

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2904 (Quirk-Silva) – As Introduced February 15, 2024

SUBJECT: Zoning ordinances: notice

SUMMARY: Requires notice of a planning commission’s hearing to propose or amend a zoning ordinance to be mailed 60 days prior to each owner of property subject to the proposed or amended zoning ordinance, if the change affects the permitted uses of the property. Specifically, **this bill:**

- 1) Strikes reference to existing law outlining noticing requirements for changes to a zoning ordinance that affect the permitted uses of real property, and, instead, requires the notice of the hearing to be mailed or delivered at least 60 days before the hearing to the owner of each property subject to the proposed zoning ordinance or amendment to a zoning ordinance as shown on the latest equalized assessment roll.
 - a) The notice shall include all of the following:
 - i. Details describing the zoning ordinance or the changes made by the amendment to the zoning ordinance.
 - ii. Reasons for adopting the zoning ordinance or amendment to a zoning ordinance.
 - iii. Information describing how property owners can participate in public hearing or provide feedback regarding the zoning ordinance or amendment to a zoning ordinance.
 - b) The notice must be posted on the local government’s website.
- 2) Finds and declares that this bill is a matter of statewide concern rather than a municipal affair and, therefore, applies to all cities, including charter cities.
- 3) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

FISCAL EFFECT: The bill is keyed fiscal and establishes a state-mandated local program.

COMMENTS:

- 1) **Bill Summary.** This bill extends the period of time a local government’s planning agency must notice a public hearing where an amendment to a zoning ordinance affects the permitted uses of real property from 10 days to 60 days. The bill requires a local planning agency to mail or deliver the notice of the public hearing to the owner of each property that would be affected by the change in the zoning ordinance. The notice is required to include information on why the zoning ordinance is necessary and how the public can participate in the hearing process. AB 2904 is sponsored by NAIOP, Southern California.

- 2) **Author’s Statement.** “The most common type of zoning in California restricts certain areas to homes and some small businesses, impacting property values and housing supply. Current law only provides a 10-day notice for zoning changes, which is not enough time for property owners to understand the implications. At a time when California faces a housing shortage, zoning regulations can create more restrictions. Homeowners need more time to grasp how zoning changes may affect them. AB 2904 addresses this by extending the notice period to 60 days, allowing property owners a better opportunity to review and respond to proposed zoning amendments, enhancing transparency in the process.”
- 3) **Planning and Zoning Law.** Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Public notice must be given at least 10 days in advance of hearings where most permitting decisions will be made. The law also allows residents to appeal permitting decisions and other actions to either a board of appeals or the legislative body of the city or county. Cities and counties may adopt ordinances governing the appeals process, which can entail appeals of decisions by planning officials to the planning commission and the city council or county board of supervisors.

Local land use policies and decisions, including zoning, specific plans, development agreements, and subdivision map approvals, of general law cities (and counties) must be consistent with their general plan. However, charter cities are exempt from many provisions in law that apply to local planning and zoning ordinances, except where state law specifically states it applies to charter cities. Charter cities may also adopt an ordinance or charter amendment that requires compliance with state planning and zoning laws, including the requirement for consistency. Approximately one-quarter of charter cities have adopted such a requirement.

City or county zoning ordinances, including charter cities, must be consistent with the general plan. To comply with this requirement, a county or city must adopt a general plan, and ensure the various land uses the ordinance authorizes are compatible with the objectives, policies, general land uses, and programs the plan specifies. Any resident or property owner in the city or county can bring an action in superior court to enforce compliance within 90 days of a new zoning ordinance or amendment’s enactment. If a zoning ordinance becomes inconsistent with a general plan due to an amendment to the general plan, or any of its elements, the city or county must amend the zoning ordinance in a reasonable time so it is consistent with the amended general plan.

4) **Policy Considerations.** The committee may wish to consider the following:

- a) **Noticing Requirements.** Existing law requires, when a zoning ordinance change would affect the uses of real properties, a notice to be delivered at least 10 days prior to the hearing to the owner of the real property impacted by the change, owners of mineral rights, local agencies that provide essential facilities or services to the project, and owners of properties within 300 feet of the real property that is the subject of the hearing. The notice shall also be published in one newspaper of general circulation and posted in at least 3 public places within the boundaries of the local agency. The bill strikes a reference to existing law and limits the list of recipients the notice of public hearing shall reach, the list of recipients required by the bill does not include newspapers of general circulation. The Committee may wish to consider if existing law is sufficient to providing transparency and due notice for public hearings.
- b) **Delays to Development.** AB 2904 requires a 60 day zoning notice prior to a hearing where a change to a zoning ordinance that affects the properties' permitted uses is being reviewed. While extending the notice period can benefit public engagement, it may also result in delays in the approval process for development projects. Developers may need to adjust their timelines to accommodate the longer lead time required for public hearings, potentially prolonging the overall project timeline and increasing costs. The Committee may wish to consider if 60 days is the right balance between providing sufficient public notice and allowing development to move forward in a timely manner.

5) **Committee Amendments.** To address the policy considerations outlined above, the committee may wish to amend the bill as follows:

SECTION 1. Section 65854 of the Government Code is amended to read:

(a) The planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance ~~and subdivision b.~~

(b)(1) Except as provided in paragraph (2), notice of the hearing shall be given pursuant to Section 65090.

(2) If the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice shall be given pursuant to Sections 65090 and 65091, except that such notice shall be published, posted, mailed, delivered, or advertised, as applicable, at least 20 days prior to the hearing.

~~(b) (1) If a proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice of the hearing shall be mailed or delivered at least 60 days before the hearing to the owner of each property subject to the proposed zoning ordinance or amendment to a zoning ordinance, as shown on the latest equalized assessment roll.~~

~~(2) The notice mailed or delivered pursuant to paragraph (1) shall include all of the following information:~~

~~(A) Details describing the zoning ordinance or the changes made by the amendment to the zoning ordinance.~~

~~(B) The reasons for adopting the zoning ordinance or amendment to a zoning ordinance.~~

~~(C) Information describing how property owners can participate in public hearings or provide feedback regarding the zoning ordinance or amendment to a zoning ordinance.~~

~~(3) The notice given pursuant to this subdivision shall also be posted on the local government's internet website.~~

6) **Arguments in Support.** None on file.

7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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