

HOUSE BILL REPORT

ESHB 1458

As Passed Legislature

Title: An act relating to establishing a timeline for final decisions on land use project permit applications.

Brief Description: Relating to establishing a timeline for final decisions on project permit applications.

Sponsors: By House Committee on Local Government & Housing (originally sponsored by Representatives Edwards, Mulliken, Hatfield, DeBolt, Mielke, Edmonds and Rockefeller).

Brief History:

Committee Activity:

Local Government & Housing: 2/5/01, 2/26/01 [DPS].

Floor Activity:

Passed House: 3/13/01, 88-5.

Senate Amended.

Passed Senate: 4/11/01, 47-1.

House Concurred.

Passed House: 4/17/01, 88-5.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Requires local governments subject to project review requirements to provide project permit applicants a detailed list of information needed for a complete application if an application is deemed incomplete.
- Requires these local governments to establish deadlines for issuing final decisions on specific project permit applications.
- Specifies contents of a completed project permit application that these local governments may include in their development regulations.
- Requires buildable lands counties and some buildable lands cities to prepare quarterly performance reports providing information on issuance of final decisions with respect to established deadlines.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Dunshee, Democratic Co-Chair; Mulliken, Republican Co-Chair; Mielke, Republican Vice Chair; Berkey, Crouse, DeBolt, Dunn, Edmonds, Hatfield and Jarrett.

Minority Report: Do not pass. Signed by 1 member: Representative Kirby.

Staff: Caroleen Dineen (786-7156).

Background:

Legislation enacted in 1995 required counties and cities required or choosing to plan under the Growth Management Act (GMA jurisdictions) to establish an integrated and consolidated development permit process for all projects involving two or more permits and to provide for no more than one open record hearing and one closed record appeal. Other jurisdictions may incorporate some or all of the integrated and consolidated development permit process. The 1995 legislation also included provisions regarding determining the completeness of project permit applications.

The 1995 legislation contained some provisions of limited duration:

- 120-day permit period -- A GMA jurisdiction was required to issue a final permit decision within 120 days after the applicant was notified the application is complete, with exemptions for certain types of projects and provisions for time periods not included in the 120-day calculation; and
- Local government liability waiver -- GMA jurisdictions were deemed not liable for damages due to failure to make a final decision within this 120-day period.

Both the 120-day permit period and the local government liability waiver expired on June 30, 2000.

Another provision enacted in the 1995 legislation required local development regulations to include periods for local government actions and provide timely and predictable procedures to determine whether completed project permit applications meet the development regulations' requirements.

The GMA requires six western Washington counties (Snohomish, King, Pierce, Kitsap, Thurston, and Clark Counties) and their cities to establish a monitoring and evaluation program to determine whether their county-wide planning policies are meeting planned residential densities and uses. This "buildable lands" evaluation must be conducted every five years. If the evaluation shows that the densities are not being met, the county and its cities must take measures to increase consistency between what was envisioned and what

has occurred.

Summary of Bill:

Time periods for actions by GMA jurisdictions on project permit applications should not exceed 120 days unless the local government makes written findings that a specified amount of additional time is needed for processing of specific complete project permit applications or project types. This requirement does not preclude local governments and project permit applicants from mutually agreeing to extend the established deadlines for reasonable periods of time.

Counties subject to the buildable lands review and evaluation program (i.e., Snohomish, King, Pierce, Kitsap, Thurston, and Clark Counties), and the cities within those counties that have populations of at least 20,000 must identify the types of project permit applications for which decisions are issued and must establish deadlines for issuing final decisions and minimum requirements for complete applications. These jurisdictions also must, through September 1, 2003, prepare at least two annual performance reports including at least the following information for each type of project permit application:

- Total number of complete applications received during the year;
- Number of complete applications received during the year for which a notice of final decision was issued before the established deadline;
- Number of applications received during the year for which a notice of final decision was issued after the established deadline;
- 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; and
- Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the established deadline.

Until July 1, 2003, counties and cities subject to the performance report requirements must provide notice of and access to the reports through their websites or by reasonable methods if a county or city does not maintain a website.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Most cities charge fees for permit processing and usually cover their costs with those fees. A number of city managers and mayors did not object to this bill, as they already do this and want to meet deadlines. The 120-day requirement

does not mandate approval; the only requirement is for a final decision within the specified timeline.

The timeline is very flexible. Four months is plenty of time for a decision, especially because the application has been deemed complete before the time period starts. This bill creates the needed accountability in this process. The liability waiver was initially enacted because the prior 120-day provision was an experiment; jurisdictions admit they do not have a problem with the timeline now.

Builders' number one frustration is getting permits. The time limit creates predictability for the construction industry. Environmental regulations are a large problem for businesses in this state, and businesses are looking for consistency in regulatory application. Builders want to know what the rules are, and they will play by them. Delays result in large carrying costs, and these costs increase the cost of housing. This bill will help to keep the costs of housing down.

(Original bill - Support with amendments) The 120-day rule is a good one. The bill should be amended to include the liability waiver as well as the time period. The state should create a reasonable list of consistent criteria to be included in local ordinances to define a complete project permit application. The loophole exempting short subdivisions from the five-year limit for subdivisions should be eliminated. The Legislature should clarify the intent of vesting provisions because of recent court decisions.

Testimony Against: (Original bill) Current law makes local governments accountable if they fail to meet their own deadlines. Many jurisdictions have retained the 120-day timeline in local ordinances -- this is a solution in search of a problem. Permits have gotten more complicated with Endangered Species Act listings, and this bill will not allow modification of timelines to address other needs.

Permit processing staff is supported by fees, and this bill does not take into account staffing levels and available resources at the local level. Local governments do not have the ability to fully staff building departments in many cases, and some financial support should accompany this bill because it requires a certain level of staffing in all areas.

The provision prohibiting stopping the 120-day clock for project modifications will create problems if a project is changed toward the end of the process. Requiring an exact list at the determination of completeness stage will create problems if unanticipated issues arise and may result in asking for much more documentation before an application is accepted.

Testified: (In support) Representative Jeanne Edwards, prime sponsor; John Erwin, Olympia Master Builders; Jodi Slavik, Building Industry Association of Washington; Jeff Hansel, Building Industry Association of Washington; Paul Green, LeRoy Surveyors and Engineers; Kristin Sawin, Association of Washington Business; Larry Stout, Washington Association of Realtors; Jim Halstrom, Master Builders of King and Snohomish County;

and Carolyn Logue, National Federation of Independent Business.

(Support with amendments) Steve Stuart, 1000 Friends of Washington

(Opposed) Chuck Williams, King County; Dave Williams, Association of Washington Cities; Jackie White, Washington State Association of Counties; and Phil Watkins, Cities of Bainbridge Island and Kennewick.