

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN SENATE MAY 20, 2020

SENATE BILL

No. 1120

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

February 19, 2020

An act to amend Section 66452.6 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~~ *would, among other things*, 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~~, *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~~ *would, among other things*, 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.

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~~, *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: yes.
State-mandated local program: 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 subdivision
16 (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 has
26 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 date
29 that the development proponent submits an application pursuant
30 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.~~ *within a historic*
35 *district, as defined in Section 5020.1 of the Public Resources Code,*
36 *that is designated or listed as a city or county landmark or historic*
37 *property or district pursuant to a city or county ordinance.*

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

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

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

11 (2) A local agency shall not impose parking requirements if ~~any~~
 12 *either* of the following is true:

13 (A) The parcel is located within one-half mile walking distance
 14 ~~of public transit~~; *either a high-quality transit corridor, as defined*
 15 *in subdivision (b) of Section 21155 of the Public Resources Code,*
 16 *or a major transit stop, as defined in Section 21064.3 of the Public*
 17 *Resources Code.*

18 ~~(B) The parcel is located within an architecturally and~~
 19 ~~historically significant historic district.~~

20 ~~(C)~~

21 (B) There is a car share vehicle located within one block of the
 22 parcel.

23 (d) (1) Except as provided in paragraphs (2) and (3), the
 24 proposed housing development described in subdivision (a) shall
 25 not require the demolition of more than ~~one existing exterior wall~~.
 26 *25 percent of the existing exterior structural walls.*

27 (2) A proposed housing development may require the demolition
 28 of more than ~~one existing exterior wall~~ *25 percent of the existing*
 29 *exterior structural walls* if a local ordinance so allows.

30 (3) A proposed housing development may require the demolition
 31 of more than ~~one existing exterior wall~~ *25 percent of the existing*
 32 *exterior structural walls* if the site has not been occupied by a
 33 tenant in the last three years.

34 (e) A local agency may require, as part of the application for
 35 a permit to create, pursuant to this section, a duplex connected to
 36 an onsite water treatment system, a percolation test completed
 37 within the last 5 years, or, if the percolation test has been
 38 recertified, within the last 10 years.

39 (f) A local agency shall require that a rental of any unit created
 40 pursuant to this section be for a term longer than 30 days.

1 (e)

2 (g) Notwithstanding Section 65852.2, a local agency shall not
3 be required to permit an accessory dwelling unit on parcels that
4 use both the authority contained within this section and the
5 authority contained in Section 66411.7.

6 (f)

7 (h) A local agency may adopt an ordinance to implement the
8 provisions of this section. An ordinance adopted to implement this
9 section shall not be considered a project under Division 13
10 (commencing with Section 21000) of the Public Resources Code.

11 SEC. 2. Section 66411.7 is added to the Government Code, to
12 read:

13 66411.7. (a) Notwithstanding any other provision of this
14 division and any local law, a city or county shall ministerially
15 approve a parcel map for an urban lot split that meets all the
16 following requirements:

17 (1) The parcel map subdivides an existing parcel to create two
18 new parcels of equal size.

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

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

23 (3) The parcel being subdivided meets all the following
24 requirements:

25 (A) The parcel is zoned for residential use.

26 (B) The parcel is located within an urbanized area or urban
27 cluster.

28 (C) The parcel satisfies the requirements specified in
29 subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision
30 (a) of Section 65913.4.

31 (D) The parcel does not contain any of the following types of
32 housing:

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

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

38 (iii) A parcel or parcels on which an owner of residential real
39 property has exercised the owner's rights under Chapter 12.75
40 (commencing with Section 7060) of Division 7 of Title 1 to

1 withdraw accommodations from rent or lease within 15 years
2 before the date that the development proponent submits an
3 application pursuant to Section 65913.4.

4 (iv) Housing that has been occupied by a tenant in the last three
5 years.

6 (E) The parcel is not located ~~on a site that has been placed on~~
7 ~~a national, state, or local historic register.~~ *within a historic district,*
8 *as defined in Section 5020.1 of the Public Resources Code, that*
9 *is designated or listed as a city or county landmark or historic*
10 *property or district pursuant to a city or county ordinance.*

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

13 (G) ~~The~~ *Neither the* owner of the parcel being subdivided *nor*
14 *any person acting in concert with the owner* has ~~not~~ previously
15 subdivided an ~~adjoining~~ *adjacent* parcel using an urban lot split
16 as provided for in this section.

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

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

21 (2) Notwithstanding Section 66411.1, a local agency shall not
22 impose regulations that require dedications of rights-of-way or the
23 construction of reasonable offsite and onsite improvements for the
24 parcels being created as a condition of issuing a parcel map for an
25 urban lot split.

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

28 (1) Easements.

