
SENATE BILL 5777

State of Washington

58th Legislature

2003 Regular Session

By Senators Prentice, Fairley, Keiser, Kohl-Welles, Thibaudeau, Eide and McAuliffe

Read first time 02/12/2003. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to improving permit processing performance by state
2 agencies and local governments; amending RCW 43.160.200; adding new
3 sections to chapter 43.17 RCW; adding a new section to chapter 36.70B
4 RCW; adding a new section to chapter 64.40 RCW; creating a new section;
5 and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that streamlining
8 state and local permit processes is essential to improving the business
9 climate of the state. The legislature further finds that such
10 streamlining needs to be accomplished while maintaining essential
11 environmental protections. It is the intent of the legislature that
12 state agencies set performance targets for issuing permits, that permit
13 consolidation allowed for transportation projects be expanded to other
14 programs requiring state permits, and that local governments be
15 provided with incentives for streamlining local permit processes.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.17 RCW
17 to read as follows:

1 (1) This section applies to the following state permitting agencies
2 and to the following permits and approvals:

3 (a) Department of ecology:

4 (i) Air quality operating permits;

5 (ii) Air quality notices of construction;

6 (iii) Air quality prevention of significant deterioration permits;

7 (iv) Individual state wastewater discharge permits;

8 (v) Individual national wastewater discharge permits;

9 (vi) General wastewater discharge permits;

10 (vii) Water quality certifications under section 401 of the federal
11 water pollution control amendments;

12 (viii) Coastal zone management act consistency determinations;

13 (ix) Water withdrawal permits issued under chapters 90.03 and 90.44
14 RCW;

15 (x) Approvals of changes or transfers to water withdrawal permits
16 under chapters 90.03 and 90.44 RCW; and

17 (xi) Shoreline management act substantial development permits,
18 conditional use permits, and variances;

19 (b) Department of natural resources:

20 (i) Forest practices permits;

21 (ii) Mining reclamation permits; and

22 (iii) Silvicultural burning permits;

23 (c) Department of fish and wildlife hydraulic project approvals.

24 (2) State permitting agencies shall establish permit processing
25 performance objectives for the permits and approvals specified in this
26 section. The objectives shall address timelines for processing
27 applications and for providing responses to preapplication requests for
28 information or assistance. For each permit or approval the agency
29 shall consider adopting a goal of issuing a final decision on ninety
30 percent of applications filed in a calendar year within ninety days of
31 receipt by the agency of a complete application. The performance
32 objectives may be established considering the following and other
33 factors:

34 (a) Statutory timelines applicable to the permit or approval;

35 (b) Budgetary resources available;

36 (c) Applicable public notice, comment, and hearing requirements;

37 (d) Applicable federal requirements regarding permits or approvals
38 administered by the state under a federally delegated program;

1 (e) Coordinating permit processing with the review of other permit
2 applications for the same project or undertaking; and

3 (f) Requests made by permit applicants regarding extensions to
4 provide additional information or for other reasons.

5 (3) State permitting agencies by September 30, 2003, shall adopt a
6 schedule for establishing performance objectives for each permit or
7 approval specified in subsection (1) of this section by June 30, 2005.
8 The schedule shall place a priority for earlier adoption of performance
9 objectives for those permits having the greatest number of applications
10 and those typically requiring the greatest length of time to process a
11 final decision.

12 (4) State permitting agencies shall track the progress in meeting
13 the performance objectives established under subsection (2) of this
14 section. Beginning on or before December 31, 2004, each state
15 permitting agency shall prepare an annual summary of its performance in
16 processing applications for which performance objectives have been
17 established, for the preceding fiscal year. The summary shall be
18 posted on its web site and provided to the appropriate standing
19 committees of the senate and house of representatives.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.17 RCW
21 to read as follows:

22 The departments of ecology, natural resources, and fish and
23 wildlife shall conduct a review of methods to improve the performance
24 of permit processing activities for those permits or approvals
25 specified in section 2(1) of this act. The methods may include but are
26 not limited to:

27 (1) Allowing the applicant to conduct studies, provide an initial
28 draft permit, or undertake other elements of processing the
29 application;

30 (2) Allowing funding to be provided by the applicant in addition to
31 applicable application fees, and in addition to the cost-reimbursement
32 authority under chapter 251, Laws of 2000;

33 (3) Delegation of elements of permit processing to a lead agency
34 for review of a project or undertaking or to another agency with
35 expertise or jurisdiction over the same project; and

36 (4) Providing detailed guidance to applicants on permit procedures,

1 required information, and the expectations and responsibilities of the
2 applicant and the agency.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.17 RCW
4 to read as follows:

5 (1) The environmental permit efficiency and accountability
6 committee is created. The committee shall consist of the following
7 voting members:

8 (a) Two members of the house of representatives, one from each of
9 the two largest caucuses, appointed by the speaker of the house of
10 representatives;

11 (b) Two members of the senate, one from each of the two largest
12 caucuses, appointed by the president of the senate;

13 (c) A member representing the governor and the permit assistance
14 center in the office of the governor;

15 (d) One member designated by the fish and wildlife commission;

16 (e) One member designated by the director of ecology;

17 (f) One member designated by the association of Washington cities
18 to represent cities; and

19 (g) One member designated by the Washington state association of
20 counties, to represent counties.

21 (2) The voting members of the committee shall select additional
22 representatives of the following interests to participate as nonvoting
23 members of the committee:

24 (a) Large businesses;

25 (b) Small businesses;

26 (c) Environmental and citizen organizations that participate in
27 environmental permit proceedings;

28 (d) Contractors and engineers involved in the development of
29 projects requiring state and local environmental and land use permits;
30 and

31 (e) A representative of federal agencies with federal environmental
32 permit responsibilities.

