

2390ASSEMBLY THIRD READING

AB 2390 (Schiavo)

As Amended April 22, 2026

Majority vote

SUMMARY

Modifies provisions of the streamlined, ministerial review process established by SB 423 (Wiener), Chapter 778, Statutes of 2023, related to project modifications and approval tolling timelines.

Major Provisions

- 1) Expands tolling provisions so that approvals are extended during the pendency of litigation related to any modification request for SB 423 projects, rather than only the first request.
- 2) Provides that for purposes of SB 423 modifications, consistency is measured against objective zoning, subdivision, and design review standards, rather than "planning standards."
- 3) Requires a local government to evaluate modification requests, including a subsequent modification, for consistency with the objective planning standards that the local government originally used, or that were used in a previous modification, to assess consistency.
- 4) Allows a local government to apply objective zoning, subdivision, and design review standards, rather than "planning standards," adopted after the development application was first submitted to the requested modification in certain instances.
- 5) Makes other technical and conforming non-substantive changes.
- 6) Includes findings and declarations.

COMMENTS

SB 423: SB 423 (Wiener), Chapter 778, Statutes of 2023, extends and expands one of California's main streamlined housing approval laws, first established by SB 35 (Wiener), Chapter 36, Statutes of 2017. Originally enacted as a temporary tool applicable in jurisdictions falling short of housing production targets, SB 35 created a ministerial, CEQA-exempt approval process for qualifying projects that meet certain statutory standards, including affordability and labor, and objective local standards. SB 423 continues the law through 2036 and broadens its reach by addressing several limitations of the initial bill. The Department of Housing and Community Development (HCD) refers to this combined framework as the Streamlined Ministerial Approval Process (SMAP). Under SB 423, a jurisdiction is subject to streamlining either if it is out of compliance with Housing Element Law or falls short of Regional Housing Needs Assessment (RHNA) production targets.

SB 423 also includes environmental siting restrictions, prohibiting streamlined approval on certain sensitive or hazardous sites, including coastal zones without appropriate planning protections, prime farmland, wetlands, high fire hazard areas (with limited exceptions), hazardous waste sites, earthquake fault zones, flood hazard areas, and lands designated for conservation or protected species habitat. These exclusions are intended to ensure that streamlining is directed toward infill and appropriate urban sites, while avoiding development in

environmentally sensitive or high-risk areas, thereby balancing housing production goals with environmental and public safety considerations. SB 423 contains tenant protections and anti-displacement measures, prohibiting use on sites that would demolish tenant-occupied, deed-restricted, rent-stabilized, or rent-controlled housing.

The streamlining pathway created by SB 35 and modified by SB 423 also contains affordability requirements and labor standards. In jurisdictions underproducing above-moderate RHNA, projects must include at least 10% very low-income units; where lower-income RHNA is underproduced, 50% affordability is required. All projects must pay prevailing wages, while larger or taller projects must also provide health benefits, apprenticeships, and employ a skilled and trained workforce.

Existing law under SB 423 provides a pathway for housing developments to seek project modifications after planning approval under the streamlined, ministerial process. A development proponent may request a modification prior to the issuance of the final building permit, and a local government must approve the modification if it remains consistent with applicable objective standards. Local agencies are required to evaluate modification requests using the same assumptions and analytical methodology applied to the original approval and are limited to reviewing only those aspects of the project that are modified.

Existing law also establishes timelines for the validity of approvals and includes tolling provisions. For most projects, an approval remains valid for three years, provided specified conditions related to construction progress are met, while certain deeply affordable projects and projects receiving public investment are not subject to an entitlement expiration timeframe. The approval period is extended during the time a modification request is under review, and during the pendency of litigation related to the first request for modification, recognizing that these processes may delay a project's ability to proceed prior to building permit issuance.

By replacing discretionary approvals with ministerial ones, SB 423 reduces litigation risk, lowers costs, and increases predictability, while requiring compliance with local planning regulations. In particular, the elimination of CEQA review for qualifying projects may reduce entitlement timelines and the risk of project delays associated with litigation, which can significantly increase carrying costs and uncertainty. Annual Progress Report (APR) data suggest the law has been used to entitle thousands of units, though APR data contains known errors.¹ As of September 2025, roughly 92% of jurisdictions are subject to SB 423, a number likely to grow as the 6th RHNA cycle progresses.²

This Bill: This bill modifies provisions of SB 423 related to environmental eligibility, project modifications, and approval timelines. According to the sponsors, these changes respond to conditions that stakeholders experience while trying to use SB 423.

