

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2180

Introduced by Assembly Member Ting

February 18, 2016

~~An act to amend Section 12935 of the Government Code, relating to fair employment and housing.~~ *An act to amend Sections 65950 and 65952 of the Government Code, relating to land use.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2180, as amended, Ting. ~~Fair Employment and Housing Council: reports.~~ *Land use: development project review.*

The Permit Streamlining Act within the Planning and Zoning Law requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 180 days from the date of certification of an environmental impact report. Existing law requires approval or disapproval within 90 days from the date of certification if at least 49% of the units within the development project are affordable to very low or low-income households. Existing law also requires approval or disapproval within 60 days from the date of the adoption of a negative declaration, or the determination by the lead agency that the project is exempt from the California Environmental Quality Act.

This bill would require approval or disapproval within 120 days from the date of certification of an environmental impact report when the development project consists of either residential units only or mixed use development in which the nonresidential uses are less than 50% of the total square footage of the development, among other conditions.

The Planning and Zoning Law requires any public agency that is a responsible agency for a development project to approve or disapprove a development project that has been approved by the lead agency within the longer of 180 days from the date on which the lead agency has approved the project or within 180 days of the date on which the completed application for the development project has been accepted as complete by that responsible agency.

This bill would reduce each time period to within 90 days when the development project consists of either residential units only or mixed use development in which the nonresidential uses are less than 50% of the total square footage of the development and other conditions are met.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

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.

~~Existing law creates the Fair Employment and Housing Council within the Department of Fair Employment and Housing, and requires that the council be appointed by the Governor, as prescribed. Existing law authorizes and requires the council to issue reports to the Governor and the Legislature that, in its judgment will aid in effectuating the purposes of the Fair Employment and Housing Act.~~

~~This bill would require the council to issue a biennial report with its recommendations to the Governor and the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

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

- 1 SECTION 1. Section 65950 of the Government Code is
- 2 amended to read:
- 3 65950. (a) Any public agency that is the lead agency for a
- 4 development project shall approve or disapprove the project within
- 5 whichever of the following periods is applicable:
- 6 (1) One hundred eighty days from the date of certification by
- 7 the lead agency of the environmental impact ~~report~~ report, if an

1 environmental impact report is prepared pursuant to Section 21100
2 or 21151 of the Public Resources Code for the development project.

3 (2) *One hundred twenty days from the date of certification by*
4 *the lead agency of the environmental impact report, if an*
5 *environmental impact report is prepared pursuant to Section 21100*
6 *or 21151 of the Public Resources Code for a development project*
7 *defined in subdivision (c).*

8 (2)

9 (3) Ninety days from the date of certification by the lead agency
10 of the environmental impact ~~report~~ *report*, if an environmental
11 impact report is prepared pursuant to Section 21100 or 21151 of
12 the Public Resources Code for ~~the~~ *a* development project *defined*
13 *in subdivision (c)* and all of the following conditions are met:

14 (A) At least 49 percent of the units in the development project
15 are affordable to very low or low-income households, as defined
16 by Sections 50105 and 50079.5 of the Health and Safety Code,
17 respectively. Rents for the lower income units shall be set at an
18 affordable rent, as that term is defined in Section 50053 of the
19 Health and Safety Code, for at least 30 years. Owner-occupied
20 units shall be available at an affordable housing cost, as that term
21 is defined in Section 50052.5 of the Health and Safety Code.

22 (B) Prior to the application being deemed complete for the
23 development project pursuant to Article 3 (commencing with
24 Section 65940), the lead agency received written notice from the
25 project applicant that an application has been made or will be made
26 for an allocation or commitment of financing, tax credits, bond
27 authority, or other financial assistance from a public agency or
28 federal agency, and the notice specifies the financial assistance
29 that has been applied for or will be applied for and the deadline
30 for application for that assistance, the requirement that one of the
31 approvals of the development project by the lead agency is a
32 prerequisite to the application for or approval of the application
33 for financial assistance, and that the financial assistance is
34 necessary for the project to be affordable as required pursuant to
35 subparagraph (A).

36 (C) There is confirmation that the application has been made
37 to the public agency or federal agency prior to certification of the
38 environmental impact report.

39 (3)

1 (4) Sixty days from the date of adoption by the lead agency of
 2 the negative ~~declaration~~ *declaration*, if a negative declaration is
 3 completed and adopted for the development project.

