Section 65852.2, a local agency shall not*
32 *be required to permit an accessory dwelling unit on parcels that*
33 *use both the authority contained within this section and the*
34 *authority contained in Section 65852.21.*

35 *(f) A local agency may adopt an ordinance to implement the*
36 *provisions of this section. An ordinance adopted to implement this*
37 *section shall not be considered a project under Division 13*
38 *(commencing with Section 21000) of the Public Resources Code.*

1 SECTION 1.

2 SEC. 3. Section 66452.6 of the Government Code is amended
3 to read:

4 66452.6. (a) (1) An approved or conditionally approved
5 tentative map shall expire 24 months after its approval or
6 conditional approval, or after any additional period of time as may
7 be prescribed by local ordinance, not to exceed an additional 24
8 months. However, if the subdivider is required to expend two
9 hundred thirty-six thousand seven hundred ninety dollars
10 (\$236,790) or more to construct, improve, or finance the
11 construction or improvement of public improvements outside the
12 property boundaries of the tentative map, excluding improvements
13 of public rights-of-way which abut the boundary of the property
14 to be subdivided and which are reasonably related to the
15 development of that property, each filing of a final map authorized
16 by Section 66456.1 shall extend the expiration of the approved or
17 conditionally approved tentative map by 48 months from the date
18 of its expiration, as provided in this section, or the date of the
19 previously filed final map, whichever is later. The extensions shall
20 not extend the tentative map more than 10 years from its approval
21 or conditional approval. However, a tentative map on property
22 subject to a development agreement authorized by Article 2.5
23 (commencing with Section 65864) of Chapter 4 of Division 1 may
24 be extended for the period of time provided for in the agreement,
25 but not beyond the duration of the agreement. The number of
26 phased final maps that may be filed shall be determined by the
27 advisory agency at the time of the approval or conditional approval
28 of the tentative map.

29 (2) Commencing January 1, 2012, and each calendar year
30 thereafter, the amount of two hundred thirty-six thousand seven
31 hundred ninety dollars (\$236,790) shall be annually increased by
32 operation of law according to the adjustment for inflation set forth
33 in the statewide cost index for class B construction, as determined
34 by the State Allocation Board at its January meeting. The effective
35 date of each annual adjustment shall be March 1. The adjusted
36 amount shall apply to tentative and vesting tentative maps whose
37 applications were received after the effective date of the
38 adjustment.

39 (3) "Public improvements," as used in this subdivision, include
40 traffic controls, streets, roads, highways, freeways, bridges,

1 overcrossings, street interchanges, flood control or storm drain
2 facilities, sewer facilities, water facilities, and lighting facilities.

3 (b) (1) The period of time specified in subdivision (a), including
4 any extension thereof granted pursuant to subdivision (e), shall
5 not include any period of time during which a development
6 moratorium, imposed after approval of the tentative map, is in
7 existence. However, the length of the moratorium shall not exceed
8 five years.

9 (2) The length of time specified in paragraph (1) shall be
10 extended for up to three years, but in no event beyond January 1,
11 1992, during the pendency of any lawsuit in which the subdivider
12 asserts, and the local agency which approved or conditionally
13 approved the tentative map denies, the existence or application of
14 a development moratorium to the tentative map.

15 (3) Once a development moratorium is terminated, the map
16 shall be valid for the same period of time as was left to run on the
17 map at the time that the moratorium was imposed. However, if the
18 remaining time is less than 120 days, the map shall be valid for
19 120 days following the termination of the moratorium.

20 (c) The period of time specified in subdivision (a), including
21 any extension thereof granted pursuant to subdivision (e), shall
22 not include the period of time during which a lawsuit involving
23 the approval or conditional approval of the tentative map is or was
24 pending in a court of competent jurisdiction, if the stay of the time
25 period is approved by the local agency pursuant to this section.
26 After service of the initial petition or complaint in the lawsuit upon
27 the local agency, the subdivider may apply to the local agency for
28 a stay pursuant to the local agency's adopted procedures. Within
29 40 days after receiving the application, the local agency shall either
30 stay the time period for up to five years or deny the requested stay.
31 The local agency may, by ordinance, establish procedures for
32 reviewing the requests, including, but not limited to, notice and
33 hearing requirements, appeal procedures, and other administrative
34 requirements.

