

HOUSE BILL REPORT

SB 5307

As Reported by House Committee On:
Local Government

Title: An act relating to permit timelines.

Brief Description: Requiring local governments to issue project permits in a timely manner.

Sponsors: Senators Mulliken, Finkbeiner, Stevens, McCaslin, Hale and Esser.

Brief History:

Committee Activity:

Local Government: 4/2/03, 4/3/03 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Allows local governments planning under the Growth Management Act to issue a notice of final decision on a project within 120 days unless specific extension criteria are met.
- Requires the Legislature to establish an advisory group to review and make recommendations to statutory project review provisions.
- Removes the September 1, 2003, expiration date from statutory provisions requiring annual permit performance reports by specified jurisdictions.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Romero, Chair; Upthegrove, Vice Chair; Jarrett, Assistant Ranking Minority Member; Berkey, Clibborn, Edwards and Moeller.

Minority Report: Do not pass. Signed by 4 members: Representatives Schindler, Ranking Minority Member; Ahern, Ericksen and Mielke.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major GMA requirements. Counties not meeting these criteria may choose to plan under the GMA. Currently, 29 of 39 counties, and the cities within those 29 counties, are required or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

Local Project Review

In 1995 the Legislature enacted environmental regulatory reform legislation (i.e., ESHB 1724, enacted as ch. 347, Laws of 1995). The legislation, which implemented recommendations of the Governor's Task Force on Regulatory Reform, established for GMA jurisdictions an integrated project review process and a uniform framework for considering the consistency of a proposed project with the applicable regulations or plan. The legislation required GMA jurisdictions to issue a final permit decision within 120 days after the applicant was notified that the application is complete unless specific extension criteria were met. Additionally, the legislation included a local government liability waiver for damages due to a GMA jurisdiction's failure to make a final decision within the 120-day period.

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

Legislation was enacted in 2001 (i.e., ESHB 1458, enacted as ch. 322, Laws of 2001) establishing that 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 projects types.

The GMA requires six western Washington counties (i.e., Snohomish, King, Pierce, Kitsap, Thurston, and Clark counties) and the cities within those counties to establish a review and evaluation program (buildable lands– program) to:

- determine whether a county and its cities are achieving urban densities by comparing growth and development *assumptions* of county-wide planning policies and comprehensive plans with *actual* county and city growth and development; and
- identify reasonable measures that will be taken to comply with the requirements of the GMA.

If the evaluation demonstrates an inconsistency between what has occurred since the

adoption of county-wide planning policies, comprehensive plans, development regulations, and what was envisioned, the local government must adopt and implement measures to increase consistency during the subsequent 5-year period.

Counties subject to the buildable lands– program and the cities within those counties with a population of at least 20,000 must identify the types of project permit applications for which decisions are issued, and must establish deadlines for issuing notices of final decisions and minimum requirements for complete applications. These jurisdictions also must, through September 1, 2003, prepare annual performance reports for each type of project permit application.

The jurisdictions subject to the performance report requirements must provide notice of and access to the reports through their Web sites or other reasonable methods if a jurisdiction does not maintain a Web site.

Summary of Amended Bill:

Except as provided, a GMA jurisdiction may issue its notice of final decision on a project permit application within 120 days after notifying the applicant that the application is complete.

In determining the number of elapsed days after notifying the applicant that the application is complete, the following periods are excluded:

- any period during which the applicant has been requested to correct plans, perform required studies, or provide additional required information;
- any period during which an environmental impact statement is being prepared following a determination of significance under the State Environmental Policy Act if specific time limit provisions have been satisfied;
- any period for administrative appeals of project permits if specific appeals and time limit provisions have been satisfied; and
- any extension of time mutually agreed upon by the applicant and the local government.

The optional 120-day requirement and associated exemptions do not apply to project permit applications requiring an amendment to a comprehensive plan or development regulation, and projects requiring approval of new fully contained communities, master planned resorts, or essential public facilities. Furthermore, the 120-day time period must begin again following a substantial project revision by the applicant.

An advisory group must be established by the Legislature to review and make recommendations to the local project review procedures of chapter 36.70B RCW. Appointment criteria for the 12-member group is specified. Staff for the advisory group must be provided by state agencies and the Legislature, as may be required.

Amended Bill Compared to Original Bill:

The 120-day permit compliance requirement for local governments is replaced with an optional compliance provision. Provisions deeming a project permit application approved if the local government is unable to comply with specified time limits and providing for conclusive evidence of project approval are removed.

The 2003 expiration of the statutory provision requiring specific counties and cities subject to the buildable lands– program to prepare annual performance reports for each type of project permit application is removed.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill could be improved by limiting the exception in section 1(1)(a) from Any period– to One additional period–; clarifying the definition of substantially revised–; and by requiring the bill to apply to permit applications filed after the effective date of the act. The advisory group established in the bill may be unnecessary. Local governments must respond to permit requests in a timely manner. A permit decision within 120 days is an appealable action - inaction by a jurisdiction is not. This bill follows the recommendations of the Governor’s Competitiveness Council. Developers may be willing to pay higher permit fees in exchange for shorter processing times.

Testimony Against: The permitting process exists for a reason. A different legislative route would be better suited for issues of permit accountability. The implicit assumption of the bill is that every local jurisdiction has sufficient funds to hire the appropriate number of planners. Because of budget shortfalls and cutbacks, this assumption is inaccurate. The bill also assumes that all permits are for similar structures. Permitting issues can vary substantially for different structure types. The 120-day period will lead to approvals without regard to the impacts on the community. This bill will result in counties requesting every potentially applicable document from applicants. All parties agree that land-use decisions must be made in accordance with established standards - this bill moves away from this principle and would almost guarantee approval of permits, regardless of impacts. Current law already establishes permit processing timelines and

penalty provisions. This bill could slow permit processing by shifting planning department resources from smaller projects to larger ones. This is an unfunded mandate and no such timelines are required for state agency permit processing. This bill creates a disincentive for efficient processing of smaller permits. Applicants do not find the concept of clocking— to be useful or helpful. Local governments are trying very hard to improve the permitting process and comply with existing 120-day requirements. The provisions of this bill may serve as a distraction to those efforts.

Testified: Larry Stout, Washington Association of Realtors and Washington Commercial Association of Realtors; and Kristen Sawin, Association of Washington Business.

(Against) Genesee Adkins, 1000 Friends of Washington; Mike Ryherd, American Planning Association; Tom Bjorgen, Washington Environmental Council; Dave Williams, Association of Washington Cities; Carol Helland, City of Bellevue; and Cliff Fortman, City of Seattle.