

AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 771

Introduced by Assembly Member Aguiar

February 22, 1995

An act to amend ~~Sections 66452.6 and 66463.5~~ *Section 66452.6* of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 771, as amended, Aguiar. Subdivisions: tentative maps: time extensions.

The existing Subdivision Map Act generally regulates the division of land for sale, lease, and finance. The act further regulates the expiration of tentative maps, including permitting time extensions, as specified. Under existing law, tentative maps are required of all final maps, and some parcel maps.

This bill would revise the provisions of the act relating to the duration and expiration of tentative maps. The bill would provide that a tentative map shall expire 60 months, instead of 24 months, after its approval or conditional approval, and that the filing of a final map would extend the expiration date an additional 36 months ~~from~~ *for* the filing of the *first phased* final map, and 24 months ~~from~~ *for* the filing of the second ~~tentative~~ *phased final* map, *as specified*. The bill would toll this time period while a development moratorium, as defined, is in existence. This bill would delete an existing automatic 60-day extension, when a subdivider applies to the legislative

body for an additional extension, and would shorten the allowable length of the applied-for extension from 3 years to one year. The bill would also delete an existing extension granted during the pendency of a lawsuit related to a development moratorium, as specified. The bill would provide that, notwithstanding other specified provisions of law, a tentative map shall not be extended beyond 10 years after its approval or conditional approval.

~~This bill would make similar changes to the provisions of the act relating to tentative maps for parcel maps.~~

By changing the requirements of the tentative map approval process, as those requirements apply to local agencies, the 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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 66452.6 of the Government
- 2 Code is amended to read:
- 3 66452.6. (a) (1) A tentative map approved or
- 4 conditionally approved shall expire 60 months after its



1 approval or conditional approval, or after any additional
2 period of time as may be prescribed by local ordinance,
3 not to exceed an additional 12 months. However, if the
4 subdivider is required to expend one hundred
5 twenty-five thousand dollars (\$125,000) or more to
6 construct, improve, or finance the construction or
7 improvement of public improvements outside the
8 property boundaries of the tentative map, excluding
9 improvements of public rights-of-way which abut the
10 boundary of the property to be subdivided and which are
11 reasonably related to the development of that property,
12 the filing of a final map authorized by Section 66456.1 shall
13 extend the expiration of the approved or conditionally
14 approved tentative map by 36 months for the first ~~final~~
15 ~~map~~ *phased final map filed pursuant to Section 66456.1*,
16 and 24 months for the second ~~tentative map~~ *phased final*
17 *map filed pursuant to Section 66456.1* from the date of its
18 expiration, as provided in this section, or the date of the
19 previously filed final map, whichever is later. The
20 extensions shall not extend the tentative map more than
21 10 years from its initial approval or conditional approval.

22 ~~(1) However~~

23 (2) *Notwithstanding paragraph (1)*, a tentative map
24 on property subject to a development agreement
25 authorized by Article 2.5 (commencing with Section
26 65864) of Chapter 4 of Division 1 may be extended for the
27 period of time provided for in the agreement, but not
28 beyond the duration of the agreement. The number of
29 phased final maps which may be filed shall be determined
30 by the advisory agency at the time of the approval or
31 conditional approval of the tentative map.

32 (2) The amount of one hundred twenty-five thousand
33 dollars (\$125,000) shall be increased by the registrar of
34 contractors according to the adjustment for inflation set
35 forth in the statewide cost index for class B construction,
36 as determined by the State Allocation Board at its January
37 meeting. The adjustment by the registrar of contractors
38 shall be effective on the first day of the month occurring
39 more than 30 calendar days after the registrar of
40 contractors makes that adjustment. The adjusted amount



1 shall apply to tentative and vesting tentative maps whose
2 applications were received after the effective date of the
3 adjustment.

4 (3) "Public improvements," as used in this subdivision,
5 include traffic controls, streets, roads, highways,
6 freeways, bridges, overcrossings, street interchanges,
7 flood control or storm drain facilities, sewer facilities,
8 water facilities, and lighting facilities.

