

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

SB 808 (Caballero)  
Version: February 21, 2025  
Hearing Date: April 8, 2025  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Civil Actions: writs: housing development projects

**DIGEST**

This bill establishes an expedited writ of mandate procedure for judicial review of a local agency decision denying approval of a housing development project, as defined.

**EXECUTIVE SUMMARY**

California is experiencing an acute housing crisis. Due to a range of factors, including local government hostility to development, the state has millions' fewer homes than it needs to house its residents. This extreme shortage is responsible for California's high rate of homelessness and California's sky-high cost of living. For many low- and middle-income Californians, the cost of even modest housing is prohibitive or leaves them financially insecure.

In recent years, the Legislature has passed a number of measures to encourage the construction of new homes. Unfortunately, many local governments remain opposed to building new housing within their boundaries and continue to deny building permits, even when such denials are prohibited under state law. According to Attorney General Rob Bonta, the sponsor of the bill, the current process for judicial review of these denials—generally a writ of mandate—is too slow. In the months or years it can take for the courts to review and overturn an improper permit denial, the planned development can collapse, due to too-prolonged delays, skyrocketing costs, or even the expiration of the permit while the appeal is pending.

This bill establishes an expedited judicial review process for a local agency's decision to deny a permit for a new housing development or residential unit. The bill's procedure allows a party to seek judicial review of a housing permit denial through a writ of mandate, and requires the court to hear the matter and issue a decision within set timeframes. This expedited process is intended to prevent drawn-out litigation from

stymieing the construction of badly needed new housing, thereby speeding up housing construction in the state.

This bill is sponsored by Attorney General Rob Bonta and is supported by California Community Builders. The Committee has not received timely opposition to this bill.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the procedure by which a petitioner may seek, and a court may issue, a writ of mandate compelling the specific performance of an inferior tribunal, corporation, board, or person. (Code Civ. Proc., §§ 1085-1094.)
- 2) Establishes particular requirements when a writ of mandate is issued to inquire into the validity of a final administrative order or decision made as the result of a proceeding in which the administrative body conducted a hearing, took evidence, and exercised discretion in determining facts, including:
  - a) All or part of the record of the proceedings before the administrative body may be filed with the petition, may be filed with the respondent's points and authorities, or may be ordered to be filed by the court.
  - b) Except as otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner; if the prevailing party paid all or part of the costs of preparing the record, the expense shall be taxable as costs.
  - c) The inquiry in such a case shall extend to the questions of (1) whether the respondent has proceeded without, or in excess of, jurisdiction; (2) whether there was a fair trial; (3) and whether there was any prejudicial abuse of discretion. An abuse of discretion occurs when the respondent did not proceed in a manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.
  - d) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; in all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
  - e) The court shall enter judgment either commanding the respondent to set aside the order or decision, or denying the writ. When the judgment commands the order or decision to be set aside, the court may order the reconsideration of the case and may order the respondent to take legally required actions, but may not limit or control the respondent's legally vested discretion. (Code Civ. Proc., § 1094.5.)

- 3) Requires a petition for administrative mandamus filed to seek review of a decision of a local agency for which a hearing was required to be filed within 90 days after the date the agency's decision became final; however, if the petitioner files a request for the record from the local agency within 10 days after the decision becomes final, the petition deadline is extended to not later than 30 days after the date the record is delivered to the petitioner.
  - a) The local agency must prepare the complete record of the proceedings and deliver the record to the petitioner no later than 190 days after the petitioner's request.
  - b) The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. (Code Civ. Proc., § 1094.6.)
  
