

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Fuentes
(Principal coauthor: Assembly Member Campos)
(Coauthors: Assembly Members Atkins, Fletcher, Roger Hernández,
Hueso, and Smyth)
(Coauthor: Senator Padilla)

January 31, 2011

An act to amend Section 65961 of, and to add Section 66452.23 to, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as introduced, Fuentes. Land use: subdivision maps: expiration dates.

(1) 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 thereof. The act generally requires a subdivider to file a tentative map or vesting tentative map with the local agency, as specified, and the local agency, in turn, to approve, conditionally approve, or disapprove the map within a specified time period. The act requires an approved tentative map or vesting tentative map to expire 24 months after its approval, or after an additional period of time prescribed by local ordinance, not to exceed 12 months. However, the act extends the expiration date of certain approved tentative maps and vesting tentative maps, as specified.

This bill would extend by 24 months the expiration date of any approved tentative map or vesting tentative map that has not expired as of the effective date of this act and will expire prior to January 1, 2014. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(2) The Permit Streamlining Act prohibits a local agency, after its approval of a tentative map for a subdivision of single- or multiple-family residential units, from requiring conformance with, or the performance of, any conditions that the local agency could have lawfully imposed as a condition to the previously approved tentative or parcel map, as a condition to the issuance of any building permit or equivalent permit upon approval of that subdivision, during a 5-year period following the recordation of the final map or parcel map for that subdivision. The act also prohibits a local agency from refusing to issue a building permit or equivalent permit for a subdivider's failure to conform with or perform those conditions. However, the act also provides that this 5-year period is a 3-year period for a tentative map extended pursuant to a specified provision of law, and the local agency is not prohibited from levying a fee, or imposing a condition that requires the payment of a fee upon the issuance of a building permit, with respect to the underlying units.

This bill would provide that a tentative map extended pursuant to its provisions is also subject to the truncated 3-year period described above, and that the local agency is not prohibited from levying a fee, or imposing a condition that requires the payment of a fee upon the issuance of a building permit, with respect to the underlying units. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(3) 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.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 65961 of the Government Code is
2 amended to read:

3 65961. Notwithstanding any other provision of law, except as
4 provided in subdivisions (e) and (f), upon approval or conditional
5 approval of a tentative map for a subdivision of single- or
6 multiple-family residential units, or upon recordation of a parcel
7 map for such a subdivision for which no tentative map was
8 required, during the five-year period following recordation of the
9 final map or parcel map for the subdivision, a city, county, or city
10 and county shall not require as a condition to the issuance of any
11 building permit or equivalent permit for such single- or
12 multiple-family residential units, conformance with or the
13 performance of any conditions that the city or county could have
14 lawfully imposed as a condition to the previously approved
15 tentative or parcel map. Nor shall a city, county, or city and county
16 withhold or refuse to issue a building permit or equivalent permit
17 for failure to conform with or perform any conditions that the city,
18 county, or city and county could have lawfully imposed as a
19 condition to the previously approved tentative or parcel map.
20 However, the provisions of this section shall not prohibit a city,
21 county, or city and county from doing any of the following:

22 (a) Imposing conditions or requirements upon the issuance of
23 a building permit or equivalent permit which could have been
24 lawfully imposed as a condition to the approval of a tentative or
25 parcel map if the local agency finds it necessary to impose the
26 condition or requirement for any of the following reasons:

27 (1) A failure to do so would place the residents of the
28 subdivision or of the immediate community, or both, in a condition
29 perilous to their health or safety, or both.

30 (2) The condition is required in order to comply with state or
31 federal law.

32 (b) Withholding or refusing to issue a building permit or
33 equivalent permit if the local agency finds it is required to do so
34 in order to comply with state or federal law.

35 (c) Assuring compliance with the applicable zoning ordinance.

36 (d) This section shall also apply to a city or city and county
37 which incorporates on or after January 1, 1985, and which includes

1 within its boundaries any areas included in the tentative or parcel
2 map described in this section.

3 When the incorporation includes areas included in the tentative
4 or parcel map described in this section, “a condition that the city
5 could have lawfully imposed as a condition to the previously
6 approved tentative or parcel map,” as used in this section, refers
7 to conditions the county could have imposed had there been no
8 incorporation.

9 (e) For purposes only of a tentative subdivision map or parcel
10 map that is extended pursuant to Section 66452.22 *or* 66452.23,
11 the five-year period described in this section shall be three years.

12 (f) For purposes only of a tentative subdivision map or parcel
13 map that is extended pursuant to Section 66452.22 *or* 66452.23,
14 this section does not prohibit a city, county, or city and county
15 from levying a fee or imposing a condition that requires the
16 payment of a fee, including an adopted fee that is not included
17 within an applicable zoning ordinance, upon the issuance of a
18 building permit, including, but not limited to, a fee defined in
19 Section 66000.

20 SEC. 2. Section 66452.23 is added to the Government Code,
21 to read:

22 66452.23. (a) The expiration date of any tentative map, vesting
23 tentative map, or parcel map for which a tentative map or vesting
24 tentative map, as the case may be, has been approved that has not
25 expired on or before the date that the act that added this section
26 became effective, and that will expire before January 1, 2014, shall
27 be extended by 24 months.

28 (b) The extension provided by subdivision (a) shall be in
29 addition to any extension of the expiration date provided for in
30 Section 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, or
31 66463.5.

32 (c) Any legislative, administrative, or other approval by any
33 state agency that pertains to a development project included in a
34 map that is extended pursuant to subdivision (a) shall be extended
35 by 24 months if this approval has not expired on or before the date
36 that the act that added this section became effective. This extension
37 shall be in addition to any extension provided for in Sections
38 66452.13, 66452.21, and 66452.22.

39 (d) (1) For purposes of this section, the determination of
40 whether a tentative map or parcel map expires before January 1,

1 2014, shall count only those extensions of time pursuant to
2 subdivision (e) of Section 66452.6 or subdivision (c) of Section
3 66463.5 approved on or before July 15, 2009, and any additional
4 time in connection with the filing of a final map pursuant to
5 subdivision (a) of Section 66452.6 for a map that was recorded on
6 or before July 15, 2009.

7 (2) The determination made pursuant to this subdivision shall
8 not include any development moratorium or litigation stay allowed
9 or permitted by Section 66452.6 or 66463.5.

10 (e) The provisions of Section 65961 relating to conditions that
11 may be imposed upon or after a building permit for a subdivision
12 of single- or multiple-family residential units or a parcel map for
13 a subdivision for which no tentative map was required, are
14 modified as set forth in subdivisions (e) and (f) of Section 65961
15 for tentative maps extended pursuant to this section.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.

22 SEC. 4. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety within
24 the meaning of Article IV of the Constitution and shall go into
25 immediate effect. The facts constituting the necessity are:

26 In order to permit cities, counties, and cities and counties to
27 preserve development applications that are set to expire and that
28 cannot be processed presently due to prevailing adverse economic
29 conditions in the construction industry, it is necessary that this act
30 take effect immediately.