

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 414 (Jones) – As Amended April 27, 2021

SENATE VOTE: 37-0

SUBJECT: Land.

SUMMARY: Revises the definition of cadastral surveying; updates how data may be provided for purposes of surveys; makes technical changes to provisions of the Land Surveying Act (LSA); and, extends the amount of time allotted to set a hearing to appeal a decision made under the Subdivision Map Act (SMA), as specified. Specifically, **this bill:**

- 1) Revises the definition of “cadastral surveying” to mean a survey that creates, marks, defines, retraces, or reestablishes the boundaries and subdivisions of the public land of the United States, or any other field survey of a cadaster that is a public record, survey, or map of the extend and ownership of land.
- 2) Clarifies that data presented in a record of survey can include other data in graphic or narrative form.
- 3) Extends the time that a local agency has to hear an appeal of an action of an advisory agency with respect to a tentative map from 30 days to 45 days after an appellant files a request.

EXISTING LAW:

- 1) Establishes the Board of Professional Engineers, Land Surveyors and Geologists (BPELSG) within the Department of Consumer Affairs to license and regulate engineers, land surveyors and geologists.
- 2) Defines the practice of land surveying as “a person, including a person employed by a city, county, or city and county, who either in a private or public capacity does or offers to do a number of specified services.”
- 3) Authorizes, by a majority vote, the BPELSG to publicly reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or licensed civil engineer for specified acts.
- 4) Provides, pursuant to the SMA, a statewide regulatory framework for controlling the subdividing of land, which generally requires a subdivider to submit, and have approved by the city, county, or city and county in which the land is situated, a tentative map. The SMA provides for the expiration of tentative maps after specified periods of time, and authorizes cities and counties to grant discretionary map extensions.
- 5) Authorizes the subdivider, or any tenant of a subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, to appeal any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

- 6) Requires the appeal to be filed with the clerk of the appeal board or with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.
- 7) Requires the appeal board or legislative body, upon the filing of an appeal, to set a hearing within 30 days after the date of the request filed by the subdivider or the appellant, as specified.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Author's Statement.** According to the author, "SB 414 makes a series of largely technical changes to laws relating to land surveying, including adding a definition of 'cadastral' surveys; clarifying that information included in records of survey may be provided in either graphic or narrative form in order to facilitate the 'intelligent interpretation' of the surveys; cleaning up violations of the Land Surveying Act by separating the references to negligence and incompetence; and extending the time for appeals of local decisions concerning tentative maps from 30 days after request for hearing to 45 days."
- 2) **Land Surveying.** In order to practice land surveying an individual must meet both educational and or experience requirements in addition to taking and passing a qualifying examination. Licensed land surveyors can provide the following services:
 - a) Prepare legal descriptions and maps for subdividing property.
 - b) Perform boundary line adjustments.
 - c) Replace lost or obliterated property corners.
 - d) Set boundary markers or property corners, also known as monuments.
 - e) Retrace boundaries for fences and other purposes.
 - f) Locate, relocate, establish, reestablish, or retrace any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.
 - g) Prepare legal descriptions and information shown with the description of any deed or other title document.
 - h) Prepare maps or plats for plot plans.
 - i) Stake the location of fixed engineering works for construction.
 - j) Determine boundary discrepancies.
 - k) Locate, relocate, establish, reestablish, or retrace the alignment or elevation for any of the fixed works embraced within the practice of civil engineering.
 - l) Determine contours of the earth's surface for topographic maps.

- m) Photogrammetric surveying or aerial topographic mapping.
- n) A survey that does not determine property lines, but made only for geological or landscaping purposes, does not require a licensed land surveyor.