9 (b) (1) The period of time specified in subdivision (a)
10 shall be tolled, and not include any period of time during
11 which a development moratorium, imposed after
12 approval of the tentative map, is in existence. However,
13 the time period tolled by the moratorium shall not exceed
14 five years.

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

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

37 (d) The expiration of the approved or conditionally
38 approved tentative map shall terminate all proceedings
39 and no final map or parcel map of all or any portion of the
40 real property included within the tentative map shall be



1 filed with the legislative body without first processing a
2 new tentative map. Once a timely filing is made,
3 subsequent actions of the local agency, including, but not
4 limited to, processing, approving, and recording, may
5 lawfully occur after the date of expiration of the tentative
6 map. Delivery to the county surveyor or city engineer
7 shall be deemed a timely filing for purposes of this section.

8 (e) Upon application of the subdivider filed prior to
9 the expiration of the approved or conditionally approved
10 tentative map, without multiple final maps pursuant to
11 Section 66456.1, the time at which the map expires
12 pursuant to subdivision (a) may be extended by the
13 legislative body or by an advisory agency authorized to
14 approve or conditionally approve tentative maps for a
15 period or periods not exceeding a total of one year.

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

28 (1) The condition was one which, by its nature,
29 necessitated action by the city or county, and the city or
30 county either did not take the necessary action or by its
31 own action or inaction was prevented or delayed in taking
32 the necessary action prior to expiration of the tentative
33 map.

34 (2) The condition necessitates acquisition of real
35 property or any interest in real property from a public
36 agency, other than the city or county that approved or
37 conditionally approved the tentative map, and that other
38 public agency fails or refuses to convey the property
39 interest necessary to satisfy the condition. However,
40 nothing in this subdivision shall be construed to require



1 any public agency to convey any interest in real property
2 owned by it. A development moratorium specified in this
3 paragraph shall be deemed to have been imposed either
4 on the date of approval or conditional approval of the
5 tentative map, if evidence was included in the public
6 record that the public agency which owns or controls the
7 real property or any interest therein may refuse to
8 convey that property or interest, or on the date that the
9 public agency which owns or controls the real property
10 or any interest therein receives an offer by the subdivider
11 to purchase that property or interest for fair market
12 value, whichever is later. A development moratorium
13 specified in this paragraph shall extend the tentative map
14 up to the maximum period as set forth in subdivision (b),
15 but not later than January 1, 1992, so long as the public
16 agency which owns or controls the real property or any
17 interest therein fails or refuses to convey the necessary
18 property interest, regardless of the reason for the failure
19 or refusal, except that the development moratorium shall
20 be deemed to terminate 60 days after the public agency
21 has officially made, and communicated to the subdivider,
22 a written offer or commitment binding on the agency to
23 convey the necessary property interest for a fair market
24 value, paid in a reasonable time and manner.

25 (g) The rights conferred by a vesting tentative map as
26 provided by Chapter 4.5 (commencing with Section
27 66498.1) shall last for an initial time period, as provided by
28 ordinance, but shall not be less than one year or more than
29 two years beyond the recording of the final map. Where
30 several final maps are recorded on various phases of a
31 project covered by a single vesting tentative map, the one
32 year initial time period shall begin for each phase when
33 the final map for that phase is recorded.

34 The initial time period shall be automatically extended
35 by any time used by the local agency for processing a
36 complete application for a grading permit or for design
37 or architectural review, if the time used by the local
38 agency to process the application exceeds 30 days, from
39 the date that a complete application is filed. At any time
40 prior to the expiration of the initial time period provided



1 by this section, the subdivider may apply for a one-year
2 extension. If the extension is denied by an advisory
3 agency, the subdivider may appeal that denial to the
4 legislative body within 15 days.

5 (h) If the subdivider submits a complete application
6 for a building permit during the periods of time specified
7 in subdivision (g), the rights conferred by Chapter 4.5
8 (commencing with Section 66498.1) shall continue until
9 the expiration of that permit, or any extension of that
10 permit granted by the local agency.

11 (i) Notwithstanding any other provision of this section
12 or this division, a tentative map shall not be extended
13 beyond 10 years from its approval or conditional
14 approval.