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

31 (3) Offstreet parking of up to one space per unit, except that a
32 local agency shall not impose parking requirements in ~~any~~ *either*
33 of the following instances:

34 (A) The parcel is located within one-half mile walking distance
35 of ~~public transit.~~ *either a high-quality transit corridor as defined*
36 *in subdivision (b) of Section 21155 of the Public Resources Code,*
37 *or a major transit stop as defined in Section 21064.3 of the Public*
38 *Resources Code.*

39 (B) ~~The parcel is located within an architecturally and~~
40 ~~historically significant historic district.~~

1 ~~(C)~~

2 (B) There is a car share vehicle located within one block of the
3 parcel.

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

8 (2) (A) A local agency shall not impose objective zoning or
9 objective design standards that reduce the buildable area on each
10 newly created parcel to less than 50 percent of the buildable area
11 on the parcel being subdivided.

12 (B) For the purposes of this paragraph, “buildable area” means
13 the area on the lot that remains after the application of zoning and
14 design standards and regulations that require dedications of
15 rights-of-way, easements, and the construction of reasonable offsite
16 and onsite improvements for the parcels being created.

17 (e) *A local agency shall require that a rental of any unit created*
18 *pursuant to this section be for a term longer than 30 days.*

19 ~~(e)~~

20 (f) Notwithstanding Section 65852.2, a local agency shall not
21 be required to permit an accessory dwelling unit on parcels that
22 use both the authority contained within this section and the
23 authority contained in Section 65852.21.

24 ~~(f)~~

25 (g) A local agency may adopt an ordinance to implement the
26 provisions of this section. An ordinance adopted to implement this
27 section shall not be considered a project under Division 13
28 (commencing with Section 21000) of the Public Resources Code.

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

31 66452.6. (a) (1) An approved or conditionally approved
32 tentative map shall expire 24 months after its approval or
33 conditional approval, or after any additional period of time as may
34 be prescribed by local ordinance, not to exceed an additional 24
35 months. However, if the subdivider is required to expend two
36 hundred thirty-six thousand seven hundred ninety dollars
37 (\$236,790) or more to construct, improve, or finance the
38 construction or improvement of public improvements outside the
39 property boundaries of the tentative map, excluding improvements
40 of public rights-of-way which abut the boundary of the property

1 to be subdivided and which are reasonably related to the
2 development of that property, each filing of a final map authorized
3 by Section 66456.1 shall extend the expiration of the approved or
4 conditionally approved tentative map by 48 months from the date
5 of its expiration, as provided in this section, or the date of the
6 previously filed final map, whichever is later. The extensions shall
7 not extend the tentative map more than 10 years from its approval
8 or conditional approval. However, a tentative map on property
9 subject to a development agreement authorized by Article 2.5
10 (commencing with Section 65864) of Chapter 4 of Division 1 may
11 be extended for the period of time provided for in the agreement,
12 but not beyond the duration of the agreement. The number of
13 phased final maps that may be filed shall be determined by the
14 advisory agency at the time of the approval or conditional approval
15 of the tentative map.

16 (2) Commencing January 1, 2012, and each calendar year
17 thereafter, the amount of two hundred thirty-six thousand seven
18 hundred ninety dollars (\$236,790) shall be annually increased by
19 operation of law according to the adjustment for inflation set forth
20 in the statewide cost index for class B construction, as determined
21 by the State Allocation Board at its January meeting. The effective
22 date of each annual adjustment shall be March 1. The adjusted
23 amount shall apply to tentative and vesting tentative maps whose
24 applications were received after the effective date of the
25 adjustment.

26 (3) “Public improvements,” as used in this subdivision, include
27 traffic controls, streets, roads, highways, freeways, bridges,
28 overcrossings, street interchanges, flood control or storm drain
29 facilities, sewer facilities, water facilities, and lighting facilities.

30 (b) (1) The period of time specified in subdivision (a), including
31 any extension thereof granted pursuant to subdivision (e), shall
32 not include any period of time during which a development
33 moratorium, imposed after approval of the tentative map, is in
34 existence. However, the length of the moratorium shall not exceed
35 five years.

36 (2) The length of time specified in paragraph (1) shall be
37 extended for up to three years, but in no event beyond January 1,
38 1992, during the pendency of any lawsuit in which the subdivider
39 asserts, and the local agency which approved or conditionally

1 approved the tentative map denies, the existence or application of
2 a development moratorium to the tentative map.

3 (3) Once a development moratorium is terminated, the map
4 shall be valid for the same period of time as was left to run on the
5 map at the time that the moratorium was imposed. However, if the
6 remaining time is less than 120 days, the map shall be valid for
7 120 days following the termination of the moratorium.

