

2 **E2SHB 1893** - S AMD - 473

3 By Senators Fraser, Swecker, B. Sheldon and Spanel

4 ADOPTED 4/23/99

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that facilitating the
8 environmental permit process will increase citizen satisfaction and
9 compliance with state and local permit requirements. Lack of
10 coordination in the processing of permit applications causes costly
11 delays and frustration to the applicant. The public deserves a clear,
12 predictable system for land-use decisions. The legislature also finds
13 that permit issuance can be expedited by requiring state agencies and
14 local jurisdictions to coordinate their permit processes.

15 **Sec. 2.** RCW 58.17.095 and 1986 c 233 s 1 are each amended to read
16 as follows:

17 (1) A county, city, or town may adopt an ordinance providing for
18 the administrative review of a preliminary plat without a public
19 hearing (~~by adopting an ordinance providing for such administrative~~
20 ~~review~~). The ordinance may specify a threshold number of lots in a
21 subdivision above which a public hearing must be held, and may specify
22 other factors which necessitate the holding of a public hearing. (~~The~~
23 ~~administrative review process shall include the~~)

24 (2) If the county, city, or town has not adopted consolidated
25 permitting procedures and time frames as provided in chapter 36.70B
26 RCW, it shall conduct administrative review of preliminary plats
27 consistent with the following minimum conditions:

28 ~~((1))~~ (a) The notice requirements of RCW 58.17.090 shall be
29 followed, except that the publication shall be made within ten days of
30 the filing of the application. Additionally, at least ten days after
31 the filing of the application notice both shall be: ~~((a))~~ (i) Posted
32 on or around the land proposed to be subdivided in at least five
33 conspicuous places designed to attract public awareness of the
34 proposal; and ~~((b))~~ (ii) mailed to the owner of each lot or parcel of
35 property located within at least three hundred feet of the site. The

1 applicant shall provide the county, city, or town with a list of such
2 property owners and their addresses. The notice shall include
3 notification that no public hearing will be held on the application,
4 except as provided by this section. The notice shall set out the
5 procedures and time limitations for persons to require a public hearing
6 and make comments.

7 ~~((+2))~~ (b) Any person shall have a period of twenty days from the
8 date of the notice to comment upon the proposed preliminary plat. All
9 comments received shall be provided to the applicant. The applicant
10 has seven days from receipt of the comments to respond thereto.

11 ~~((+3))~~ (c) A public hearing on the proposed subdivision shall be
12 held if any person files a request for a hearing with the county, city,
13 or town within twenty-one days of the publishing of such notice. If
14 such a hearing is requested, notice requirements for the public hearing
15 shall be in conformance with RCW 58.17.090, and the ninety-day period
16 for approval or disapproval of the proposed subdivision provided for in
17 RCW 58.17.140 shall commence with the date of the filing of the request
18 for a public hearing. Any hearing ordered under this subsection shall
19 be conducted by the planning commission or hearings officer as required
20 by county or city ordinance.

21 ~~((+4))~~ (d) On its own initiative within twenty-one days of the
22 filing of the request for approval of the subdivision, the governing
23 body, or a designated employee or official, of the county, city, or
24 town, shall be authorized to cause a public hearing to be held on the
25 proposed subdivision within ninety days of the filing of the request
26 for the subdivision.

27 ~~((+5))~~ (e) If the public hearing is waived as provided in this
28 section, the planning commission or planning agency shall complete the
29 review of the proposed preliminary plat and transmit its recommendation
30 to the legislative body as provided in RCW 58.17.100.

31 (3) If the county, city, or town has adopted consolidated
32 permitting procedures and time frames as provided in chapter 36.70B
33 RCW, it may conduct administrative review of preliminary plats
34 consistent with its procedures and time frames. At a minimum, local
35 permitting procedures and time frames related to administrative review
36 of preliminary plats shall provide for:

37 (a) Notice of application by publication, posting, and mailing.
38 All forms of notice shall include a prominent statement that no public
39 hearing will be held on the application, except as provided by this

1 section. All forms of notice shall clearly state procedures and time
2 frames for persons to make comments on the proposal and request a
3 public hearing.

4 (b) Written comments on the application by any person. Comments
5 received shall be provided to the applicant, and the applicant shall be
6 provided seven days from receipt of the comments to respond thereto.

7 (c) A public hearing on the application if any person files a
8 request for a hearing within the time frame specified. If a hearing is
9 requested, notice requirements for the public hearing and the time
10 frame for approval or disapproval of the application shall be
11 consistent with other local permitting procedures. Any hearing
12 conducted under this subsection shall be conducted by the planning
13 commission or hearing officer as required by local ordinance.

14 (d) A public hearing on the application if the legislative or
15 executive branch of the county, city, or town so requests within the
16 time frame specified.

