

SENATE BILL REPORT

SB 5821

As of January 21, 2014

Title: An act relating to establishing consistent standards for agency decision making.

Brief Description: Establishing consistent standards for agency decision making.

Sponsors: Senator Benton.

Brief History:

Committee Activity: Governmental Operations: 1/21/14.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Karen Epps (786-7424)

Background: Applications for permits, registrations, variances, licenses, or exemptions must be made to state or local agencies for a number of actions that may have an impact on the environment or to public health and safety.

Examples of State Agency Permitting Activities. The Department of Ecology (DOE), Department of Fish and Wildlife (DFW), Department of Agriculture (WSDA), Department of Natural Resources (DNR), and Department of Health (DOH) each administer various permitting programs:

- DOE administers permits including for burning and other discharges of air, water pollution control, underground storage tanks, water well construction, floodplain management structures, solid waste, dairy nutrient management, biosolids, dam construction, reservoirs, and water rights;
- DFW administers permits including for hydraulic projects and registrations of aquatic farms;
- WSDA administers permits including for pesticides, fertilizers, and public livestock markets;
- DNR administers permits including for forest practices and surface mining reclamation; and
- DOH administers permits including for sanitary control of shellfish, Group A public water systems, and large on-site sewage systems.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Applicants denied a permit, registration, variance, license, or exemption may appeal the decision in accordance with the Administrative Procedures Act through the appropriate hearings board.

Summary of Bill: State and local government decisions pertaining to applications for permits, variances, licenses, determinations, and designations must be complete and the applicant must be notified of the decision within 90 days of the time the application is submitted. If the 90-day deadline for the decision is not satisfied, the applicant may file a motion in the appropriate superior court requesting court approval of the application. If the application is denied, the applicant may file a motion in the appropriate superior court requesting the court to overturn the decision. The appeal process is an alternative to any other provision of law establishing appeal procedures. Applicants choosing to utilize this appeal process are deemed to have satisfied all administrative remedies.

These provisions apply to applications for:

- permits under the Washington Clean Air Act;
- variances related to the quality, nature, duration, or extent of discharges of air;
- determination of classes of forest practices under the Forest Practices Act;
- waste disposal permits under the provisions of law regarding water pollution control;
- permits for hydraulic projects related to construction projects in state waters;
- permits for underground storage tanks;
- reclamation permits for surface mining;
- licenses related to water well construction;
- designs and plans of structures built or rebuilt on floodplains;
- exemptions from solid waste permitting for waste-derived soil under solid waste management laws;
- use of waste-derived fertilizers or the micronutrient fertilizers;
- environmental impact statements;
- registration of aquatic farms;
- licenses or certificates of approval required for the sanitary control of shellfish;
- dairy nutrient management plans;
- registration of pesticides distributed or transported within the state;
- commercial pesticide applicator licenses;
- public livestock market licenses;
- permits for the use or disposal of biosolids;
- operating permits pertaining to Group A public water systems;
- construction or modification of a dam or controlling works for water storage;
- reservoir permits;
- development permits on shorelines;
- operating permits for large on-site sewage disposal systems; and
- permits for the withdrawal of public waters for irrigation purposes.

Appropriation: None.

Fiscal Note: Requested on January 16, 2014.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: CON: The intent of giving applicants a quick decision and certainty in the process is supported and some agencies are working toward permit timeliness. While some agency permit decisions can be made within 90 days, often applicants do not submit a ready-to-process application. It takes time to work with an applicant to get the available data and to determine what the appropriate conditions are for their permit. It would be unrealistic to meet a 90-day deadline, especially if an application is incomplete. Many permit activities are based on federal requirements that have a requirement for a public comment period that could take longer than 90 days.

Persons Testifying: CON: Denise Clifford, DOE.