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**SENATE COMMITTEE ON HOUSING**  
**Senator Scott Wiener, Chair**  
**2023 - 2024 Regular**

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**Bill No:** SB 736 **Hearing Date:** 4/24/2023  
**Author:** McGuire  
**Version:** 2/17/2023 Introduced  
**Urgency:** No **Fiscal:** No  
**Consultant:** Alison Hughes

**SUBJECT:** Planning and zoning: housing: postentitlement phase permits

**DIGEST:** This bill makes clarifications to provisions establishing time limits for approval and permitting of postentitlement permits.

**ANALYSIS:**

*Existing law:*

- 1) Requires a local agency, defined to include a city or county, to compile one or more lists of information that will be required from any applicant for a postentitlement phase permit.
- 2) Requires a local agency to determine whether an application for a postentitlement phase permit is complete and provide written notice of this determination to the applicant within 15 business days after the local agency received the application.
- 3) Specifies a process for approving postentitlement permits, as specified.
- 4) Requires, if a postentitlement phase permit is determined to be incomplete or denied or determined to be noncompliant, the local agency to provide a process for the applicant to appeal that decision in writing to the governing body of the agency, or, if there is no governing body, to the director of the agency.

**This bill:**

- 1) Removes provisions that are specific to local governments that do not have a governing body.

**COMMENTS:**

- 1) *Author's statement.* "After a developer has planning level approval, current law sets timelines for local governments to review permits for such things like building permits, grading, and demolition. Local governments must allow appeal of those post planning permits to their governing body, such as their city council or board of supervisors. Current law also allows appeals to go to the director of a local agency when there is no governing body, but there is no local agency across the golden state that doesn't have a governing body. SB 736 is an important clean up measure that strikes out the incorrect reference to agencies with no governing body."
- 2) *AB 2234 (Rivas, 2022).* The Permit Streamlining Act (PSA) establishes timelines for agencies to determine whether a permit for an entitlement is complete and timelines for approving or denying a development proposal that is deemed complete. Once a development proposal is approved by the local agency, the developer is still required to submit a range of nondiscretionary permits to the local agency for approval in order to actually complete the work to construct the building. These permits can include building permits and other permits for: demolition; grading; excavation; electrical, plumbing, or mechanical work; encroachment in the public right-of-way; roofing; water and sewer connections or septic systems; fire sprinklers; and home occupations.

The PSA applies to the discretionary approval phase of a development review process, this is the phase where the local agency, in its discretion, decides whether or not it approves of the concept outlined in the development proposal. Because the local agency is exercising discretion, these approval decisions are subject to CEQA. Once the development proposal is approved by the local agency, the next phase of review involves the ministerial review of objective permits associated with the development proposal that ensure the proposal is compliant with state and local building codes and other measures that protect public health, safety and the environment. The timelines established in the PSA do not apply to these nondiscretionary permits. AB 2234 required local agencies to act within certain periods on these post-entitlement projects.

- 3) *Governing bodies at the local level.* AB 2234 provided a specific process for the approval of post-entitlement permits. In addition, local governments must allow appeal of those post-entitlement permits to their governing body, or if there is no governing body, to the agency director. There are no local agencies that don't have a governing body -- they all have a board or city council. This bill strikes out the incorrect reference to agencies with no governing body.

4) *Double referral.* This bill passed out of the Governance and Finance Committee on April 12<sup>th</sup> on an 8-0 vote.

**RELATED LEGISLATION:**

**AB 2234 (Rivas, Chapter 651, Statutes of 2022)** — established time limits for approval and requires online permitting of postentitlement permits.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, April 19, 2023.)

**SUPPORT:**

None received.

**OPPOSITION:**

None received.

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