

Date of Hearing: August 11, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1473 (Committee on Governance and Finance) – As Amended July 27, 2020

SENATE VOTE: 39-0

SUBJECT: Local Government Omnibus Act of 2020.

SUMMARY: Enacts the Local Government Omnibus Act of 2020, which proposes a number of non-controversial changes to existing laws governing the powers and duties of local agencies.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Bill Summary.** This bill enacts the Local Government Omnibus Act of 2020, which includes the following provisions:
 - a) **Board of Equalization (BOE) Survey of Assessors.** Section 18 of Article XIII of the California Constitution requires the BOE to measure county assessment levels annually and bring those levels into conformity by adjusting entire secured local assessment rolls. The Government Code requires the BOE to survey counties to determine the adequacy of the assessment procedures and practices employed by the county assessor, and/or sample assessments from the local assessment roll in selected counties. State law specifies the frequency of surveys and samples and the manner in which the BOE must select the counties. The BOE must report its findings to assessors, boards of supervisors, and the Legislature. **SB 1473** makes the following changes:
 - i) In 2015, the Legislature reformed the survey process to improve its efficiency by prioritizing surveys of counties with larger assessed values (AB 681, Ting). Specifically, AB 681 required the BOE to survey the ten largest counties by assessed value by surveying two per year for the next five years, instead of all counties every five years. The bill then directed the BOE to survey one county ranking in size from 11th to 20th by assessed value each year, and sample assessments from another county from that group each year too, so that each of these counties were either surveyed or sampled during the five-year period. Additionally, the measure directed the BOE to survey three counties ranking in size from 21st to 58th by assessed value each year, as well as sample assessments from two others from that group. The BOE notes that AB 681 sunsets on January 1, 2021. If the sunset is not extended, the law reinstates the pre-AB 681 process. According to the BOE, it already has a backlog under the current AB 681 schedule and would not likely be able to complete the required surveys and samples given its current staffing levels if the law reverted back to its pre-AB 681 state. **SB 1473** extends the sunset date on AB 681's changes from January 1, 2021, to January 1, 2026, and makes a conforming change.
 - ii) Before finalizing its written survey report, current law requires the BOE to consult with the former assessor for a county if the survey reviews assessments completed

- under their tenure. The California Assessors' Association notes that current law does not provide a timeframe for written responses from a former assessor, and that the open-ended nature of this requirement can cause delays in the BOE's reports. The Assessors' Association also notes that there are long-past dates in the assessment survey codes and other technical clean-up needed to this section of law. **SB 1473** establishes a 60 day timeframe for a former assessor to respond to the BOE's findings and recommendations, requires those responses to be published as an addendum to the final survey report, and makes technical and conforming changes.
- b) **California Seed Law Subventions.** The California Seed Law regulates the shipment, delivery, transport, and sale of agricultural or vegetable seeds. The Seed Law is enforced by the Secretary of Food and Agriculture and by county agricultural commissioners. The Seed Law establishes a subvention program under which the secretary is required to annually apportion \$120,000 amongst counties that choose to participate in the program as a subvention for costs that the counties incur in the enforcement of the Seed Law. Prior to 1992, this effort was funded through the General Fund. Currently, funding comes from special funds supported by assessments on the seed industry. The California Agricultural Commissioners and Sealers Association notes that the provisions that establish and govern participation in the program sunset on July 1, 2020, and all provisions are repealed on January 1, 2024. **SB 1473** extends the sunset dates by four years to July 1, 2024 and January 1, 2028, respectively.
- c) **Commercial and Industrial Common Interest Development Act.** Under the Subdivided Lands Law, the Department of Real Estate (DRE) ensures that a property owner who subdivides his or her property into five or more parcels complies with real estate and subdivision laws. Before marketing a new subdivision, a subdivider must obtain from DRE a public report, which contains information on the covenants, conditions, and restrictions that govern the use of the property, the costs and assessments for maintaining homeowner associations and common areas, and other material disclosures. A subdivider is required to provide a copy of the public report to a prospective buyer before the buyer becomes obligated to purchase a lot or unit. The Commercial and Industrial Common Interest Development Act governs the regulation of commercial and industrial common interest developments. In 2013, the California Law Revision Commission made changes to the Act in an attempt to clarify an exemption for commercial and industrial properties from the Subdivided Lands Act. The 2013 changes provide that only those subdivisions that are exclusively commercial and/or industrial are exempt from the Subdivided Lands Law. Some practitioners note that this is inconsistent with practice in the industry and the DRE's application of the law prior to the 2013 change. In addition, all sections that make up Article 2.5 of the Subdivided Lands Act have been previously repealed through other legislation, leaving only the heading but no code sections. **SB 1473** repeals the obsolete heading for Article 2.5, corrects the commercial/industrial exemption so that it applies to individual commercial or industrial lots, rather than requiring the entire subdivision to be non-commercial or industrial to be exempt, and clarifies that the operation of an apartment complex is a commercial use under the Subdivided Lands Law.
- d) **Community Land Trust Cross-References.** Formed by local agencies, employers, nonprofits, or grassroots organizations, Community Land Trusts (CLTs) are typically non-profit organizations that seek to promote affordable housing by acquiring and