17 (e) Expedited agency review and transmittal of its recommendation
18 on the application to the legislative body of the county, city, or
19 town, if there is no request for public hearing.

20 **Sec. 3.** RCW 90.60.010 and 1995 c 347 s 601 are each amended to
21 read as follows:

22 The legislature hereby finds and declares:

23 (1) Washington's environmental protection programs have established
24 strict standards to reduce pollution and protect the public health and
25 safety and the environment. The single-purpose programs instituted to
26 achieve these standards have been successful in many respects, and have
27 produced significant gains in protecting Washington's environment in
28 the face of substantial population growth.

29 (2) Continued progress to achieve the environmental standards in
30 the face of continued population growth will require greater
31 coordination between the single-purpose environmental programs and more
32 efficient operation of these programs overall. Pollution must be
33 prevented and controlled and not simply transferred to another media or
34 another place. This goal can only be achieved by maintaining the
35 current environmental protection standards and by greater integration
36 of the existing programs.

37 (3) As the number of environmental laws and regulations have grown
38 in Washington, so have the number of permits required of business and

1 government. This regulatory burden has significantly added to the cost
2 and time needed to obtain essential permits in Washington. The
3 increasing number of individual permits and permit authorities has
4 generated the continuing potential for conflict, overlap, and
5 duplication between the various state, local, and federal permits.

6 (4) The purpose of this chapter is to institute new, efficient
7 procedures that will assist businesses and public agencies in complying
8 with the environmental quality laws in an expedited fashion, without
9 reducing protection of public health and safety and the environment.

10 (5) Those procedures need to provide a permit process that promotes
11 effective dialogue and ensures ease in the transfer and clarification
12 of technical information, while preventing duplication. It is
13 necessary that the procedures establish a process for preliminary and
14 ongoing meetings between the applicant, the coordinating permit agency,
15 and the participating permit agencies, but do not preclude the
16 applicant or participating permit agencies from individually
17 coordinating with each other.

18 (6) It is necessary, to the maximum extent practicable, that the
19 procedures established in this chapter ensure that the coordinated
20 permit agency process and applicable permit requirements and criteria
21 are integrated and run concurrently, rather than consecutively.

22 (7) It is necessary to provide a reliable and consolidated source
23 of information concerning federal, state, and local environmental and
24 land use laws and procedures that apply to any given proposal.

25 (8) It is the intent of this chapter to provide an optional process
26 by which a project proponent may obtain active coordination of all
27 applicable regulatory and land-use permitting procedures. This process
28 is not to replace individual laws, or diminish the substantive
29 decision-making role of individual jurisdictions. Rather it is to
30 provide predictability, administrative consolidation, and, where
31 possible, consolidation of appeal processes.

32 (9) It is also the intent of this chapter (~~to provide~~) that by
33 providing an optional coordinated permit process, measures are taken by
34 the parties that promote the public's trust and confidence in the
35 underlying permit process, including providing consolidated, effective,
36 and easier opportunities for members of the public to receive
37 information and present their views about proposed projects.

1 **Sec. 4.** RCW 90.60.020 and 1995 c 347 s 602 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Center" means the permit assistance center established in the
6 (~~commission~~~~[department]~~) department by RCW 90.60.030.

7 (2) "Coordinating permit agency" means the permit agency that has
8 the greatest overall jurisdiction over a project.

9 (3) "Department" means the department of ecology.

10 (4) "Local government" means counties, cities, and towns.

11 (5) "Participating permit agency" means a permit agency, or a state
12 agency or local government other than the coordinating permit agency,
13 that is responsible for the issuance of a permit or use authorization
14 for a project.

15 (~~(5)~~) (6) "Parties" collectively means the coordinating permit
16 agency, permit agency, and participating permit agency.

17 (7) "Permit" means any license, certificate, registration, permit,
18 or other form of use authorization required by a permit agency to
19 engage in a particular activity.

20 (~~(6)~~) (8) "Permit agency" means:

21 (a) The department of ecology, an air pollution control authority,
22 the department of natural resources, the department of fish and
23 wildlife, and the department of health; and

24 (b) Any other state or federal agency or county, city, or town that
25 participates at the request of the permit applicant and upon the
26 agency's agreement to be subject to this chapter.

27 (~~(7)~~) (9) "Project" means an activity, the conduct of which
28 requires permits from one or more permit agencies.

29 (10) "Use authorization" means a lease, material purchase,
30 easement, permit, or other document authorizing use of state-owned
31 aquatic lands and/or materials.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.60 RCW
33 to read as follows:

34 The center shall establish regional center offices at four
35 department regional or field offices to provide better access to the
36 center's services in all areas of the state.