35 (d) The expiration of the approved or conditionally approved
36 tentative map shall terminate all proceedings and no final map or
37 parcel map of all or any portion of the real property included within
38 the tentative map shall be filed with the legislative body without
39 first processing a new tentative map. Once a timely filing is made,
40 subsequent actions of the local agency, including, but not limited

1 to, processing, approving, and recording, may lawfully occur after
2 the date of expiration of the tentative map. Delivery to the county
3 surveyor or city engineer shall be deemed a timely filing for
4 purposes of this section.

5 (e) Upon application of the subdivider filed before the expiration
6 of the approved or conditionally approved tentative map, the time
7 at which the map expires pursuant to subdivision (a) may be
8 extended by the legislative body or by an advisory agency
9 authorized to approve or conditionally approve tentative maps for
10 a period or periods not exceeding a total of six years. The period
11 of extension specified in this subdivision shall be in addition to
12 the period of time provided by subdivision (a). Before the
13 expiration of an approved or conditionally approved tentative map,
14 upon an application by the subdivider to extend that map, the map
15 shall automatically be extended for 60 days or until the application
16 for the extension is approved, conditionally approved, or denied,
17 whichever occurs first. If the advisory agency denies a subdivider's
18 application for an extension, the subdivider may appeal to the
19 legislative body within 15 days after the advisory agency has
20 denied the extension.

21 (f) For purposes of this section, a development moratorium
22 includes a water or sewer moratorium, or a water and sewer
23 moratorium, as well as other actions of public agencies which
24 regulate land use, development, or the provision of services to the
25 land, including the public agency with the authority to approve or
26 conditionally approve the tentative map, which thereafter prevents,
27 prohibits, or delays the approval of a final or parcel map. A
28 development moratorium shall also be deemed to exist for purposes
29 of this section for any period of time during which a condition
30 imposed by the city or county could not be satisfied because of
31 either of the following:

32 (1) The condition was one that, by its nature, necessitated action
33 by the city or county, and the city or county either did not take the
34 necessary action or by its own action or inaction was prevented or
35 delayed in taking the necessary action before expiration of the
36 tentative map.

37 (2) The condition necessitates acquisition of real property or
38 any interest in real property from a public agency, other than the
39 city or county that approved or conditionally approved the tentative
40 map, and that other public agency fails or refuses to convey the

1 property interest necessary to satisfy the condition. However,
2 nothing in this subdivision shall be construed to require any public
3 agency to convey any interest in real property owned by it. A
4 development moratorium specified in this paragraph shall be
5 deemed to have been imposed either on the date of approval or
6 conditional approval of the tentative map, if evidence was included
7 in the public record that the public agency which owns or controls
8 the real property or any interest therein may refuse to convey that
9 property or interest, or on the date that the public agency which
10 owns or controls the real property or any interest therein receives
11 an offer by the subdivider to purchase that property or interest for
12 fair market value, whichever is later. A development moratorium
13 specified in this paragraph shall extend the tentative map up to the
14 maximum period as set forth in subdivision (b), but not later than
15 January 1, 1992, so long as the public agency which owns or
16 controls the real property or any interest therein fails or refuses to
17 convey the necessary property interest, regardless of the reason
18 for the failure or refusal, except that the development moratorium
19 shall be deemed to terminate 60 days after the public agency has
20 officially made, and communicated to the subdivider, a written
21 offer or commitment binding on the agency to convey the necessary
22 property interest for a fair market value, paid in a reasonable time
23 and manner.

24 *SEC. 4. The Legislature finds and declares that ensuring access*
25 *to affordable housing is a matter of statewide concern and not a*
26 *municipal affair as that term is used in Section 5 of Article XI of*
27 *the California Constitution. Therefore, Sections 1 and 2 of this act*
28 *adding Sections 65852.21 and 66411.7 to the Government Code*
29 *and Section 3 of this act amending Section 66452.6 of the*
30 *Government Code apply to all cities, including charter cities.*

31 *SEC. 5. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *a local agency or school district has the authority to levy service*
34 *charges, fees, or assessments sufficient to pay for the program or*
35 *level of service mandated by this act, within the meaning of Section*
36 *17556 of the Government Code.*

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