Specifically, this bill revises the modification process for SB 423 projects. It requires local governments to evaluate modification requests, including subsequent modifications, using the same assumptions and analytical methodology applied to the original approval or a prior

¹ Department of Housing and Community Development (HCD) APR Dashboard: <https://www.hcd.ca.gov/housing-open-data-tools/apr-dashboard>

² HCD Streamlined Ministerial Approval Process (SMAP) Dashboard: <https://www.hcd.ca.gov/planning-and-community-development/streamlined-ministerial-approval-process-dashboard>

modification. It further specifies that consistency is measured against objective zoning, subdivision, and design review standards, and refines statutory cross-references to more precisely identify the applicable standards for modification review. These changes provide greater predictability for both developers and local governments by ensuring that the rules used to evaluate a project do not shift over time or across successive modifications, and can ensure that prior modifications still apply to the development proposal. They also allow projects to adapt to financing, design, or market conditions without restarting the entitlement process, while maintaining guardrails that ensure continued compliance with applicable objective standards.

In addition, this bill expands existing tolling provisions by providing that project approvals are extended during the pendency of litigation related to any modification request, rather than only the first modification. Under current law, approvals may be extended during litigation, but this protection is limited to the first request for a modification, creating a risk that subsequent litigation regarding a modification could cause an approval to expire. For context, certain deeply affordable housing developments are not subject to an expiration timeframe under SB 423, while other developments generally have a three-year approval period.

This change helps ensure that applicants are not required to forgo project modifications in order to preserve an approval or risk expiration while litigation is ongoing. It could also reduce the potential for litigation to be used strategically to delay projects until approvals lapse. At the same time, the provision maintains existing safeguards by limiting tolling to the duration of active litigation, thereby preserving the overall intent of time limits on approvals while accounting for circumstances outside the applicant's control, including successive litigation.

According to the Author

"California's housing crisis requires that existing tools operate efficiently, consistently, and as intended. State law provides a streamlined approval pathway for infill housing developments, but gaps in implementation have created uncertainty and delays that undermine its effectiveness. Additionally, ambiguities in current law have led to inconsistent interpretations, prolonged timelines, and opportunities for misuse. These challenges can slow housing production and create avoidable barriers for both local governments and developers. AB 2390 provides targeted clarifications to ensure that the streamlined housing approval process is applied predictably, allowing projects that meet objective standards to move forward without unnecessary disruption. In doing so, the bill supports the timely delivery of much-needed housing while maintaining appropriate environmental and local safeguards. This measure represents a practical, good-governance approach that strengthens implementation without altering the underlying policy framework."

Arguments in Support

SPUR, the bill sponsor, writes in support: "AB 2390 addresses several unintended ambiguities in current law that have led to inconsistent interpretations, unnecessary delays, and opportunities for misuse. The bill makes the following key improvements:

- 1) Prevents misuse of the extension process by ensuring that project approvals are not jeopardized by litigation delays. This correction allows applicants to defend against legal challenges without risking expiration of their approvals due to circumstances beyond their control.

- 2) Ensures consistent application of evolving state law by clarifying that updates and clarifications to state statutes apply to modification applications, while maintaining protections against shifting local standards.
- 3) Improves clarity and consistency in modification reviews by confirming that assumptions and analytical methodologies remain consistent across modifications, while allowing flexibility to address new issues that may arise."

Arguments in Opposition

None on file for current bill version.

FISCAL COMMENTS

According to the Assembly committee on Appropriations: No state costs. Local costs are not reimbursable by the state because cities and counties have general authority to charge and adjust planning and permitting fees as necessary to cover administrative costs.

VOTES**ASM HOUSING AND COMMUNITY DEVELOPMENT: 12-0-0**

YES: Haney, Patterson, Ward, Caloza, Garcia, Kalra, Lee, Quirk-Silva, Ta, Tangipa, Wicks, Wilson

ASM NATURAL RESOURCES: 13-0-1

YES: Bryan, Ellis, Alanis, Connolly, Garcia, Haney, Hoover, Kalra, Macedo, Pellerin, Schultz, Wicks, Zbur

ABS, ABST OR NV: Muratsuchi

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ABS, ABST OR NV: Arambula

UPDATED

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