
Local Government Committee

BILL ANALYSIS HB 2897

TITLE OF THE BILL: Streamlining land use permit procedures.

Brief Summary:

- Authorizes counties, cities and towns adopting consolidated permitting procedures under project review statutes to conduct administrative review of preliminary plats consistent with the consolidated permitting procedures.
- Authorizes a pilot project (until June 30, 2003) to allow counties (at discretion of Department of Fish and Wildlife) to administer hydraulic permits other than those related to forest practices and specifies requirement for agreement between counties and DFW.
- Establishes a process for a project scoping meeting (at applicant's request) involving affected permitting agencies for a project on state-owned aquatic lands.
- Encourages Department of Transportation, Department of Ecology, and Department of Fish and Wildlife to work collaboratively with local governments and other interested parties in conjunction with efforts to coordinate permitting and consultation requirements for federal Clean Water Act and federal Endangered Species Act.
- Removes expiration of 120-day time period and liability waiver for local government permitting processes.

SPONSORS: Representatives Doumit, Mulliken, Scott, Ericksen, Hatfield and Fortunato.

HEARING DATE: Monday, January 31, 2000.

EFFECTIVE DATE: Ninety days after adjournment of session in which bill is passed.

FISCAL NOTE: Not requested.

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BACKGROUND:

A number of state laws allow or require counties and cities to establish land use regulations or control land use activities. State and local governments are both involved in some permitting decisions related to certain development proposals.

The Growth Management Act (GMA) imposes certain requirements on all jurisdictions and includes specific requirements for counties and cities planning under RCW 36.70A.040 (GMA jurisdictions). Among other requirements, GMA jurisdictions are required to designate urban growth areas and to adopt a comprehensive plan and implementing development regulations. All jurisdictions must designate natural resource lands and designate and protect critical areas.

Local Project Review

Counties and cities specifically may provide for administrative review of preliminary plats without a public hearing if statutory procedural notice and comment periods are satisfied and if the local government allows a public hearing upon request.

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare an environmental impact statement (EIS) if proposed legislation or other major action may have a probable significant, adverse impact on the environment. The EIS determination involves a threshold determination and use of an environmental checklist.

For GMA jurisdictions, comprehensive plans and development regulations determine land uses, level of development, and availability and adequacy of public facilities. GMA jurisdictions are required to establish an integrated and consolidated development permit process for all projects involving two or more permits. The process must include a determination of the completeness of the application within 28 days of submission and a single report combining the SEPA threshold determination with the decision on development permits and any required mitigation. See Chapter 36.70B RCW.

GMA jurisdictions must issue a final permit decision within 120 days after the applicant has been notified the application is complete. The 120-day period does not include any period:

- during which the applicant is requested to correct plans, perform required studies, or provide additional information;
- during which an EIS is prepared;
- for administrative appeals of permits; and
- involving a mutually agreed time extension.

Local governments are not liable for damages associated with failure to satisfy the 120-day permit requirement. The 120-day permit requirement and the local government liability waiver expire June 30, 2000.

State Permits

State agencies issue various permits related to land use and development. For example, the Department of Ecology (DOE) administers federal Clean Water Act programs in Washington, including National Pollutant Discharge Elimination System (NPDES) permit program for pollutant discharges in Washington. The DOE has authority to approve plans for construction of sewage treatment and disposal systems, to issue pollution control discharge permits and to delegate certain

permit authority to local governments. Further, the Department of Fish and Wildlife (DFW) has authority to issue hydraulic permits for construction projects in state waters.

SUMMARY:

Local Project Review

Counties, cities and towns adopting consolidated permitting procedures under Chapter 36.70B may conduct administrative review of preliminary plats consistent with the time periods specified in those procedures.

The expiration of the 120-day permit requirement and the local government liability waiver are repealed.

State Permits

Aquatic Lands Projects

For projects on state-owned aquatic lands requiring certain state and local permits, the Department of Ecology (DOE) is authorized to facilitate a project scoping meeting, at the applicant's request, to discuss issues related to the permitting process. Applicants may submit a joint aquatic resource permit application (JARPA) to the DOE for purposes of project scoping for projects requiring a hydraulic project approval, a wastewater discharge permit or federal clean water act section 401 certification, and a substantial development permit under the Shoreline Management Act.

The project scoping meeting involves the DOE, the Department of Natural Resources, the Department of Fish and Wildlife (DFW), and the local government in whose jurisdiction the project is proposed. The DOE must invite any federal agencies and tribal governments that either issue or require permits or use authorizations for the project to participate.

Participating agencies in the project scoping process are required to identify any:

- information needs and issues of concern;
- statutory and regulatory conflicts regarding multiple agency approvals;
- potential state or local agency or private sector liability associated with the project; and
- natural resources, including federal and state listed species, that might be adversely affected by a permit decision or use authorization.

The outcome of the project scoping review is to be documented in written form, given to the applicant and made available to the public. The project scoping process is to be completed within sixty days of the date the applicant submits the JARPA to the DOE. The participating agencies may reconvene later during the permitting or use authorization process.

Hydraulic Project Approvals

The DFW is authorized to develop a pilot project, until June 30, 2003, to authorize counties to issue hydraulic permits according to DFW rules. Counties are not required to participate. Pilot project participation is to be documented in a written agreement between the DFW and the participating county which documents the types of permits covered by the authorization. The agreement must incorporate the following guidelines to ensure:

- no decrease in fish habitat protection;
- no full-time equivalent or funding shift from the DOE to the participating county;
- retention of the DFW's authority to develop programmatic permits and habitat conservation plans.

Counties may charge fees to cover permit processing costs and inspection and monitoring costs. The DFW retains full oversight authority and may not delegate rulemaking authority. The pilot project authorization does not apply to activities and areas covered by the Forest Practices Act.

The DFW and the participating county must assemble a citizens advisory panel including, at a minimum, representatives of the building industry, environmental groups, and permit applicants. The DFW, with the advisory panel's assistance, is required to analyze whether the pilot project should be continued and expanded, considering issues regarding enhanced environmental protection, cost-effectiveness, and efficiency of service delivery to applicants. The DFW and the advisory panel are required to report the results of the pilot project by December 31, 2002.

Programmatic Permits

The Department of Transportation (DOT), DOE and DFW are encouraged to work collaboratively with local governments and other interested parties in coordinating permit requirements of the federal Clean Water Act and the consultation requirements of the federal Endangered Species Act. The DOT, DOE and DFW are also encouraged to provide local governments and other interested parties with opportunity to participate in this process to the extent practicable. By December 1 of each year, these agencies are required to report to the Legislature on the status of any programmatic consultation developed by the agencies.

Proposed Substitute Compared to Original Bill: The proposed substitute removes all provisions relating to the DFW pilot project for hydraulic project permit approvals.