

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2180 (Ting) – As Amended March 31, 2016

SUBJECT: Land use: development project review.

SUMMARY: Expedites timelines for approval or disapproval by a public agency for certain types of development projects. Specifically, **this bill:**

- 1) Expedites, pursuant to the Permit Streamlining Act, the timelines for review of a development project by a public agency, as follows:
 - a) Requires a public agency that is a responsible agency for a development project that has been approved by the lead agency to approve or disapprove the development project within whichever of the following periods of time is longer:
 - i) Within 90 days from the date on which the lead agency has approved the project; or,
 - ii) Within 90 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.
 - b) Requires any public agency that is the lead agency for a development project to approve or disapprove the project within 120 days from the date of certification by the lead agency of the environmental impact report (EIR), if an EIR is prepared for a development project, and specified conditions are met.
- 2) Makes other minor and technical changes.
- 3) Declares that no reimbursement is necessary because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service, as specified.

EXISTING LAW:

- 1) Defines, pursuant to the Permit Streamlining Act, the term “development project” to mean a use consisting of either of the following:
 - a) Residential units only; or,
 - b) Mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, “neighborhood commercial” means small-scale general or specialty stores that furnish goods or services primarily to residents of the neighborhood.
- 2) Requires, pursuant to the Permit Streamlining Act, any public agency that is the lead agency for a development project to approve or disapprove the project within whichever of the following periods is applicable:

- a) 180 days from the date of certification by the lead agency of the EIR, if an EIR is prepared, pursuant to existing law for the development project;
 - b) 90 days from the date of certification by the lead agency of the EIR, if an EIR is prepared, pursuant to existing law for the development project, and all of the following conditions are met:
 - i) At least 49% of the units in the development project are affordable to very low- or low-income households, as defined. Rents for the lower-income units shall be set at an affordable rent, as specified, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as specified;
 - ii) Prior to the application being deemed complete for the development project, as specified, the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required, pursuant to i), above; and,
 - iii) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the EIR.
 - c) 60 days from the date of the adoption by the lead agency of the negative declaration if a negative declaration is completed and adopted for the development project; or,
 - d) 60 days from the determination by the lead agency that the project is exempt from the California Environmental Quality act (CEQA) if the project is exempt from CEQA.
- 3) States that 2), above, does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limited provided by existing law, as specified.
 - 4) Requires any public agency which is a responsible agency for a development project that has been approved by the lead agency to approve or disapprove the development project within whichever of the following periods of time is longer:
 - a) Within 180 days from the date on which the lead agency has approved the project; or,
 - b) Within 180 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.
 - 5) Provides that at the time a decision by a lead agency to disapprove a development project becomes final, applications for that project which are filed with responsible agencies, shall be deemed withdrawn.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill expedites, for a public agency, the review process for certain development projects, pursuant to the Permit Streamlining Act, specifically those development projects that are either: a) residential units only; or, b) mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories.

The bill requires any public agency that is the lead agency for a development project to approve or disapprove the project within 120 days from the date of certification by the lead agency of the EIR, if an EIR is prepared for that development project. The bill also requires a public agency that is a responsible agency for a development project that has been approved by the lead agency to approve or disapprove the development project within whichever of the following periods of time is longer:

- a) Within 90 days from the date on which the lead agency has approved the project; or,
- b) Within 90 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

This bill is sponsored by the California Apartment Association.

- 2) **Author's Statement.** According to the author, "California is in the midst of an unprecedented housing crisis caused by a severe lack of new housing construction, both market rate and affordable. In its most recent report on housing, the Legislative Analyst's Office (LAO) stressed that facilitating more private housing development was needed to make housing more affordable for low-income Californians.

"Unfortunately, the local and state approval processes for new housing construction are frequently slow and cumbersome. In its March 2015 report on "California's High Housing Costs: Causes and Consequences", the LAO concluded:

Cities and counties often require housing projects to go through multiple layers of review prior to approval. For example, a project may require independent review by a building department, health department, fire department, planning commission, and city council. Each layer of review can increase project approval time. Additional complexity in review processes also creates avenues for concerned residents to slow building or reduce its size and scope...

"AB 2180 seeks to expedite the housing construction permit approval process by reducing the time for a lead agency to approve a housing project from 180 to 120 days. The bill still ensures that purely affordable housing projects continue to get the same 90 day approval process. In addition, AB 2180 reduces the approval process for any other responsible public agencies from 180 days to 90 days for all types of housing developments.

"AB 2180 will ensure that badly needed housing projects move through the building approval process faster. It will not only reduce the amount of time, but will also reduce costs and other delays that can be associated with a lengthy approval process. AB 2180 is a modest, yet important step towards addressing California's severe housing shortage."

- 3) **Background.** The Permit Streamlining Act applies to all public agencies, including charter cities, and was adopted to ensure that permit applicants for projects are not subjected to protracted and unjustified governmental delays in the processing of the applications for development projects. The Legislature, in enacting the Permit Streamlining Act, declared that “there is a statewide need to ensure clear understanding of the specific requirements which must be met in connection with the approval of development projects and to expedite decisions on such projects.”

Submittal of a project application is the first step in the streamlined permitting process. Within 30 calendar days of receiving an application, a city is required to respond to the applicant in writing with the determination of whether the application is complete and accepted for filing. If the application is deemed complete, the city proceeds with the evaluation of the project, but if the application is incomplete, the city is required to indicate in detail the deficiencies in the application.

All deadlines under the Permit Streamlining Act begin from the day the application is accepted as complete or deemed complete. The completion date also starts the clock running on processing the application. If a city is acting as the lead agency for a project for which an EIR is prepared, then the city must approve or disapprove the project within 180 days from the date of the EIR’s certification. The Act specifies other time lines for approval or disapproval by the public agency, in coordination with specific CEQA actions, like whether a project is exempt from CEQA, the adoption of a negative declaration, or the certification of an EIR. The Act also contains timelines for approval of a development project for a responsible agency, once the project has been approved by the lead agency. “Development project” is defined as either a) residential units only; or, b) mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories.

If approval or disapproval of a project does not occur within these deadlines, the project shall be deemed approved provided the prescribed public notice requirements have been met.

- 4) **Arguments in Support.** Supporters argue that the bill will ensure that badly needed housing projects move through the building approval process faster, thus reducing costs and other delays that can be associated with a lengthy approval process.
- 5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association [SPONSOR]

California Association of Realtors

California Building Industry Association

California Business Properties Association

California Chamber of Commerce

Opposition

None on file

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