retaining ownership of real property in a specific geographic area using capital or land from private donations or public sources. Last year, the Legislature enacted SB 196 (Beall), which, among other changes, added Section 214.18 to the Revenue and Taxation Code to provide that property owned by a CLT qualifies for the welfare exemption for a five-year period if the property is being or will be developed or rehabilitated as low income housing. **SB 1473** makes the following changes:

- i) The BOE notes that SB 196 used the definition of CLT in §402.1 (a)(11)(B)(ii) for purposes of the exemption; however, SB 196 also amended §402.1 to add a new subparagraph (B), and moved this definition to subparagraph (C). **SB 1473** corrects the reference in §214.18 used to define “community land trust” to instead refer to §402.1 (a)(11)(C)(ii).
- ii) The Irvine Community Land Trust notes that SB 196 defined the criteria that must be met to qualify for the welfare exemption for ownership and rental housing and included a cross reference to other state codes regarding the affordable housing documentation that must be in place. However, SB 196 inadvertently excluded a reference to the code section for affordable housing documentation applicable to rental developments, and instead only included the code reference for ownership development, which is not applicable to rental projects. **SB 1473** adds a definition with a cross-reference to the section of the Revenue and Taxation Code that establishes documentation for affordable rental projects.
- e) **Confidentiality of Communications Service Provider Information.** Current law, the Emergency Telephone Users Surcharge Act, imposes, on and after January 1, 2020, a monthly surcharge on each access line of up to \$0.80 that will produce sufficient revenue to fund the current fiscal year’s 911 costs. That act also imposes a surcharge of equal amount for each retail transaction in this state on the purchase of prepaid mobile phone services. All communications service providers (old copper network, VoIP, and wireless) are required to provide the California Office of Emergency Services (Cal OES) with the total number of customer access lines by August 1st annually. By October 1st, Cal OES must use this number and their estimated costs for implementing Next Gen 911 to determine the monthly 911 surcharge to be collect for the following calendar year. The California Cable and Telecommunications Association notes that communications service providers have requested that Cal OES maintain the confidentiality of the information that they submit for the purposes of the surcharge, but Cal OES indicates that they must follow the Public Records Act. **SB 1473** allows public disclosure of access line information provided by service suppliers to Cal OES only if the information is aggregated such that no information that can identify a service supplier is disclosed or to the extent that the Federal Communications Commission or Public Utilities Commission lawfully disclose the same information to members of the public.
- f) **Correction to Mello-Roos Special Tax Exemption.** The Mello-Roos Community Facilities Act allows counties, cities, special districts, and school districts to levy special taxes (parcel taxes) to finance a wide variety of public works, including parks, recreation centers, schools, libraries, child care facilities, and utility infrastructure. A Mello-Roos Community Facilities District (CFD) issues bonds against these special taxes to finance specified public works projects. Last year, the Legislature granted an exemption from CFD taxes to affordable housing properties that qualify for a property tax welfare

exemption, as long as the local agency levying the tax adopted the CFD tax on or after January 1, 2020 (AB 1743, Bloom, 2019). The California Housing Consortium notes that AB 1743 didn't contemplate a situation where a market-rate project with a Mello-Roos special tax adopted after January 1, 2020, would be transferred to an affordable project that would then receive a Section 214(g) tax exemption. This is creating challenges for getting bonding authority certified for certain market-rate projects due to concern that outstanding debt wouldn't be paid if the project is converted to affordable housing.

SB 1473 excludes properties with outstanding Mello-Roos debt from the exemption for affordable projects established in AB 1743, thereby requiring those properties to pay Mello-Roos taxes until the debt is retired.