4 ~~(4)~~

5 (5) Sixty days from the determination by the lead agency that
 6 the project is exempt from the California Environmental Quality
 7 Act (Division 13 (commencing with Section 21000) of the Public
 8 Resources ~~Code~~ *Code*), if the project is exempt from ~~the California~~
 9 ~~Environmental Quality Act.~~ *that act*.

10 (b) This section does not preclude a project applicant and a
 11 public agency from mutually agreeing in writing to an extension
 12 of any time limit provided by this section pursuant to Section
 13 65957.

14 (c) For purposes of ~~paragraph~~ *paragraphs (2) and (3)* of
 15 subdivision ~~(a)~~, *(a) and Section 65952*, “development ~~project~~”
 16 *project*” means a use consisting of either of the following:

17 (1) Residential units only.

18 (2) Mixed-use developments consisting of residential and
 19 nonresidential uses in which the nonresidential uses are less than
 20 50 percent of the total square footage of the development and are
 21 limited to neighborhood commercial uses and to the first floor of
 22 buildings that are two or more stories. As used in this paragraph,
 23 “neighborhood commercial” means small-scale general or specialty
 24 stores that furnish goods and services primarily to residents of the
 25 neighborhood.

26 (d) For purposes of this section, “lead agency” and “negative
 27 declaration” ~~shall~~ have the same meaning as ~~those terms have~~
 28 *defined* in Sections 21067 and 21064 of the Public Resources Code,
 29 respectively.

30 *SEC. 2. Section 65952 of the Government Code is amended to*
 31 *read:*

32 65952. (a) ~~Any~~ *A* public agency ~~which~~ *that* is a responsible
 33 agency for a development project that has been approved by the
 34 lead agency shall approve or disapprove the development project
 35 within whichever of the following periods of time is longer:

36 (1) Within 180 days from the date on which the lead agency
 37 has approved the project.

38 (2) Within 180 days of the date on which the completed
 39 application for the development project has been received and
 40 accepted as complete by that responsible agency.

1 (b) A public agency that is a responsible agency for a
2 development project described in paragraph (2) or (3) of
3 subdivision (a) of Section 65950 that has been approved by the
4 lead agency shall approve or disapprove the development project
5 within whichever of the following periods of time is longer:

6 (1) Within 90 days from the date on which the lead agency has
7 approved the project.

8 (2) Within 90 days of the date on which the completed
9 application for the development project has been received and
10 accepted as complete by that responsible agency.

11 (b)

12 (c) At the time a decision by a lead agency to disapprove a
13 development project becomes final, applications for that project
14 which are filed with responsible agencies shall be deemed
15 withdrawn.

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 SECTION 1. ~~Section 12935 of the Government Code is~~
23 ~~amended to read:~~

24 ~~12935. (a) The council shall have the following functions,~~
25 ~~powers, and duties:~~

26 ~~(1) To adopt, promulgate, amend, and rescind suitable rules,~~
27 ~~regulations, and standards that do either of the following:~~

28 ~~(A) Interpret, implement, and apply all provisions of this part.~~

29 ~~(B) Carry out all other functions and duties of the council~~
30 ~~pursuant to this part.~~

31 ~~(2) To meet at any place within the state and function in any~~
32 ~~office of the department.~~

33 ~~(3) To create or provide technical assistance to any advisory~~
34 ~~agencies and conciliation councils, local or otherwise, as in its~~
35 ~~judgment will aid in effectuating the purposes of this part, and to~~
36 ~~empower them to study the problems of discrimination in all or~~
37 ~~specific fields of human relationships or in particular instances of~~
38 ~~employment discrimination on the bases enumerated in this part~~
39 ~~or in specific instances of housing discrimination on the bases~~
40 ~~enumerated in this part and to foster, through community effort or~~

1 otherwise, good will, cooperation, and conciliation among the
2 groups and elements of the population of the state and to make
3 recommendations to the Fair Employment and Housing Council
4 for the development of policies and procedures in general except
5 for procedural rules and regulations that carry out the investigation,
6 prosecution, and dispute resolution functions and duties of the
7 department. These advisory agencies and conciliation councils
8 shall be composed of representative citizens, serving without pay.

9 (4) To hold hearings, issue publications, and issue the results
10 of inquiries and research, that, in its judgment, will tend to aid in
11 the effectuating the purpose of this part, promote good will,
12 cooperation and conciliation, and minimize or eliminate unlawful
13 discrimination, or advance civil rights in the State of California.

14 (b) (1) The council shall issue a biennial report with its
15 recommendations to the Governor and the Legislature.

16 (2) The report required by paragraph (1) shall be submitted in
17 compliance with Section 9795.