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AB-2729 Development projects: permits and other entitlements. (2023-2024)

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Assembly Bill No. 2729

CHAPTER 737

An act to add Section 65914.4 to the Government Code, relating to land use.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, Joe Patterson. Development projects: permits and other entitlements.

The Planning and Zoning Law requires each county and each city to adopt a comprehensive, long-term general plan for its physical development, and the development of specified land outside its boundaries, that includes, among other mandatory elements, a housing element. Existing law, the Permit Streamlining Act, among other things, requires a public agency that is the lead agency for a development project to approve or disapprove that project within specified time periods. Existing law extended by 18 months the period for the expiration, effectuation, or utilization of a housing entitlement, as defined, that was issued before, and was in effect on, March 4, 2020, and that would expire before December 31, 2021, except as specified. Existing law provides that if the state or a local agency extended the otherwise applicable time for the expiration, effectuation, or utilization of a housing entitlement for not less than 18 months, as specified, that housing entitlement would not be extended an additional 18 months pursuant to these provisions.

This bill would extend by 18 months the period for the expiration, effectuation, or utilization of a housing entitlement, as defined, that was issued before January 1, 2024, and that will expire before December 31, 2025, except as specified. The bill would toll this 18-month extension during any time that the housing entitlement is the subject of a legal challenge. By adding to the duties of local officials with respect to housing entitlements, this bill would impose a state-mandated local program. 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.

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 Local Program: yes

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

SECTION 1. Section 65914.4 is added to the Government Code, to read:

65914.4. (a) Except as provided in subdivision (b), notwithstanding any law, including any inconsistent provision of a local agency's general plan, ordinances, or regulations, the otherwise applicable time for the expiration, effectuation, or utilization of a

housing entitlement that is within the scope of the timeframes specified in paragraphs (1) and (2) is extended by 18 months. For the purposes of this section, housing entitlements that are extended are entitlements where both of the following apply:

(1) It was issued prior to and was in effect on January 1, 2024.

(2) It will expire prior to December 31, 2025.

The otherwise applicable time for the utilization of a housing entitlement provided by this section includes any requirement to request the issuance of a building permit within a specified period of time.

(b) If the state or a local agency extends, on or after January 1, 2024, but before the effective date of the act adding this section, the otherwise applicable time for the expiration, effectuation, or utilization of a housing entitlement for not less than 18 months and pursuant to the same conditions provided in subdivision (a), that housing entitlement shall not be extended for an additional 18 months by operation of subdivision (a).

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

(1) "Housing entitlement" means any of the following:

(A) A legislative, adjudicative, administrative, or any other kind of approval, permit, or other entitlement necessary for, or pertaining to, a housing development project issued by a state agency.

(B) An approval, permit, or other entitlement issued by a local agency for a housing development project that is subject to Chapter 4.5 (commencing with Section 65920).

(C) A ministerial approval, permit, or entitlement by a local agency required as a prerequisite to issuance of a building permit for a housing development project.

(D) A requirement to submit an application for a building permit within a specified period of time after the effective date of a housing entitlement described in subparagraph (B) or (C).

(E) A tentative map, vesting tentative map, or parcel map for which a tentative map or vesting tentative map, as the case may be, has been approved.

(F) A vested right associated with an approval, permit, or other entitlement described in subparagraphs (A) to (E), inclusive.

(2) For the purposes of this section, a housing entitlement does not include any of the following:

(A) A development agreement issued pursuant to Article 2.5 (commencing with Section 65864).

(B) An approved or conditionally approved tentative map that is extended for a minimum of 24 months pursuant to Section 66452.6 on or after January 1, 2024.

(C) A preliminary application as defined in Section 65941.1.

(3) "Housing development project" means a residential development or mixed-use development in which at least two-thirds of the square footage of the development is designated for residential use. Both of the following apply for the purposes of calculating the square footage usage of a development for purposes of this section:

(A) The square footage of a development shall include any additional density, floor area, and units, and any other concession, incentive, or waiver of development standards pursuant to Section 65915.

(B) The square footage of a development shall not include any underground space, including, but not limited to, a basement or underground parking garage.

(4) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state.

(d) The extension granted pursuant to subdivision (a) shall be tolled during any time that the housing entitlement is the subject of a legal challenge.

(e) Nothing in this section is intended to preclude a local government from exercising its existing authority to provide an extension to an entitlement identified in this section.

(f) The Legislature finds and declares that ensuring planned housing projects can continue without delays due to expiring entitlements 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, this section applies to all cities, including charter cities.

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.