- g) **County Health and Welfare Trust Fund Reporting.** Current law requires each county, city, or city and county to file annual reports with the State Controller's Office (SCO) regarding health and welfare trust fund deposits and disbursements. The Controller is required to verify deposits, notify appropriate state agencies upon request of deficits in deposits, and forward annual reports to the appropriate state department for expenditure verification. The SCO notes that this requirement imposes additional costs to transmit reports that may not be used. **SB 1473** requires the SCO to forward the reports only upon request.
- h) **Electronic Filing of Government Claims.** The Government Torts Claim Act establishes the procedures for filing a claim against a public agency. Current law requires a government claim to be served in person or by mail to the public agency. A recent executive order by Governor Newsom authorized electronic filing of government claims, but this authorization only extends for the duration of the COVID-19 state of emergency. San Francisco Mayor London Breed and San Francisco Auditor-Controller Ben Rosenfield note that the functionality of electronic service is very efficient and user-friendly for claimants. **SB 1473** allows public agencies to accept electronic filing of claims if they adopt procedures to do so, and makes related conforming changes.
- i) **Loan of County Funds to Resource Conservation Districts.** Under current law, counties can lend any of their available funds to a variety of special districts to enable them to perform their specific functions and meet their obligations. These districts include fire protection, flood control, water conservation, or park districts, as long as the district is located wholly within the county and the loan does not exceed 85 percent of the district's anticipated revenue for the fiscal year. Staff at the Assembly Natural Resources Committee note that Resource Conservation Districts (RCD's) are not eligible to receive loans from counties, even though other districts may receive loans to perform the same work as an RCD, such as vegetation management. **SB 1473** adds RCD's to the list of special districts that may receive a loan from a county.
- j) **Los Angeles County Delegated Authority.** Current law allows the Los Angeles County board of supervisors to delegate certain purchasing and leasing authority to other county officials. The process for delivering construction projects requires that a county board of supervisors (board) perform certain actions, which can cause project timelines to lengthen. A board's authority for carrying out public construction projects for a county and other board-controlled entities, including a board's ability to delegate that authority, is spread across five separate chapters of the Public Contract Code (PCC). These chapters were drafted many years apart and were originally located in separate parts of

California Code. While the PCC consolidated these chapters, it did not revise them for consistency with each other. The County of Los Angeles notes that the inconsistencies between the code sections restrict a board of supervisors' ability to delegate that authority in some cases. **SB 1473** revises four sections of the PCC to expressly permit, until January 1, 2030, the LA County board to delegate authority to adopt plans, specifications, strain sheets, and working details for public construction or repair work, and to advertise the work for bidding.

- k) **Mills Act Property Tax Calculations.** The Mills Act allows counties to enter into contracts with owners of historic buildings that allow property taxes to be based on the income generated by the building, not its fair market value. Current law requires the assessor to value historical property subject to a Mills Act contract using a prescribed income capitalization method. The BOE must determine and announce the interest component of the capitalization rate no later than October 1 each year, equal to the yield rate equal to the effective rate on conventional mortgages as most recently published by the Federal Housing Finance Agency (FHFA) as of September 1, rounded to the nearest 1/4 of 1 percent. The BOE notes that in May 2019, FHFA announced that it will no longer publish this index due to dwindling demand among financial institutions. However, the Federal Home Loan Mortgage Corporation, known as Freddie Mac, conducts and publishes a Primary Mortgage Market Survey, which is a weekly survey of mortgage interest rates in the United States. **SB 1473** strikes the reference to FHFA's effective rate and replaces it with a reference to the Federal Home Loan Mortgage Corporation's average interest rate.
- l) **Posting of Connection Fees Online.** Current law requires cities, counties, and special districts to post on their website a current schedule of fees, exactions, and affordability requirements in a manner that identifies the fees that apply to each parcel, and provides that this requirement does not alter the existing authority of a city or county to adopt or impose a fee (AB 1483, Grayson, 2019). The California Association of Sanitation Agencies (CASA) notes that the connection fees and capacity charges levied by water and sewer agencies differ from other types of impact fees because their costs are determined differently. CASA also notes that the current language was drafted with cities and counties in mind, and special districts were left out of the savings clause in the bill that expressly stated that the ability to *impose* the fees was not affected by the bill. **SB 1473** requires local agencies to separately post their connection fees and capacity charges, without being tied to specific parcels. The bill also makes technical fixes to ensure that special districts are properly accounted for by the legislation.
- m) **Reading of Ordinances.** Current law establishes certain procedural processes for county ordinances to become law. Ordinances must be read in full at the time of passage or introduction unless, after reading the title, the Board of Supervisors waives further reading by a majority vote. The County of Santa Clara notes that this requirement is unnecessary when the title of the ordinance is listed in the meeting agenda, in full compliance with the state's open meetings laws, and the full text of the ordinance is typically made available online or in print prior to the introduction or passage of the ordinance. **SB 1473** removes the requirement to read the title and waive the remainder of the reading of the text of an ordinance when the title of the ordinance is listed in the agenda and the full text of the ordinance is available to the public online or in print prior

to the meeting where the ordinance is introduced or adopted.