1 **Sec. 6.** RCW 90.60.030 and 1997 c 429 s 35 are each amended to read
2 as follows:

3 (1) The permit assistance center is established within the
4 department. The center shall:

5 ~~((1))~~ (a) Publish and keep current one or more handbooks
6 containing lists and explanations of all permit laws. To the extent
7 possible, the handbook shall include relevant local, state, federal,
8 and tribal laws. A state agency or local government shall provide a
9 reasonable number of copies of application forms, statutes, ordinances,
10 rules, handbooks, and other informational material requested by the
11 center and shall otherwise fully cooperate with the center. The center
12 shall seek the cooperation of relevant federal agencies and tribal
13 governments;

14 ~~((2))~~ (b) Establish, and make known, a point of contact for
15 distribution of the handbook and advice to the public as to its
16 interpretation in any given case;

17 ~~((3))~~ (c) Work closely and cooperatively with the business
18 license center in providing efficient and nonduplicative service to the
19 public;

20 ~~((4))~~ (d) Seek the assignment of employees from the permit
21 agencies ~~((listed under RCW 90.60.020(6)(a)))~~ as defined in this
22 chapter to serve on a rotating basis in staffing the center;

23 ~~((5))~~ (e) Collect and disseminate information to public and
24 private entities on federal, state, local, and tribal government
25 programs that rely on private professional expertise to assist
26 governmental agencies in project permit review; and

27 ~~((6))~~ (f) In consultation with permit applicants, state agencies,
28 local governments, and interested publics, provide ~~((an annual))~~ a
29 biennial report to the legislature ~~((on potential conflicts and~~
30 ~~perceived inconsistencies among existing statutes. The first report~~
31 ~~shall be submitted to the appropriate standing committees of the house~~
32 ~~of representatives and senate by December 1, 1996.))~~ that:

33 (i) Includes statutory and other recommendations for streamlining
34 and coordinating environmental permitting in Washington;

35 (ii) Summarizes the results of the center's efforts to measure
36 performance and outcomes over time;

37 (iii) Summarizes, evaluates, and makes statutory and other
38 recommendations for improving the center's and permitting agencies'

1 efforts to provide public notice efficiently and for promoting
2 effective public participation in permitting processes;

3 (iv) Details efforts on the part of the center, the department, and
4 the parties to promote the public's trust and confidence in the
5 permitting process. Examples of such efforts include, but are not
6 limited to, the development of statutory and other policies and
7 procedures, guidance, roles, and responsibilities; and

8 (v) Shows revenues generated by the center's services, and the
9 center's budget and expenditures.

10 (2) The department shall prioritize the expenditure of general fund
11 moneys allotted to the center to provide a set of services to the
12 applicants of small projects.

13 **Sec. 7.** RCW 90.60.100 and 1995 c 347 s 610 are each amended to
14 read as follows:

15 (1) The ~~((coordinating permit agency))~~ parties may enter into a
16 written cost-reimbursement agreement with the applicant to recover from
17 the applicant the reasonable costs incurred by the ~~((coordinating~~
18 ~~permit agency))~~ parties in carrying out the requirements of this
19 chapter, as well as the requirements of other relevant laws, as they
20 relate to permit coordination, environmental review, application
21 review, technical studies, and permit processing.

22 (2) The ~~((coordinating permit agency may recover only the costs of~~
23 ~~performing those coordinated permit services and))~~ written cost-
24 reimbursement agreement shall be negotiated with the permit applicant
25 ~~((in))~~ following the meeting required pursuant to RCW 90.60.070.
26 Permit agencies may assign work to current staff, temporary staff, or
27 technical consultants in order to carry out the work covered by the
28 written cost-reimbursement agreement or the work remaining for the
29 permit agency as a result of the coordinated permit process. The
30 billing process shall provide for accurate time and cost accounting and
31 may include a billing cycle that provides for progress payments.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.60 RCW
33 to read as follows:

34 (1) It is the intent of this chapter to provide an interagency
35 forum for the discussion of significant issues related to the
36 permitting processes and use authorizations for projects that are

1 proposed on state-owned aquatic lands where there are multiple permits,
2 programs, and legal authorities involved.

3 (2) It is a goal of this chapter to encourage all agencies and
4 local governments involved in issuing permits or granting use
5 authorizations for a single project on state-owned aquatic lands to
6 communicate with each other on a timely basis and early in the project
7 review process in order to maximize coordination, facilitate problem
8 resolution, promote the effectiveness of permit decisions, and enhance
9 citizen understanding and involvement in the permit process. It is
10 also a goal of this chapter that all permitting or authorizing federal
11 and state agencies, local governments, and tribal governments be
12 involved in coordinating their respective roles related to permits or
13 use authorizations from the outset of any review process.

