
Government Reform and Land Use Committee

BILL ANALYSIS SSB 5532

Title of the Bill: Requiring mediation before appeal of land-use decisions involving conditional use permits.

What this Bill Does: Requires mediation before filing appeals of certain conditional and special use permit application decisions and specifies mediation procedures and time periods.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Winsley).

Hearing Date: 2/23/98

Fiscal Note: Available.

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BACKGROUND:

The legislative body of a county or city may adopt a hearing examiner system for the purpose of hearing and deciding certain types of applications and appeals. Examples of issues a hearing examiner may consider include applications for conditional use permits, variances, rezones, subdivision approvals, shoreline permits or other types of development or land use permit applications. The hearing examiner system may serve as an alternative to a planning commission or board of adjustment with respect to applications or appeals the hearing examiner is authorized to review and decide.

RCW 5.60.070 governs disclosure of communications made or materials submitted in connection with mediation of a civil action.

SUMMARY:

Mediation is required before an appeal may be filed of a hearing examiner's final decision regarding a conditional or special use permit application sought by any person licensed or certified by the Department of Social and Health Services (DSHS) or the Department of Corrections (DOC). The aggrieved party is required to initiate formal mediation procedures

within five days after the hearing examiner's final decision.

A trained mediator is to be selected by agreement of the parties within five days after formal mediation procedures are initiated. If the parties cannot agree, the mediator is to be selected by lot from among the parties' nominees.

The parties' agreement to mediate must be in writing and is subject to the disclosure requirements of RCW 5.60.070. Mediation is to be completed within fourteen days of the mediator's selection unless the parties agree to a longer mediation period. The mediator must provide the parties with a mediation report summarizing the issues and describing any agreements.

A local government is not considered a party— for purposes of the mediation procedure and does not receive a copy of the mediation report unless the parties agree to allow the mediator to provide it to the local government.

Limitations periods for filing appeals are tolled during the mediation period.

A new section specifying the mediation procedures is added to each of the following chapters:

- Chapter 35.22, First Class Cities;
- Chapter 35.63, Planning Commissions;
- Chapter 35A.63, Optional Municipal Code/Planning and Zoning in Code Cities;
- Chapter 36.32, County Commissioners; and
- Chapter 36.70, Planning Enabling Act.