8 (c) The period of time specified in subdivision (a), including
9 any extension thereof granted pursuant to subdivision (e), shall
10 not include the period of time during which a lawsuit involving
11 the approval or conditional approval of the tentative map is or was
12 pending in a court of competent jurisdiction, if the stay of the time
13 period is approved by the local agency pursuant to this section.
14 After service of the initial petition or complaint in the lawsuit upon
15 the local agency, the subdivider may apply to the local agency for
16 a stay pursuant to the local agency's adopted procedures. Within
17 40 days after receiving the application, the local agency shall either
18 stay the time period for up to five years or deny the requested stay.
19 The local agency may, by ordinance, establish procedures for
20 reviewing the requests, including, but not limited to, notice and
21 hearing requirements, appeal procedures, and other administrative
22 requirements.

23 (d) The expiration of the approved or conditionally approved
24 tentative map shall terminate all proceedings and no final map or
25 parcel map of all or any portion of the real property included within
26 the tentative map shall be filed with the legislative body without
27 first processing a new tentative map. Once a timely filing is made,
28 subsequent actions of the local agency, including, but not limited
29 to, processing, approving, and recording, may lawfully occur after
30 the date of expiration of the tentative map. Delivery to the county
31 surveyor or city engineer shall be deemed a timely filing for
32 purposes of this section.

33 (e) Upon application of the subdivider filed before the expiration
34 of the approved or conditionally approved tentative map, the time
35 at which the map expires pursuant to subdivision (a) may be
36 extended by the legislative body or by an advisory agency
37 authorized to approve or conditionally approve tentative maps for
38 a period or periods not exceeding a total of six years. The period
39 of extension specified in this subdivision shall be in addition to
40 the period of time provided by subdivision (a). Before the

1 expiration of an approved or conditionally approved tentative map,
2 upon an application by the subdivider to extend that map, the map
3 shall automatically be extended for 60 days or until the application
4 for the extension is approved, conditionally approved, or denied,
5 whichever occurs first. If the advisory agency denies a subdivider's
6 application for an extension, the subdivider may appeal to the
7 legislative body within 15 days after the advisory agency has
8 denied the extension.

9 (f) For purposes of this section, a development moratorium
10 includes a water or sewer moratorium, or a water and sewer
11 moratorium, as well as other actions of public agencies which
12 regulate land use, development, or the provision of services to the
13 land, including the public agency with the authority to approve or
14 conditionally approve the tentative map, which thereafter prevents,
15 prohibits, or delays the approval of a final or parcel map. A
16 development moratorium shall also be deemed to exist for purposes
17 of this section for any period of time during which a condition
18 imposed by the city or county could not be satisfied because of
19 either of the following:

20 (1) The condition was one that, by its nature, necessitated action
21 by the city or county, and the city or county either did not take the
22 necessary action or by its own action or inaction was prevented or
23 delayed in taking the necessary action before expiration of the
24 tentative map.

25 (2) The condition necessitates acquisition of real property or
26 any interest in real property from a public agency, other than the
27 city or county that approved or conditionally approved the tentative
28 map, and that other public agency fails or refuses to convey the
29 property interest necessary to satisfy the condition. However,
30 nothing in this subdivision shall be construed to require any public
31 agency to convey any interest in real property owned by it. A
32 development moratorium specified in this paragraph shall be
33 deemed to have been imposed either on the date of approval or
34 conditional approval of the tentative map, if evidence was included
35 in the public record that the public agency which owns or controls
36 the real property or any interest therein may refuse to convey that
37 property or interest, or on the date that the public agency which
38 owns or controls the real property or any interest therein receives
39 an offer by the subdivider to purchase that property or interest for
40 fair market value, whichever is later. A development moratorium

1 specified in this paragraph shall extend the tentative map up to the
2 maximum period as set forth in subdivision (b), but not later than
3 January 1, 1992, so long as the public agency which owns or
4 controls the real property or any interest therein fails or refuses to
5 convey the necessary property interest, regardless of the reason
6 for the failure or refusal, except that the development moratorium
7 shall be deemed to terminate 60 days after the public agency has
8 officially made, and communicated to the subdivider, a written
9 offer or commitment binding on the agency to convey the necessary
10 property interest for a fair market value, paid in a reasonable time
11 and manner.

12 SEC. 4. The Legislature finds and declares that ensuring access
13 to affordable housing is a matter of statewide concern and not a
14 municipal affair as that term is used in Section 5 of Article XI of
15 the California Constitution. Therefore, Sections 1 and 2 of this act
16 adding Sections 65852.21 and 66411.7 to the Government Code
17 and Section 3 of this act amending Section 66452.6 of the
18 Government Code apply to all cities, including charter cities.

19 SEC. 5. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of Section
24 17556 of the Government Code.