15 ~~SEC. 2. Section 66463.5 of the Government Code is~~
16 ~~amended to read:~~

17 ~~66463.5. (a) When a tentative map is required, an~~
18 ~~approved or conditionally approved tentative map shall~~
19 ~~expire 60 months after its approval or conditional~~
20 ~~approval, or after any additional period of time as may be~~
21 ~~prescribed by local ordinance, not to exceed an additional~~
22 ~~12 months.~~

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

34 ~~(c) Upon application of the subdivider filed prior to~~
35 ~~the expiration of the approved or conditionally approved~~
36 ~~tentative map, the time at which the map expires may be~~
37 ~~extended by the legislative body or by an advisory agency~~
38 ~~authorized to approve or conditionally approve tentative~~
39 ~~maps for a period or periods not exceeding a total of one~~
40 ~~year.~~



1 ~~(d) (1) The period of time specified in subdivision (a)~~
2 ~~shall be tolled, and shall not include any period of time~~
3 ~~during which a development moratorium, imposed after~~
4 ~~approval of the tentative map, is in existence. However,~~
5 ~~the length of the time period tolled by moratorium shall~~
6 ~~not exceed five years.~~

7 ~~(2) Once a moratorium is terminated, the map shall be~~
8 ~~valid for the same period of time as was left to run on the~~
9 ~~map at the time that the moratorium was imposed.~~
10 ~~However, if the remaining time is less than 120 days, the~~
11 ~~map shall be valid for 120 days following the termination~~
12 ~~of the moratorium.~~

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

29 ~~(f) For purposes of this section, a development~~
30 ~~moratorium shall include a water or sewer moratorium or~~
31 ~~a water and sewer moratorium, as well as other actions of~~
32 ~~public agencies which regulate land use, development, or~~
33 ~~the provision of services to the land, including the public~~
34 ~~agency with the authority to approve or conditionally~~
35 ~~approve the tentative map, which thereafter prevents,~~
36 ~~prohibits, or delays the approval of a parcel map.~~

37 ~~(g) Notwithstanding subdivisions (a), (b), and (e), for~~
38 ~~the purposes of Chapter 4.5 (commencing with Section~~
39 ~~66498.1), subdivisions (g) and (h) of Section 66452.6 shall~~
40 ~~apply to vesting tentative maps prepared in connection~~



1 ~~with a parcel map except that, for purposes of this section,~~
2 ~~the time periods specified in subdivisions (g) and (h) of~~
3 ~~Section 66452.6 shall be determined from the recordation~~
4 ~~of the parcel map instead of the final map.~~

5 ~~(h) Notwithstanding any other provision of this~~
6 ~~section or of this division, a tentative map shall not be~~
7 ~~extended beyond 10 years from its approval or~~
8 ~~conditional approval.~~

9 ~~SEC. 3. Notwithstanding Section 17610 of the~~
10 ~~Government Code, if the Commission on State Mandates~~
11 ~~determines that this act contains costs mandated by the~~
12 ~~state, reimbursement to local agencies and school~~
13 ~~districts for those costs shall be made pursuant to Part 7~~
14 ~~(commencing with Section 17500) of Division 4 of Title~~
15 ~~2 of the Government Code. If the statewide cost of the~~
16 ~~claim for reimbursement does not exceed one million~~
17 ~~dollars (\$1,000,000), reimbursement shall be made from~~
18 ~~the State Mandates Claims Fund.~~

19 ~~Notwithstanding Section 17580 of the Government~~
20 ~~Code, unless otherwise specified, the provisions of this act~~
21 ~~shall become operative on the same date that the act~~
22 ~~takes effect pursuant to the California Constitution.~~

23 *SEC. 2. No reimbursement is required by this act*
24 *pursuant to Section 6 of Article XIII B of the California*
25 *Constitution because a local agency or school district has*
26 *the authority to levy service charges, fees, or assessments*
27 *sufficient to pay for the program or level of service*
28 *mandated by this act, within the meaning of Section 17556*
29 *of the Government Code.*

30 *Notwithstanding Section 17580 of the Government*
31 *Code, unless otherwise specified, the provisions of this act*
32 *shall become operative on the same date that the act*
33 *takes effect pursuant to the California Constitution.*