- 4) Establishes an expedited review process for actions or proceedings to review the issuance, revocation, suspension, or denial of a permit or other entitlement for expressive conduct protected by the United States Constitution, which supersedes any requirements to the contrary in 2) and 3), as follows:
  - a) Within five court days after receipt of written notification from a permit applicant that the permit applicant will seek judicial review of a public agency's action on the permit, the public agency shall prepare, certify, and make available the administrative record to the permit applicant.
  - b) The action shall be in the form of a petition for writ of mandate.
  - c) The party bringing the action shall file and serve the petition on the respondent no later than 21 calendar days following the public agency's final decision on the permit; the title page of the petition shall contain the phrase "ATTENTION: THIS MATTER IS ENTITLED TO PRIORITY AND SUBJECT TO THE EXPEDITED HEARING AND REVIEW PROCEDURES CONTAINED IN SECTION 1094.8 OF THE CODE OF CIVIL PROCEDURE." in 18-point type.
  - d) The clerk of the court shall set a hearing for review of the petition no later than 25 calendar days from the date the petition is filed, with moving, opposition, and reply papers to be filed as provided in the California Rules of Court, and the petitioner lodging the administrative record with the court no later than 10 calendar days in advance of the hearing date.
  - e) Following the conclusion of the hearing, the court shall render its decision in an expeditious manner consistent with constitutional requirements in view of the particular facts and circumstances; in no event shall the decision be rendered later than 20 calendar days after the matter is submitted or 50 calendar days after the date the petition is filed, whichever is earlier.
  - f) If the presiding judge of the court determines that the court will be unable to meet one or more of the deadlines, the presiding judge shall request the temporary assignment of a judicial officer to hear the petition and render a decision within the time limits.
  - g) The parties to the action may jointly waive the time limits for the action. (Code Civ. Proc., § 1094.8.)

- 5) Prohibits a local agency from disapproving of a housing development project for very low, low-, or moderate-income households, or an emergency shelter, unless specified conditions are met.
  - a) "Housing development project" means a use consisting of any of: (1) residential units only; (2) mixed-use residential and nonresidential units that meet specified requirements; or (3) transitional or supportive housing.
  - b) "Disapprove of the housing development project" means an instance in which a local agency: (1) takes a vote to disapprove an application for a housing development project; (2) fails to meet specified time limits with respect to an application; (3) fails to cease a course of action that effectively disapproves of the project without taking final administrative action, as specified; (4) determines that an application is incomplete on the basis of the omission of an item not on the agency's checklist; (5) imposes prohibited requirements relating to the application; or (6) fails to comply with specified requirements under the California Environmental Quality Act. (Gov. Code, § 65589.1.)
- 6) Permits the applicant, a person who would be eligible to apply for residency in the housing development or emergency shelter, or a housing organization to bring an action to enforce 5) in the form of a petition for writ of mandate under 2). The court shall issue an order compelling compliance with 5) if specified conditions are met, and shall award reasonable attorney's fees and costs to the plaintiff or petitioner unless the court finds that the award would not be consistent with the purpose of the statute. (Gov. Code, § 65589.1(k)-(n).)
- 7) Establishes a streamlined, ministerial approval process for a housing development project that satisfies certain objective planning standards, when the project is to be built in a locality that has issued fewer permits than its share of the regional housing needs for the area or that has failed to adopt a housing element in substantial compliance with specified law. (Gov. Code, § 65913.4.)

This bill:

- 1) Defines the following terms:
  - a) "Housing development project" has the same meaning set forth in Government Code section 65589.5(h)(2), and includes housing development projects consisting of one residential unit.
  - b) "Applicant" means a party that has submitted an application or requested a permit for a housing development project.
  - c) "Public agency" means a city, county, city and county, district, or other local authority.
  - d) "Disapproves the housing development project" means to disapprove the housing development project as defined in Government Code section 65589.5(h)(6).