- n) **Reclamation District 108 Hydropower Authorization.** State law establishes the powers and duties of reclamation districts, including to construct and maintain levees and other flood protection infrastructure and to supply water for irrigation. Two reclamation districts, RD 1004 and RD 108, can also develop and operate hydropower projects. RD 108's hydropower authority expires on January 1, 2021. The Northern California Water Association notes that without this authority, RD 108 will be unable to continue participating in the development of the Sites Reservoir project. **SB 1473** extends RD 108's hydropower authority by five years, until January 1, 2026.
- o) **Sales and Use Tax Exemption for Out-of-State Trailer Purchases.** In 2019, the Legislature enacted AB 321 (Patterson), which expanded a current state and local sales and use tax exemption for vehicles delivered in California but used in interstate or foreign commerce. The bill sunsets on January 1, 2024. Taxpayers can apply an exemption from state and local sales and use tax when they purchase a new or remanufactured trailer or semitrailer. One of the requirements to apply the sales and use tax exemption is that the purchaser or purchaser's agent must provide written evidence of an out-of-state license and registration for the vehicle to the manufacturer, remanufacturer, or dealer. The California Department of Tax and Fee Administration notes that AB 321 provided an alternative methods for providing written evidence in cases where the vehicle is subject to the permanent trailer identification program, a program that issues permanent trailer identification plates and permanent trailer identification certificates, and is used in interstate or foreign commerce. However, AB 321 did not provide an alternative in cases where the vehicle is registered under the International Registration Plan (IRP), an international highway program that facilitates commercial vehicle registration and operation among states and Canada. **SB 1473** specifies the requirements for vehicles registered under the IRP and makes conforming changes.
- p) **Very High Fire Hazard Severity Zones.** Current law requires the Director of CALFIRE to identify very high fire hazard severity zones (VHFHSZ) throughout the state. These designations must be made every five years and are based on consistent statewide criteria of how severe the fire hazard is expected to be in those areas. Once the director identifies the VHFHSZs, he or she must make a recommendation to all local agencies with land in the VHFHSZs. Local agencies must then adopt these maps by ordinance within 120 days of receiving the Director's recommendations, and can add land to the VHFHSZs but not remove it. Senate Governance and Finance Committee staff note that the requirement for local agencies to adopt VHFHSZs contains an outdated cross-reference to subdivisions of code that were repealed in 2008. **SB 1473** deletes the references to the since-repealed subdivisions.
- 2) **Findings and Declarations.** This bill contains the following findings and declarations, which are not typical for this annual omnibus bill:

"The COVID-19 pandemic, the resulting public health crisis, and the ensuing restrictions on legislative activities during the second year of the 2019–20 Regular Session required members of the Legislature to limit the number of bills that they can author. As a result, some proposed statutory changes that have significant public benefit and urgency have been placed on hold.

“The Local Government Omnibus Act is a consensus-driven process typically reserved for minor changes to statute and excludes policy changes that do not clearly and explicitly fall within the jurisdiction of the Senate Committee on Governance and Finance, or policy changes that require the full scrutiny of the policy process. The committee takes a strict view of policies that can be enacted or modified through the omnibus bill.

“The Local Government Omnibus Act of 2020 includes provisions that, while still adhering strictly to the consensus requirement, are more substantive or less clearly within the jurisdiction of the committee than would otherwise be appropriate for the omnibus bill process in order to advance needed public policy in a safe and efficient manner. Therefore, the inclusion of items in the Local Government Omnibus Act of 2020 shall not be considered precedential in any manner.”

- 3) **Author’s Statement.** According to the author, “SB 1473 compiles, into a single bill, noncontroversial statutory changes to five parts of state laws that affect local agencies and land use. Moving a bill through the legislative process costs the state around \$18,000. By avoiding four other bills, the Committee’s measure avoids approximately \$72,000 in legislative costs. Although the practice may violate a strict interpretation of the single-subject and germaneness rules, the Committee insists on a very public review of each item. More than 100 public officials, trade groups, lobbyists, and legislative staffers see each proposal before it goes into the Committee’s bill. Should any item in SB 1473 attract opposition, the Committee will delete it. In this transparent process, there is no hidden agenda. If it’s not consensus, it’s not omnibus.”
- 4) **Arguments in Support.** Supporters note that this bill assists them with their mission and duties by making several non-controversial changes to the statutes governing local governments.
- 5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Cable & Telecommunications Association
California Communications Association
Consolidated Communications
CTIA
Frontier Communications Corporation

Opposition

None on file.

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