

Assembly Bill No. 333

Passed the Assembly May 28, 2009

Chief Clerk of the Assembly

Passed the Senate July 9, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 65961 of, and to add Section 66452.22 to, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 333, Fuentes. Land use: subdivision maps: expiration dates.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by the city, county, or city and county in which the land is situated, a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on January 1, 2011. This extension is in addition to any other extension of the expiration date provided for in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 24 months, as specified, for any vesting tentative map, in addition to a tentative map, generally, that has not expired as of the date adding these provisions and that will expire, as specified, before January 1, 2012. By adding to the procedures that officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) 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.

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

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

SECTION 1. Section 65961 of the Government Code is amended to read:

65961. Notwithstanding any other provision of law, except as provided in Section 66452.22, relating to the extension of the expiration date for subdivisions subject to that section, upon approval or conditional approval of a tentative map for a subdivision of single- or multiple-family residential units, or upon recordation of a parcel map for such a subdivision for which no tentative map was required, during the five-year period following recordation of the final map or parcel map for the subdivision, a city, county, or city and county shall not require as a condition to the issuance of any building permit or equivalent permit for such single- or multiple-family residential units, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map. Nor shall a city, county, or city and county withhold or refuse to issue a building permit or equivalent permit for failure to conform with or perform any conditions that the city, county, or city and county could have lawfully imposed as a condition to the previously approved tentative or parcel map. However, the provisions of this section shall not prohibit a city, county, or city and county from doing any of the following:

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

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

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

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

(c) Assuring compliance with the applicable zoning ordinance.

(d) This section shall also apply to a city or city and county which incorporates on or after January 1, 1985, and which includes within its boundaries any areas included in the tentative or parcel map described in this section.

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

SEC. 2. Section 66452.22 is added to the Government Code, to read:

66452.22. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2012, shall be extended by 24 months.

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

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

(d) (1) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2012, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (c) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section

66452.6 for a map that was recorded on or before the date that the act that added this section became effective.

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

(e) Section 65961 applies to a tentative subdivision map or parcel map that relies on the 24-month extension pursuant to this section, except for both of the following:

(1) The five-year period described in Section 65961 shall be three years.

(2) Section 65961 does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee upon the issuance of a building permit or after the issuance, including, but not limited to, a fee as defined in Section 66000.

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.

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

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

Approved _____, 2009

Governor