- 2) Provides that, notwithstanding any other provision governing writs of mandate, an action or proceeding to review the denial of a permit or other entitlement for a housing development project or residential dwelling unit shall be conducted pursuant to the expedited procedure set forth in 3), provided that the petitioner provides timely notice.
- 3) Establishes a procedure for judicial review of the denial of a permit or other entitlement for a housing development project or residential dwelling unit, as follows:
  - a) An action brought by an applicant shall be in the form of a petition for writ of mandate made pursuant to Code of Civil Procedure section 1085 or section 1094.5, or both, as appropriate.
  - b) Upon request of the applicant, the local agency shall prepare the record of its proceedings concurrently with the local agency's proceedings.
  - c) The record of proceedings shall include, at a minimum, specified required documents; the local agency shall certify the record of proceedings no later than 15 days after a petition for writ of mandate is served, with the cost of preparing the record borne by the local agency unless the petitioner elects to prepare the record.
  - d) The record of the proceedings before the local agency shall be lodged with the court as expeditiously as possible, and all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities; (2) by the respondent with respondent's points and authorities; (3) after payment of costs by the petitioner; or (4) as otherwise directed by the court.
  - e) If the petitioner bears the expense of preparing the record and prevails in the matter, the expense shall be taxable as costs.
  - f) An applicant bringing an action under this procedure shall file and serve the petition on the respondent no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project; (2) the effective date of the denial of a permit for a housing development project; or (3) any other action by which the respondent disapproves the housing development project.
  - g) The title page of the petition shall contain the following language in 18-point type: "ATTENTION: THIS MATTER IS ENTITLED TO PRIORITY AND SUBJECT TO THE EXPEDITED HEARING AND REVIEW PROCEDURES CONTAINED IN SECTION 1094.9 OF THE CODE OF CIVIL PROCEDURE."
  - h) The clerk of the court shall set a hearing for review of the petition for writ of mandate no later than 45 calendar days from the date the petition is filed. Moving, opposition, and reply papers shall be filed as provided in the California Rules of Court. If not otherwise filed, the petitioner shall lodge the record of proceedings with the court no later than 15 calendar days before the hearing date.

- i) Following the conclusion of the hearing, the court shall render its decision expeditiously, and in no event later than 30 calendar days after the matter is submitted or 75 days after the date the petition was filed, whichever is earlier.
  - j) If the presiding judge of the court in which the action is filed determines that, as a result of either the press of other court business or other factors, the court will be unable to meet any of the deadlines required, the presiding judge shall request the temporary assignment of a judicial officer to hear the petition and render a decision within the time limits required; the request shall be entitled to priority.
- 4) Provides that actions brought pursuant to the procedure in 3), including when on appeal from the decision of a lower court, shall be given preference over all other civil actions before the court when setting the matter for hearing or trial and holding the hearing or trial.

### COMMENTS

1. Author's comment

According to the author:

California faces a daunting housing affordability crisis and the state's shortage of housing plays a central role. Over the past decade, the Legislature has taken action to encourage housing production through various means, including permit streamlining, increased densities, by right processes, and significant financial investments. As a body, the Legislature has passed over a dozen ministerial approval bills that require local governments to use quick, clear, and objective processes to evaluate housing proposals in accordance with their own local plans and state law.

Unfortunately, some local agencies still knowingly deny housing permits in violation of state law. When a local agency rejects a project on an impermissible basis it creates delays that don't just harm developers and housing projects, but exacerbates our state's affordability crisis and prevents desperate California families from finding a home.

SB 808 brings swift resolution to enforcement actions, allow projects to move forward quickly, and incentivize local governments to process applications in accordance with state law without altering the authority of local governments by creating an expedited judicial review process. Expediting judicial review in these instances, as we have in other ministerial processes, ensures a timely restoration and is an important step to avoid unnecessary delay and to tackle California's housing shortage.

## 2. Background on the writ of mandate

When a party believes that a state or local agency has erred, the party can ask a court to review that decision through a writ of mandate.<sup>1</sup> There are two forms of the writ of mandate: “traditional mandamus,” where the agency decision did not require an evidentiary hearing;<sup>2</sup> and “administrative mandamus,” where the agency decision resulted from a legally required evidentiary hearing and no other method of review is prescribed by statute.<sup>3</sup> Writs of mandate are appropriate where there “is not a plain, speedy, and adequate remedy, in the ordinary course of law” – in other words, where there is either no right of appeal granted, or the appellate process is too slow to prevent irreversible harm.<sup>4</sup>