14 (3) For the purposes of this section, "aquatic lands" means as it
15 is defined in RCW 79.90.010.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.60 RCW
17 to read as follows:

18 (1) The applicant may submit a joint aquatic resource permit
19 application to the permit assistance center if a project proposed for
20 the use of state-owned aquatic lands requires:

21 (a) A hydraulic project approval under chapter 75.20 RCW;

22 (b) A wastewater discharge permit under chapter 90.48 RCW, or a
23 federal clean water act section 401 certification; and

24 (c) A substantial development permit under chapter 90.58 RCW.

25 (2) If requested by the applicant, the permit assistance center
26 shall facilitate a project scoping meeting including the project
27 applicant, the department of natural resources, the department of
28 ecology, the department of fish and wildlife, and the local governments
29 in whose jurisdiction the project is proposed. Federal agencies and
30 tribal governments that either issue or may require a permit, or that
31 may require a use authorization for the project or have fishery
32 resources that might be affected by the project, shall each be invited
33 to name a representative to participate in the coordinated permit
34 review process for proposed projects on state-owned aquatic lands. All
35 participating agencies are encouraged to remain in communication for
36 purposes of coordination throughout the permit review processes until
37 final permit decisions are made.

1 (3) The purpose of the scoping meeting is to share perspectives and
2 identify the issues and information needs of concern to each
3 participant with regard to the proposed project, and jointly develop a
4 strategy for coordinating permitting and issuance of use authorization
5 issues. This project scoping process shall be concluded within sixty
6 days of the date of receipt of the joint aquatic resource permit
7 application by the permit assistance center.

8 (a) During this review, the participating agencies shall identify:

9 (i) The specific information needs and issues of concern and their
10 significance to each participant with regard to the permitting
11 processes involved;

12 (ii) Any statutory or regulatory conflicts that might arise
13 relating to differing legal authorities and roles of the agencies
14 issuing the permit or use authorization of the project;

15 (iii) Any state or local jurisdiction or private sector liability
16 that might result from permitting or issuing a use authorization for
17 the project; and

18 (iv) Any natural resources, including federal or state listed
19 species, that might be adversely affected by the permitting or
20 authorizing decision.

21 (b) Following this project scoping review, the outcome shall be
22 documented in written form and furnished to the applicant, and be
23 available to the public.

24 (c) Upon completion of this review, the permitting and authorizing
25 agencies and governments shall proceed according to their respective
26 statutes. Nothing in this section may prevent the parties from
27 reconvening later in the course of the permitting or use authorization
28 process.

29 NEW SECTION. **Sec. 10.** A new section is added to chapter 47.01 RCW
30 to read as follows:

31 The legislature recognizes that the department is working with
32 state and federal agencies to address transportation construction and
33 maintenance program impacts so that these programs meet the
34 requirements of the federal clean water act and the consultation
35 requirements of the federal endangered species act. The legislature
36 supports the department's efforts in this regard and encourages the
37 department to work collaboratively with local governments and other
38 interested parties during these consultations, and to provide local

1 governments and other interested parties with opportunity to
2 participate in this process to the extent practicable.

3 The department shall report by December 1st of each year to the
4 legislature the status of any programmatic consultation developed under
5 this section.

6 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 43.131.387 (Permit assistance center--Termination) and 1995
9 c 347 s 617; and

10 (2) RCW 43.131.388 (Permit assistance center--Repeal) and 1995 c
11 347 s 618.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.21A
13 RCW to read as follows:

14 The legislature recognizes that the department is working with
15 state and federal agencies to coordinate the permitting requirements of
16 the federal clean water act and the consultation requirements of the
17 federal endangered species act. The legislature supports the
18 department's efforts in this regard and encourages the department to
19 work collaboratively with local governments and other interested
20 parties during these consultations, and to provide local governments
21 and other interested parties with opportunity to participate in this
22 process to the extent practicable.

23 The department shall report by December 1st of each year to the
24 legislature the status of any programmatic consultation developed under
25 this section.

26 NEW SECTION. **Sec. 13.** The permit assistance center shall
27 terminate June 30, 2003.

28 NEW SECTION. **Sec. 14.** (1) Sections 3 through 6 and 11 of this act
29 are necessary for the immediate preservation of the public peace,
30 health, or safety, or support of the state government and its existing
31 public institutions, and take effect June 29, 1999.

32 (2) Section 7 of this act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 immediately."

1 **E2SHB 1893** - S AMD - 473

2 By Senators Fraser, Swecker, B. Sheldon and Spanel

3 ADOPTED 4/23/99

4 On page 1, line 1 of the title, after "issuance;" strike the
5 remainder of the title and insert "amending RCW 58.17.095, 90.60.010,
6 90.60.020, 90.60.030, and 90.60.100; adding new sections to chapter
7 90.60 RCW; adding a new section to chapter 47.01 RCW; adding a new
8 section to chapter 43.21A RCW; creating new sections; repealing RCW
9 43.131.387 and 43.131.388; providing effective dates; and declaring an
10 emergency."

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