

Assembly Bill No. 821

CHAPTER 748

An act to amend Section 65860 of the Government Code, relating to land use.

[Approved by Governor October 11, 2023. Filed with Secretary
of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 821, Grayson. Planning and zoning: general plan: zoning ordinance: conflicts.

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of certain land outside its boundaries. Existing law requires that county or city zoning ordinances be consistent with the general plan of the county or city by January 1, 1974. Existing law authorizes any resident or property owner to bring an action or proceeding in the superior court to enforce compliance with these provisions within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance. Existing law requires a zoning ordinance to be amended within a reasonable time so that it is consistent with the general plan in the event that the ordinance becomes inconsistent with the plan by reason of amendment to the plan.

This bill, in the event that a zoning ordinance becomes inconsistent with a general plan due to an amendment to the general plan and a local agency receives a development application for a project that is not subject to specified provisions of law relating to housing development projects and that is consistent with the general plan but inconsistent with a zoning ordinance, would require the local agency to either amend the zoning ordinance within 180 days from the receipt of the development application to be consistent with the general plan, or to process the development application, as specified. If a local agency does not amend the zoning ordinance within 180 days from the receipt of the development application, the bill would require the local agency to process the development application. The bill would also provide that a proposed development is not deemed inconsistent with any zoning ordinance or related zoning standard or criteria, and is not required to be rezoned to accommodate the proposed development, if there is substantial evidence that would allow a reasonable person to conclude that the proposed development is consistent with objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. The bill would authorize any resident or property owner to bring an action or proceeding in the superior court to enforce compliance with these provisions within 90 days of a local

agency's failure to comply. By imposing new duties on local agencies with regard to local planning and zoning, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The people of the State of California do enact as follows:

SECTION 1. Section 65860 of the Government Code is amended to read:

65860. (a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

(1) The city or county has officially adopted a plan.

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) A resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with this section. An action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. An action or proceeding shall not be maintained pursuant to this section by a person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of any of the following:

(1) The enactment of any new zoning ordinance.

(2) The amendment of any existing zoning ordinance.

(3) The failure of a local agency to comply with this section.

(c) (1) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the general plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan, as amended.

(2) If a zoning ordinance becomes inconsistent with the general plan due to amendment to the general plan or to any element of the general plan, and a local agency receives a development application for a project that is not subject to Section 65589.5 and that is consistent with the general plan, but inconsistent with the zoning ordinance, the local agency shall do one of the following:

(A) For any provision of the zoning ordinance that is applicable to the proposed development and inconsistent with the general plan, amend the zoning ordinance within 180 days from the receipt of the development application to be consistent with the general plan.

(B) Process the development application in accordance with all applicable laws. When processing the development application, the local agency shall apply the objective general plan standards, but not inconsistent zoning standards, to the proposed development project to facilitate and accommodate development at the density allowed on the site by the general plan. A proposed development shall not be deemed inconsistent with any zoning ordinance or related zoning standard or criteria and shall not be required to be rezoned to accommodate the proposed development, if there is substantial evidence that would allow a reasonable person to conclude that the proposed development is consistent with objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. The objective general plan standards shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the development project.

(3) If a local agency fails to amend the zoning ordinance within 180 days from the receipt of the development application pursuant to subparagraph (A) of paragraph (2), the local agency shall process the development application pursuant to subparagraph (B) of paragraph (2).

(d) Notwithstanding Section 65803, this section shall also apply to a charter city.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 3. The Legislature finds and declares that lowering costs by preventing delays in the development process is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act amending Section 65860 of the Government Code applies to all cities, including charter cities.