Writs of mandate are not an opportunity for a litigant to get a completely new hearing or decision on a matter before a new – and potentially friendlier – tribunal. Instead, the reviewing court conducts a limited review to determine whether the agency’s decision was so out of line as to violate statutory duties or constitute an abuse of discretion. Traditional mandamus matters include compelling an agency to perform an act it is legally required to perform (ministerial duties)<sup>5</sup> or reversing an agency decision that was an abuse of discretion or that was performed in a discriminatory manner.<sup>6</sup> Administrative mandamus authorizes the reviewing court to conduct a limited review of an agency’s decision following a legally mandated evidentiary hearing to determine whether (1) the agency acted without, or in excess of, its jurisdiction; (2) whether there was a fair trial or hearing on the matter; and (3) whether the agency prejudicially abused its discretion in reaching the decision.<sup>7</sup> An abuse of discretion arises only when the agency “has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence”;<sup>8</sup> but if the petitioner cannot prove that the abuse of discretion was prejudicial to them, the agency’s error will be deemed harmless and the court will not issue the writ.<sup>9</sup>

Although writ proceedings generally move more quickly than other actions, the author and sponsor report that writ proceedings to review housing permitting decisions still take months, and sometimes well over a year. As discussed further below, this timeline for judicial review can seriously hinder, and sometimes halt, the construction of new housing in the state.

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<sup>1</sup> Code Civ. Proc., §§ 1085, 1094.5.

<sup>2</sup> *Id.*, § 1085.

<sup>3</sup> *Id.*, § 1094.5(a).

<sup>4</sup> *Id.*, § 1086.

<sup>5</sup> *E.g., Monterey Coastkeeper v. Central Coast Regional Water Quality Control Board* (2022) 76 Cal.App.5th 1, 18-19.

<sup>6</sup> *E.g., Saleeby v. State Bar* (1985) 39 Cal.3d 547, 566-567.

<sup>7</sup> Code Civ. Proc., § 1094.5(b).

<sup>8</sup> *Ibid.*

<sup>9</sup> *E.g., Citizens of Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 310-311; *see also* Cal. Const., art. VI, § 13.

3. California's housing crisis cannot be solved without more housing

As explained by the California Department of Housing and Community Development's most recent Statewide Housing Plan (SHP):

California's housing crisis is half a century in the making. After decades of underproduction, supply is far behind need and housing and rental costs are soaring. As a result, millions of Californians must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation, directly impacting quality of life in the state. One in three households in the state doesn't earn enough money to meet their basic needs.<sup>10</sup>

The SHP reports that, to afford the rent for a two-bedroom apartment without being cost-burdened, a household would have to earn \$81,191 per year, which translates to an hourly wage of \$39.03.<sup>11</sup> The statewide minimum hourly wage is currently \$16.50,<sup>12</sup> except that fast-food workers must be paid at least \$20 per hour,<sup>13</sup> and some localities have higher minimum wages ranging from \$16.89 to \$19.65.<sup>14</sup> "The top five most common occupations in California pay less than the wage needed to afford a home."<sup>15</sup>

The cause of the housing crisis is simple: there are not enough homes. The SHP estimates that California needs 2.5 million new housing units;<sup>16</sup> other sources put the number as high as 3.5 million.<sup>17</sup> There are many reasons for this shortage, key among them local hostility to new housing.<sup>18</sup> According to the author and Attorney General Rob Bonta, the sponsor of the bill, local governments sometimes improperly deny housing permits and the litigation to compel the local government to comply with state law can take years. The extended litigation timeline delays, and can even derail, housing developments.

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<sup>10</sup> California Department of Housing and Community Development, *A Home for Every Californian: 2022 Statewide Housing Plan* (2022) p. 4, available at <https://statewide-housing-plan-cahcd.hub.arcgis.com/>. All links in this analysis are current as of April 4, 2025.

<sup>11</sup> *Id.* at p. 5.

<sup>12</sup> California Department of Industrial Relations, Labor Commissioner's Office, Minimum Wage, [https://www.dir.ca.gov/dlse/minimum\\_wage.htm](https://www.dir.ca.gov/dlse/minimum_wage.htm).

