SENATE RULES COMMITTEE SB 1473
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1473
Author: Committee on Governance and Finance
Amended: 8/25/20
Vote: 27

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 6/11/20 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Jackson, Jones, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hurtado

ASSEMBLY FLOOR: Not available

SUBJECT: Local Government Omnibus Act of 2020

SOURCE: Author

DIGEST: This bill proposes several minor changes to state laws governing local governments' powers and duties.

Assembly Amendments make additional minor and technical changes to local government laws.

ANALYSIS: Each year, local officials discover problems with state statutes affecting counties, cities, special districts, and redevelopment agencies, as well as the laws on land use planning and development. These minor problems do not warrant separate (and expensive) bills. According to the Legislative Analyst, the cost of producing a bill in 2001-02 was $17,890.

Legislators respond by combining several of these minor topics into an annual "omnibus bill." In 2019, for example, the local government omnibus bill was SB 780 (Senate Governance & Finance Committee, Chapter 329, Statutes of 2019) which contained noncontroversial statutory changes to 14 areas of local government law, avoiding approximately $250,000 in legislative costs Although this practice may violate a strict interpretation of the single-subject and germaneness rules as presented in *Californians for an Open Primary v. McPherson* (2006), it is an expeditious and relatively inexpensive way to respond to multiple requests.

This bill, the Local Government Omnibus Act of 2020, proposes the following changes to the state laws affecting local agencies' powers and duties:

1) *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 Department of Real Estate'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. [See SEC. 2 and 3 of the bill.]

2) *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. [See SEC. 4, 5, and 6.]

3) *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. [See SEC. 7, 8, and 9.]

4) *Board of Equalization (BOE) Survey of Assessors.* Section 18 of Article XIII of the California Constitution requires BOE to measure county assessment levels annually and bring those levels into conformity by adjusting entire secured local assessment rolls. The Government Code requires 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:

   a) 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 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 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 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 technical change. [See SEC. 10 and 11.]

b) Before finalizing its written survey report, current law requires BOE to consult with the former assessor for a county if the survey reviews assessments completed under their tenure. These survey reports must also include addendums that include written responses from the former assessor on the survey report's findings and recommendations and the BOE's comments, if any. The California Assessors' Association 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 repeals outdated timeframes that apply to reports conducted in the past and makes a clarifying change to ensure that copies of any addendums to the reports are also filed along with the survey reports. [See SEC. 12 and 13.]

5) *Loan of County Funds to Resource Conservation Districts.* Current law allows a county to lend any of its available funds to a variety of types of special districts to enable the district to perform its functions and meet its obligations. Many types of districts are eligible, such as a 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 to the Assembly Natural Resources Committee notes that resource conservation districts currently are not authorized to receive loans from a county, even though they may perform work such as vegetation management that could be funded through a loan if a different special district had performed the work. SB 1473 adds resource

conservation districts to the list of special districts that may receive a loan from a county. [See SEC. 14.]

6) *Reading of Ordinances.* Current law establishes certain procedural requirements for county ordinances to become law. Most ordinances must be introduced for five days before being passed and must be passed at a regular meeting or an adjourned regular meeting; urgency ordinances don't have to abide by these rules. All ordinances must be read in full either at the time of introduction or passage, unless the Board of Supervisors waives further reading after the title is read. The County of Santa Clara notes that this requirement to read the title of an ordinance is obsolete and inefficient at a time when the title of the ordinance is listed in the 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. [See SEC. 15.]

7) *Very High Fire Hazard Severity Zones.* Current law requires the director of the California Department of Forestry and Fire Protection (CALFIRE) to identify areas in the state as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. These designations must be updated every five years. Once the director identifies the VHFHSZ, he or she must make recommendations to all local agencies with land in the VHFHSZ. Local agencies must adopt these maps via ordinance within 120 days of receiving the recommendation, and can add land to the VHFHSZ, 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. [See SEC. 16.]

8) *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 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. [See SEC. 17.]

9) *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 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. [See SEC. 18.]

10) *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, specification, strain sheets, and working details for working details for public construction or repair work, and to advertise the work for bidding. [See SEC. 19, 20, 21, 22, 23, 24, 25, and 34.]

11) *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:

    a) 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). [See SEC. 26.]

    b) 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. [See SEC. 26.]

12) *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. [See SEC. 27.]

13) *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. [See SEC. 28, 29, and 33.]

14) *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. [See SEC. 30 and 31.]

15) *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. [See SEC. 32.]

Comments

Purpose of the bill. SB 1473 compiles, into a single bill, noncontroversial statutory changes to 15 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 14 other bills, the Committee's measure avoids approximately $250,000 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.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- The California Department of Food and Agriculture (CDFA) indicates this bill extends the current annual payment of $120,000 (special fund) provided to county agricultural commissioners since 1987 to perform local seed inspection and enforcement services to ensure seeds sold in California are properly and accurately identified on the product label. All Seed Services Program expenditures are continuously appropriated and paid from industry fees.

- Absent this bill, the Seed Services Program would initially experience an estimated cost savings of $120,000 starting in fiscal year 2020-21. However, it is anticipated the Seed Advisory Board would recommend those cost savings be

redirected to hiring additional Seed Services Program field staff to ensure continued local enforcement of the California Seed Law.

- The remaining provisions of this bill are expected to have negligible state costs.

SUPPORT: (Verified 8/27/20)

Northern California Water Association

OPPOSITION: (Verified 8/27/20)

None received

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