The practice of “land surveying” is defined in Business and Professions Code (BPC) Section 8726. As part of that definition, it specifies the various types of surveying methods used in conducting a land survey. Currently, the law contains a definition for the use of geodetic and cadastral surveying, but as noted by the author and sponsor, the current definition is more closely related to the practice of “geodetic” surveying only and not “cadastral” surveying. Geodetic surveying is defined as performing surveys, in which account is taken of the figure and size of the earth to determine or predetermine the horizontal or vertical positions of fixed objects thereon or related thereto, geodetic control points, monuments, or stations for use in the practice of land surveying or for stating the position of fixed objects, geodetic control points, monuments, or stations by California Coordinate System coordinates.

- 3) **The SMA.** Under current law, a tentative and final map is required for all subdivisions creating five or more parcels, five or more condominiums as defined, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units under specified conditions. Further, current law requires a tentative map to be filed with the clerk of the advisory agency or, if there is no advisory agency, with the clerk of the legislative body, or with any other officer or employee of the local agency as may be designated by local ordinance. Existing law also authorizes a subdivider or any tenant of the subject property, under specified circumstances, to appeal any action of the advisory agency with respect to a tentative map to the appeal board. Under current law the appeal is required to be heard within 30 days.
- 4) **Bill Summary.** This bill makes several changes to the LSA and the SMA. As it relates to the LSA this bill:
 - a) Separates “negligence” and “incompetence” into two distinguishable categories for BPELSG to consider when seeking a suspension, revocation, or other disciplinary action.
 - b) Adds a clarifying definition of cadastral surveying to the BPC. Although cadastral surveying is not a new survey method, the new definition aims to bring clarity in statute to current survey practices. As proposed by this bill, “cadastral survey” would mean performing a survey that creates, marks, defines, retraces, or reestablishes the boundaries and subdivisions of the public land system of the United States.

As it relates to the SMA, this bill extends from 30 days to 45 days the amount of time a local agency has to hear an appeal after an appellant requests a hearing regarding a decision made by an advisory agency regarding a tentative map.

This bill is sponsored by the California Land Surveyors Association.

- 5) **Related Legislation.** SB 407 (Archuleta) expands the definition of land surveying, as specified. SB 407 is pending on the Senate Floor.

AB 1030 (Chen) makes changes to the definition of land surveying. AB 1030 is pending in the Assembly Committee on Business and Professions.

- 6) **Previous Legislation.** AB 3334 (Chen) of 2020 would have made technical and non-substantive changes to the definition of land surveying. AB 3334 died in the Assembly Committee on Business and Professions.

SB 556 (Pan) of 2019 would have revised and expanded the definition of “land surveying”; establishes a certification process for a business practicing land surveying under the jurisdiction of the BPELSG; and required the BPELSG to provide a copy of a “valid complaint” to other state BPELSGs that regulate the health and safety of persons working on construction, building, or infrastructure projects. SB 556 died in the Assembly Committee on Business and Professions.

- 7) **Arguments in Support.** According to the California Land Surveyors Association, “SB 414 makes four, largely technical, changes to laws relating to land surveying which overall provides clarity in the licensing law and extends the amount of time for appealing local decisions concerning tentative maps. Specifically, the bill adds a definition of ‘cadastral’ surveys, which has been undefined for many years, consistent with the federal Bureau of Land Management. Additionally, the bill clarifies that ‘intelligent interpretation’ of surveys may be provided in either graphic or narrative form and separates the grounds for discipline for ‘negligence’ and ‘incompetence’ which are currently listed in the same subdivision as a violation of the Land Surveying Act. Finally, this bill also extends the time for appeals of local decisions concerning tentative maps from 30 days after request for hearing to 45 days because surveyors who are employed by public entities report that the current timeframe is too short to conduct the hearings on appeals within the 30-day limit.”
- 8) **Argument in Opposition.** None on file.
- 9) **Double Referral.** This bill is double-referred to the Business and Professions Committee, where it passed on a 19-0 vote on June 22, 2021.

REGISTERED SUPPORT / OPPOSITION:

Support

California Land Surveyors Association [SPONSOR]
American Council of Engineering Companies of California

Opposition

None on file.

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