<sup>13</sup> *Ibid.*

<sup>14</sup> UC Berkeley Labor Center, *Inventory of US City and County Minimum Wage Ordinances: California City and County Minimum Wages, January 1, 2025*, <https://laborcenter.berkeley.edu/inventory-of-us-city-and-county-minimum-wage-ordinances/#s-2>.

<sup>15</sup> *A Home for Every Californian: 2022 Statewide Housing Plan*, *supra*, at pp. 5-6. California's housing crisis is not unique: "[i]n 2021, there was no state in the U.S. where a worker earning minimum wage could afford to rent a modest two-bedroom by working a 40-hour week." (*Id.* at p. 7.)

<sup>16</sup> *Id.* at p. 23.

<sup>17</sup> California YIMBY Education Fund, *Housing Underproduction in California* (2023), p. 3, available at <https://cayimby.org/news-events/report-housing-underproduction-in-california-2023/>.

<sup>18</sup> *Id.* at pp. 14-18.



4. This bill creates an expedited process for judicial review of a local agency decision to deny a housing development project

This bill establishes an expedited judicial review process for a local agency's decision to deny a permit for a new housing development or residential unit, including developments for very low, low-, or moderate-income Californians and denials under the streamlined approval process. The expedited process is intended to prevent drawn-out litigation from stymieing the construction of badly needed new housing.

Under the process established by the bill, an individual whose application for a permit or other permission to construct a housing development was denied will be able to seek judicial review of the denial through an expedited writ of mandamus procedure, provided that they file and serve the petition within 90 days of the effective date of the agency action. When the petition is timely filed and served, the clerk of the court must set a hearing for review of the petition no later than 45 days from the date the petition was filed; the parties must file moving, opposition, and reply papers as provided in the California Rules of Court. After hearing the matter, the court must issue its decision within 30 calendar days after the matter is submitted or 75 days after the petition was filed, whichever is earlier. The bill also sets forth requirements and timelines for the preparation of the administrative record necessary for the court's review of the petition. Finally, the bill requires the courts to give these petitions calendaring preference, both at the initial petition stage and on appeal.

This expedited writ process is modeled after the existing expedited procedure for judicial review of local agency decisions relating to the approval or denial of permits relating to expressive conduct, i.e., permits that have First Amendment implications.<sup>19</sup> The timelines for the procedure in this bill are somewhat longer than those in the expressive conduct review procedure, giving the local agency and the courts a little more time to prepare and deliberate.

5. Separation of powers issues

Unlike the United States Constitution, in which separation of powers is an implied doctrine, the California Constitution contains a provision that expressly provides for the separation of governmental functions. The California Constitution provides that "[t]he powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."<sup>20</sup> Although this provision suggests a sharp demarcation between the branches of governments, courts have long recognized the interrelatedness of the branches' functions:

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<sup>19</sup> See Code Civ. Proc., § 1094.8.

<sup>20</sup> Cal. Const., art. III, § 3.

Indeed, upon brief reflection, the substantial interrelatedness of the three branches' actions is apparent and commonplace: the judiciary passes upon the constitutional validity of legislative and executive actions, the Legislature enacts statutes that govern the procedures and evidentiary rules applicable in judicial and executive proceedings, and the Governor appoints judges and participates in the legislative process through the veto power. Such interrelationship, of course, lies at the heart of the constitutional theory of 'checks and balances' that the separation of powers doctrine is intended to serve.<sup>21</sup>

Consequently, courts have held that the doctrine of separation of powers "prohibits the legislative branch from arrogating to itself core functions of the executive or judicial branch."<sup>22</sup> Legislation that would "defeat or materially impair" the court's inherent power to decide cases would be an unconstitutional invasion of judicial power.<sup>23</sup>

Statutes with a target, but not mandatory, timeline do not materially impair the judiciary's core function.<sup>24</sup> For example, the CEQA 270-day expedited review provision – which requires the review to be conducted within 270 days "to the extent feasible" and does not impose any penalty for the failure to conduct the review within the 270 days – has been upheld as a reasonable regulation that does not cross the line into the courts' exercise of power.<sup>25</sup>

