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**SENATE BILL 6461**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators Fortunato, Zeiger, and Warnick

AN ACT Relating to permit timelines; amending RCW 36.70B.080 and 36.70B.140; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that chapter 36.70B RCW has done many good things since 1995, such as consolidating permit processes and establishing common time frames for permit comment periods. However, it has not brought predictability to the permit process. Permit process timelines are getting longer, permit processes are getting more complicated, there is substantial duplication of efforts, and local governments are adopting codes that make the processes more confusing and less predictable. While local government has had to absorb many new laws and incorporate them into their review process over the past fifty years, many inefficiencies that lead to long lead times are due to voluntary processes and requirements added to codes, a lack of accountability for local governments to meet certain measures, and a lack of urgency to make processes better.

With housing affordability being a key issue in this state, an examination of the local project review act is essential. The current statute was designed to help set timelines for permits to be processed and require some jurisdictions to collect and distribute data on the permit applications received as well as review timelines. The legislature finds that more clear timelines, flexibility for the alteration of timelines, and protection for applicants is desirable.

**Sec.**  RCW 36.70B.080 and 2004 c 191 s 2 are each amended to read as follows:

(1)(a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type ((~~should not exceed one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.~~)) must meet the following timelines:

(i) Ninety days for ministerial or administrative project permit applications or permit types subject to the requirements of this chapter; and

(ii) One hundred twenty days for project permit applications or permit types subject to the requirements of this chapter where a quasi-judicial hearing is required.

(b) A local government may, by ordinance, adopt timelines that exceed the requirements of (a)(i) or (ii) of this subsection when it can make written findings that a specified amount of additional time is needed to process a specific permit type or when certain circumstances require additional time. The requirement for additional time must be based on factors such as the complexity of the permit application type and may not be based upon self-imposed review processes that exceed state requirements for processing project permit applications.

(c) The development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

((~~(2)~~)) (d) When more than one application is submitted and processed as part of a consolidated permit review process, such as an administrative and quasi-judicial permit, the longer time period for review applies.

(2) Project permit application timelines exceeding the timelines within subsection (1)(a)(i) or (ii) of this section or the established timeline in subsection (1)(b) of this section must result in the project permit application being deemed approved.

(3) Only certain portions of the application process count towards the time frames established within subsection (1)(a) and (b) of this section including:

(a) The number of days from application submittal until a determination of completeness under RCW 36.70B.070 is made;

(b) The number of days from the date an application is deemed complete until a complete set of first review comments are sent to the applicant or a decision is issued for a ministerial or administrative permit or the date of public hearing for a quasi-judicial permit;

(c) The number of days from application resubmittal of first review comments until a complete set of second review comments are sent to the applicant or a decision is issued for a ministerial or administrative permit or the date of public hearing for a quasi-judicial permit;

(d) A local government is not required to count the number of days for a third review or subsequent reviews. However, once reviews are complete, the days until a decision is issued for a ministerial or administrative permit or the date of public hearing for a quasi-judicial permit must be counted;

(e) The number of days for a local government to process the application includes noticing and notice periods required under this chapter, chapter 43.21C RCW, and, when applicable, time periods to set a public hearing;

(f) The timeline does not include time periods for the preparation of an environmental impact statement. When an environmental impact statement is required, the timeline will stop on the day the determination of significance is issued and resume on the day a final environmental impact statement is issued;

(g) If a local government requires an applicant to submit draft application materials meeting the submission requirements for project submittal for local government review in advance of being able to submit a formal project permit application, the time to review that draft submittal is included in the number of days specified for a local government to review the project permit application under subsection (1)(a)(i) and (ii) of this section. In these instances, the time to review these materials is not in place of timelines specified under (a) and (b) of this subsection. This does not apply to preapplication meetings;

(h) A local government may not require an applicant to sign a waiver of the requirements of this chapter or issue a denial of a permit or recommendation to deny a permit in order to avoid exceeding required time frames for processing a permit application.

(4)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least twenty thousand must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed procedurally complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare annual performance reports that include, at a minimum, the following information for each type of project permit application identified in accordance with the requirements of (a) of this subsection:

(i) Total number of complete applications received during the year;

(ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;

(iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;

(iv) Number of applications received during the year for which an extension of time was mutually agreed upon by the applicant and the county or city;

(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; ((~~and~~))

(vi) The mean processing time and the number standard deviation from the mean; and

(vii) How many permit applications have been approved under subsection (2) of this section.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Provide notice of and access to the annual performance reports through the county's or city's web site; ((~~and~~))

(ii) Post electronic facsimiles of the annual performance reports through the county's or city's web site. Postings on a county's or city's web site indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection; and

(iii) By January 15th of each year, provide the required information from the previous year to the department of commerce. An annual report compiling this information will be delivered to the legislature annually by February 15th. The department of commerce will prepare and provide counties and cities subject to this requirement standardized forms for data collection. Counties and cities who do not provide this information by the annual deadline will not be eligible for grants through the department of commerce.

If a county or city subject to the requirements of this subsection does not maintain a web site, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).

((~~(3)~~)) (5) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government. A local government may not compel an applicant to sign an extension of the deadline for a project permit application. Further, a local government may not deny a project permit application or recommend denial of a project permit application based upon an incomplete review by a local government stemming from the inability to get a decision issued or public hearing held within the specified timelines.

((~~(4)~~)) (6) The department of ((~~community, trade, and economic development~~)) commerce shall work with the counties and cities to review the potential implementation costs of the requirements of subsection ((~~(2)~~)) (4) of this section. The department, in cooperation with the local governments, ((~~shall~~)) must prepare a report summarizing the projected costs, together with recommendations for state funding assistance for implementation costs, and provide the report to the governor and appropriate committees of the senate and house of representatives by January 1, ((~~2005~~)) 2021.

**Sec.**  RCW 36.70B.140 and 1995 c 347 s 418 are each amended to read as follows:

(1) A local government by ordinance or resolution may exclude ((~~the following~~)) or modify the timelines for certain types of project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130. Permit types subject to RCW 36.70B.080(1) may not be excluded from review under this section. Timelines specified under RCW 36.70B.080(1)(a) may be modified by a local government under RCW 36.70B.080(1)(b) when meeting the provisions of that section.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

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