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**AB-2085 Planning and zoning: permitted use: community clinic.** (2023-2024)

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**Assembly Bill No. 2085**

**CHAPTER 820**

An act to add Chapter 4.2.5 (commencing with Section 65914.900) to Division 1 of Title 7 of the Government Code, relating to land use.

[ Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2085, Bauer-Kahan. Planning and zoning: permitted use: community clinic.

The Planning and Zoning Law, among other things, authorizes a development proponent to submit an application for a housing development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit, if the development satisfies certain objective planning standards.

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 does not apply to the approval of ministerial projects.

This bill would make a development that meets specified objective planning standards, including that, among other things, it is on a parcel that is within a zone where office, retail, health care, or parking are a principally permitted use, a permitted use and would require a local agency to review an application for that development on an administrative, nondiscretionary basis. The bill would require a local agency, within 60 calendar days of receiving an application pursuant to these provisions, to approve or deny the application subject to specified requirements, including that, among other things, if the local agency determines that the development is in conflict with any of the above-described standards, the local agency is required to provide the development proponent written documentation of which standard or standards the development conflicts with, as specified.

The bill would provide that a development eligible for approval pursuant to this process is not a "project" for purposes of CEQA, thereby expanding the exemption for ministerial approval of projects under CEQA. By increasing duties on local governments in reviewing and approving these developments, the bill would impose a state-mandated local program.

The bill would authorize a development proponent to bring an action to enforce the bill's provisions, as specified, and would make its provisions enforceable by the Attorney General and provide the Attorney General an unconditional right to intervene to enforce the bill's provisions. The bill would define various terms for these purposes.

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.

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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Chapter 4.2.5 (commencing with Section 65914.900) is added to Division 1 of Title 7 of the Government Code, to read:

### **CHAPTER 4.2.5. Other Development Approvals**

**65914.900.** (a) Notwithstanding any law affecting local permitting, a development shall be a permitted use and a local agency shall review an application for the development on an administrative, nondiscretionary basis if it meets all of the following objective planning standards:

(1) The development is on a parcel that is within a zone where office, retail, health care, or parking are a principally permitted use.

(2) The development is for a community clinic licensed pursuant to Section 1204 of the Health and Safety Code that provides reproductive health services as defined in subdivision (f) of Section 423.1 of the Penal Code.

(3) (A) The development complies with the applicable minimum construction standards of adequacy and safety for the physical plant of primary care clinics found in the latest edition of the California Building Standards Code, as described in subdivision (b) of Section 1226 of the Health and Safety Code.

(B) A primary care clinic may establish compliance with the minimum construction standards of adequacy and safety for the physical plant described in subdivision (b) of Section 1226 of the Health and Safety Code by submitting a written certification, as described in Section 5536.26 of the Business and Professions Code, from a licensed architect or a written statement from a local building department that the development is in compliance with these standards.

(4) The development meets all of the local agency's objective design review standards.

(5) The development would not require the demolition of a historic structure that was placed on a national, state, or local historic register.

(6) The development is not located on a site described in paragraph (6) of subdivision (a) of Section 65913.4.

(7) The project is not likely to result in adverse impacts to tribal cultural resources, as defined in subdivision (a) of Section 21074 of the Public Resources Code.

(8) The development would not require the demolition of housing.

(b) In determining whether a development submitted pursuant to this section is consistent with the objective standards specified in subdivision (a), the development shall be subject only to the plans, ordinances, policies, regulations, and standards adopted and in effect when the application is submitted.

(c) A local agency that receives an application submitted pursuant to this section shall approve or deny the application within 60 days of submission of the application, subject to all of the following:

(1) If the local agency determines that the development is in conflict with any of the objective planning standards specified in subdivision (a), then all of the following apply:

(A) The local agency shall provide the development proponent written documentation of the standard or standards with which the development conflicts, and an explanation for the reason or reasons the development conflicts with that standard or standards.

(B) The development proponent may submit materials to the local agency to address and resolve the conflict identified pursuant to subparagraph (A).

(C) Within 60 calendar days after the local agency has received the materials submitted pursuant to subparagraph (B), the local agency shall determine whether the development as supplemented or amended is consistent with the objective planning standards specified in subdivision (a).

(2) (A) If the local agency denies the application, the local agency shall provide a process for the development proponent to appeal that decision in writing to the governing body of the local agency.

(B) The local agency shall provide final written determination on the appeal no later than 60 calendar days after receipt of the development proponent's written appeal.

(3) Nothing in this subdivision precludes a development proponent and a local agency from mutually agreeing to an extension of any time limit provided by this subdivision.

(d) Notwithstanding any other law, approval of a development that is eligible for approval pursuant to the streamlined, ministerial process set forth by this section shall not be considered a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) (1) The development proponent may bring an action to enforce this section. The court shall grant a prevailing plaintiff under this paragraph reasonable attorney's fees and costs, except the court shall not award reasonable attorney's fees if the court finds, under extraordinary circumstances, that awarding reasonable attorney's fees would not further the purposes of this section.

(2) (A) The Attorney General shall have the unconditional right to bring an enforcement action against a local agency that is in violation of this section.

(B) In any suit brought to enforce this section, the Attorney General shall have the unconditional right to intervene under subparagraph (A) of paragraph (1) of subdivision (d) of Section 387 of the Code of Civil Procedure.

(f) For purposes of this section, the following definitions apply:

(1) "Development" includes the construction, change or modification in construction or building services equipment, or the reconstruction or renewal of any part of an existing building, structure, or building service equipment for the purpose of operating a community clinic licensed pursuant to Section 1204 of the Health and Safety Code that provides reproductive health services as defined in subdivision (f) of Section 423.1 of the Penal Code.

(2) "Development proponent" means an applicant who submits an application to a local agency for a development under this section.

(3) "Local agency" means a city, including a charter city, a county, or a city and county, including a charter city and county.

(4) "Objective design review standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development proponent and the public official before submission.

**SEC. 2.** 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. 3.** The Legislature finds and declares that reproductive freedom, including the right to abortion and contraception, is a fundamental constitutional right. Protecting this right and ensuring access to reproductive health services, as set forth in this act, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Chapter 4.2.5 (commencing with Section 65914.900) to Division 1 of Title 7 of the Government Code applies to all cities, including charter cities.