Here, the timeline is mandatory: the court must hold a hearing within 45 days of the filing date of the petition, and issue a decision within 75 days of the petition filing date or 30 days from the date of the hearing, whichever is earlier. While existing law establishes a similar procedure for writ petitions arising out of agency decisions relating to expressive activities – with even tighter timelines – that statute was enacted to ensure that First Amendment-protected activities were not chilled as a result of overly long judicial review proceedings.<sup>26</sup> That constitutional imperative is not present here, so it is unclear whether the timelines in this bill will be considered an improper arrogation of the judicial branch's core functions.

The bill also grants a scheduling preference to cases bringing a permit-denial writ petition, which applies in the superior courts, the courts of appeal, and the Supreme Court. Current law already grants scheduling preferences in a number of types of matters.<sup>27</sup> The addition of another category of cases entitled to preference might be inconvenient for the courts, but it does not appear that these provisions overstep the

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<sup>21</sup> *Superior Court v. County of Mendocino* (1996) 13 Cal.4th 45, 52–53.

<sup>22</sup> *Carmel Valley Fire Protection Dist. v. State of California* (2001) 25 Cal.4th 287, 298

<sup>23</sup> *Ibid.*

<sup>24</sup> *See Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 855-856.

<sup>25</sup> *Id.* at p. 856.

<sup>26</sup> *See* 9 Witkin, Cal. Proc. 6th Admin Proc (2025) § 160.

<sup>27</sup> *See, e.g.,* Code Civ. Proc., §§ 35(a), 36(a)-(d), 44, 45; Pub. Res. Code, §§ 21167.1, 21185.

Legislature's constitutional role in governing the procedures applicable in judicial proceedings.

6. Arguments in support:

According to the bill's sponsor, Attorney General Rob Bonta:

The Legislature has passed strong housing laws in recent years to help build new homes and make them more affordable and accessible to all Californians. These laws are designed to ensure that local governments are planning to meet their fair share of the regional and statewide housing needs, and use quick and clear processes to make decisions about housing proposals in accordance with those plans and state law.

Unfortunately, sometimes legal disputes arise, which can take years to resolve. In the meantime, homes that California families need go unbuilt, and lengthy delays can stop a project from moving forward altogether. Delay and uncertainty are especially harmful for small homebuilders, who cannot afford to absorb significant litigation costs or the expenses of lengthy project delays, and are thus effectively blocked from using the laws that the Legislature has passed to encourage home building.

When housing project applications are improperly denied under current law, the Attorney General, or the project applicant, can bring an enforcement action to compel the local government to comply with state law. SB 808 would expedite judicial review of these actions to enforce state housing laws, including the Housing Accountability Act (HAA), ministerial approval laws, and accessory-dwelling unit (ADU) laws. The expedited writ procedure in SB 808 preserves existing substantive law and would not alter the authority of local governments, but would bring swifter resolution to these disputes, which would resolve disputes more efficiently and allow more housing projects to move forward more quickly.

**SUPPORT**

Attorney General Rob Bonta (sponsor)  
California Community Builders

**OPPOSITION**

None received

**RELATED LEGISLATION**

Pending legislation: None known.

Prior legislation:

SB 621 (Glazer, 2019) would have provided, until 2025, for expedited judicial review of CEQA challenges to affordable housing projects, as defined. SB 621 died in the Assembly Natural Resources Committee.

SB 25 (Caballero, 2019) would have provided for expedited judicial review of CEQA challenges to projects that are at least partially funded by qualified opportunity zone funds or specified public funds until 2025. SB 25 died in the Assembly Natural Resources Committee.

SB 1340 (Glazer, 2018) would have required the Judicial Council to adopt a rule of court to establish procedures requiring courts to fully adjudicate CEQA actions and proceedings in connection with any housing projects within 270 days of certifying the record of proceedings, to the extent feasible. This bill would also have prohibited courts from staying or enjoining challenged projects with two narrow exceptions. This bill failed passage in this Committee.

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