AMENDED IN SENATE APRIL 5, 2021

SENATE BILL No. 621

Introduced by Senator Eggman
(Principal coauthor: Senator Caballero)
(Principal coauthors: Assembly Members Gipson and Quirk-Silva)

February 18, 2021

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 621, as amended, Eggman. Conversion of motels and hotels: streamlining.

Existing law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development containing 2 or more residential units, which satisfies specified objective planning standards, that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit. Existing law requires a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards by a specified time; otherwise, the development is deemed to comply with those standards.

Existing law generally requires that not less than the general prevailing rate of per diem wages, as specified, be paid to workers employed on a public work project that exceeds $1,000. Existing law establishes requirements that apply when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project. Existing law also authorizes a public entity to require

that a bidder, contractor, or other entity use a skilled and trained workforce to complete a contract or project.

This bill would authorize a development proponent to submit an application for a development for the complete conversion, as defined, of a structure with a certificate of occupancy as a motel or hotel into multifamily housing units to be subject to a streamlined, ministerial approval process, provided that development proponent reserves ~~an unspecified percentage~~ *10%* of the proposed housing units for lower income households, unless a local government has affordability requirements that exceed these requirements. The bill would require the structure proposed to be converted be vacant for at least 6 months prior to the submission of the application, except as provided. The bill would require the development proponent to comply with specified requirements regarding the payment of prevailing rate or per diem wages for construction work related to the part of the development that is a public work and the use of a skilled and trained workforce on the development, except as provided. ~~The bill would not apply to a hotel or motel conversion on a site that is in a coastal zone, as defined.~~ The bill would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of these objective standards within 30 days of submitting a complete application; otherwise, the development would be deemed to comply with those standards.

This bill would restrict a local government's authority to impose automobile parking standards for a development subject to these provisions and would prohibit imposition of parking standards for a project that is located within specified areas. The bill would prohibit a local government from imposing any standard requiring a minimum or maximum unit size. The bill would prohibit a local government from imposing any density restriction on a development subject to these provisions, except that the total number of housing units created by the conversion shall not exceed the total number of units offered by the hotel or motel.

By imposing new duties upon local agencies with respect to the streamlined approval process described above, the bill would impose a state-mandated local program.

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 or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

The approval process established by this bill would be ministerial in nature, thereby exempting the approval of development projects subject to that approval process from CEQA.

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:

SECTION 1. Section 65913.5 is added to the Government Code, to read:

65913.5. (a) Notwithstanding any law, a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit, if the development satisfies all of the following objective planning standards:

(1) The development is for the complete conversion of a structure with a certificate of occupancy as a motel or hotel into multifamily housing units, including, but not limited to, efficiency units, single-room occupancy units, and coliving spaces.

(2) (A) The structure has been vacant for at least six months prior to the submission of the application. If any rooms become occupied after the submission of an application, that application is void.

(B) The six month vacancy requirement in subparagraph (A) shall be waived if 100 percent of the total units, exclusive of a manager's unit, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(3) The housing development shall be subject to a recorded deed restriction requiring that at least ~~____~~ *10* percent of the units have an affordable housing cost or affordable rent for lower income households.

(4) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that all lower income units shall remain available at affordable housing costs or rent to lower income households for at least the following periods of time:

(A) Fifty-five years for units that are rented to the occupants.

(B) Forty-five years for units that are owned by the occupants.

~~(5) The development is not located on a site that is in a coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.~~

~~(6)~~

(5) The development proponent has done both of the following:

(A) Certified to the local government that either of the following is true:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) The development is not in its entirety a public work for which prevailing wages must be paid under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, but all construction workers employed on construction of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject

to this clause, then for those portions of the development that are not a public work, all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker.

The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) Certified to the local government that a skilled and trained workforce will be used to perform all construction work on the development.

(ii) If the development proponent has certified that a skilled and trained workforce will be used to construct all work on the development and the local government approves the application, then the development proponent shall comply with all of the following:

(I) The development proponent shall require, in all contracts for the performance of work, that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to construct the development.

(III) Except as provided in subclause (IV), the development proponent shall provide to the local government, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local government pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. A development proponent that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed

pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(b) (1) Notwithstanding any law, a local government shall provide a streamlined application and review process for, and shall grant ministerial approval to, a project that is in compliance with the standards specified in subdivision (a). If a local government determines that a development submitted pursuant to subdivision (a) is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of the standard or standards with which the development conflicts, and an explanation of the reason or reasons the development conflicts with the standard or standards, within 30 days of submittal of a complete application for the development to the local government.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(3) If a local government has local affordability requirements that exceed the percentages specified in paragraph (3) of subdivision (a), those local requirements shall apply.

(c) (1) Any design review or public oversight of the development may be conducted by the local government's planning agency. That design review or public oversight shall be objective and assess compliance only with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed within 60 days of submittal of a complete application for the development to the local government pursuant to this section, and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable.

(2) If the development proponent requests a delay, the 60-day time period shall be tolled for the period of the delay.

(d) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire for five years.

(e) (1) A local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car-share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government may impose automobile parking requirements for streamlined developments approved pursuant to this section not to exceed one parking space per unit.

(f) A local government shall not require, as a condition for ministerial approval of an application for a streamlined development pursuant to this section, the correction of nonconforming zoning conditions.

(g) (1) A local government, whether or not it has adopted an ordinance governing minimum or maximum unit size requirements in multifamily developments, shall not impose any standard requiring a minimum or maximum size requirement for the units of a development subject to this section.

(2) A local government shall not impose any density restriction on a development subject to this section, except that the total number of housing units created by the conversion shall not exceed the total number of units offered by the hotel or motel.

(h) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the

basis that the project is eligible to receive a streamlined review or ministerial approval pursuant to this section.

(i) The determination of whether an application for a development is subject to the streamlined, ministerial approval process provided by subdivision (b) is not a "project" as defined in Section 21065 of the Public Resources Code.

(j) For purposes of this section, the following terms have the following meanings:

(1) (A) "Conversion" means a change in use as described in paragraph (1) of subdivision (a) that does not require a change to the exterior of the structure being converted, except as follows:

(i) A development proponent may alter the structure or site for aesthetic purposes.

(ii) A development proponent may alter the structure or site as necessary to comply with applicable state or local building standards in effect at the time of conversion or to ensure accessibility to individuals with disabilities. A development proponent may add up to 5 percent of the square footage of the existing structure for purposes of this paragraph.

(B) "Conversion" does not preclude a development proponent from altering the interior of the structure, including the merging of the interior rooms of a structure.

(2) "Density restriction" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the density for the specific zoning range and land use element of the general plan applicable to the development.

(3) "Development proponent" means the developer who submits an application for streamlined, ministerial approval pursuant to this section.

(4) "Efficiency unit" has the same meaning as defined in subdivision (b) of Section 17958.1 of the Health and Safety Code.

(5) "Local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(6) "Motel" and "Hotel" do not include a residential hotel, as defined in subdivision (b) of Section 50519 of the Health and Safety Code.

(7) "Project labor agreement" has the same meaning as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(8) "Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

SEC. 2. The Legislature finds and declares that Section 1 of this act adding Section 65913.6 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.

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