33 (3) The governor shall designate his or her representative by
34 September 30, 2003, and such representative shall convene the initial
35 meeting of the committee by December 1, 2003. At such initial meeting
36 the voting members of the committee shall select a chair and shall

1 select the nonvoting members. The committee may consider any
2 nominations from individuals or associations representing the interests
3 described in subsection (2) of this section.

4 (4) The committee may create technical subcommittees as needed.

5 (5) Nonvoting members will not be compensated but will receive
6 reimbursement for travel expenses in accordance with RCW 43.03.050 and
7 43.03.060.

8 (6) The permit assistance center in the office of the governor
9 shall provide administrative and clerical assistance to the committee.

10 (7) The committee shall build upon the work of the transportation
11 permit efficiency and accountability committee created by RCW
12 47.06C.030 in developing streamlined and one-stop permitting processes
13 that may be applicable to projects by businesses and others. The
14 committees shall coordinate their work to maximize opportunities to
15 transfer permit processing improvements developed under RCW 47.06C.040
16 to projects in addition to state transportation projects. The
17 committee shall develop and prioritize a list of permit streamlining
18 opportunities, specifically identifying substantive and procedural
19 duplications and recommendations for solving these duplications. The
20 committee shall evaluate current laws and rules and develop
21 recommendations for legislative, administrative, and budgetary measures
22 to achieve more timely and efficient processing of state and local
23 environmental and land use permits applicable to the siting and
24 operation of land use activities including industrial, commercial,
25 residential, infrastructure, and other development. The committee
26 shall provide a report that includes its analysis and recommendations
27 to the appropriate fiscal and policy committees of the senate and house
28 of representatives by December 31, 2004.

29 (8) This section expires June 30, 2005.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70B RCW
31 to read as follows:

32 (1) By June 30, 2004, each city and county is encouraged to adopt
33 procedures to establish the objective of making a final decision on a
34 project permit application within one hundred twenty days after the
35 local government has received a complete application. In determining
36 the number of days that have elapsed after the local government has

1 notified the applicant that the application is complete, the local
2 government may exclude:

3 (a) Any period during which the applicant is responding to a
4 request by the local government to correct plans, perform required
5 studies, or provide additional required information;

6 (b) Any period during which an environmental impact statement is
7 being prepared following a determination of significance under chapter
8 43.21C RCW;

9 (c) Any period for administrative appeals of project permits, if an
10 open record appeal hearing or a closed record appeal, or both, are
11 allowed. The local government by ordinance or resolution is encouraged
12 to establish a time period to consider and decide such appeals,
13 including extensions that all parties may agree upon; and

14 (d) Any extension of time mutually agreed upon by the applicant and
15 the local government.

16 (2) Each local government may determine that the time limits
17 established by subsection (1) of this section do not apply if a project
18 permit application:

19 (a) Requires an amendment to the local government comprehensive
20 land use plan or a development regulation;

21 (b) Requires approval of a new fully contained community as
22 provided in RCW 36.70A.350, a master planned resort as provided in RCW
23 36.70A.360, or the siting of an essential public facility as provided
24 in RCW 36.70A.200; or

25 (c) Is substantially revised by the applicant, in which case the
26 time period may start from the date at which the revised project
27 application is determined to be complete.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 64.40 RCW
29 to read as follows:

30 A local government is not liable for damages under this chapter due
31 to the local government's failure to make a final decision within the
32 time limits established by the local government under section 5 of this
33 act.

34 **Sec. 7.** RCW 43.160.200 and 1999 c 164 s 107 are each amended to
35 read as follows:

36 (1) The economic development account is created within the public

1 facilities construction loan revolving fund under RCW 43.160.080.
2 Moneys in the account may be spent only after appropriation.
3 Expenditures from the account may be used only for the purposes of RCW
4 43.160.010(5) and this section. The account is subject to allotment
5 procedures under chapter 43.88 RCW.

6 (2) Applications under this section for assistance from the
7 economic development account are subject to all of the applicable
8 criteria set forth under this chapter, as well as procedures and
9 criteria established by the board, except as otherwise provided.

10 (3) Eligible applicants under this section are limited to political
11 subdivisions of the state in rural natural resources impact areas and
12 rural counties.

13 (4) Applicants must demonstrate that their request is part of an
14 economic development plan consistent with applicable state planning
15 requirements. Applicants must demonstrate that tourism projects have
16 been approved by the local government. Industrial projects must be
17 approved by the local government and the associate development
18 organization.

19 (5) Publicly owned projects may be financed under this section upon
20 proof by the applicant that the public project is a necessary component
21 of, or constitutes in whole, a tourism project.

22 (6) Applications must demonstrate local match and participation.
23 Such match may include: Land donation, other public or private funds
24 or both, or other means of local commitment to the project.

25 (7) Board financing for project-specific environmental, capital
26 facilities, land use, permitting, feasibility(~~(+,-)~~), and marketing
27 studies and plans; project engineering, design, and site planning and
28 analysis; and project debt and revenue impact analysis shall not exceed
29 fifty thousand dollars per study. Board funds for these purposes may
30 be provided as a grant and require a match.

31 (8) Board financing for tourism projects shall not exceed two
32 hundred fifty thousand dollars. Other public facility construction
33 projects under this section shall not exceed one million dollars.
34 Loans with flexible terms and conditions to meet the needs of the
35 applicants shall be provided. Grants may also be authorized, but only
36 when, and to the extent that, a loan is not reasonably possible, given
37 the limited resources of the political subdivision.

1 (9) The board shall develop guidelines for allowable local match
2 and planning and predevelopment activities.

3 (10) The board may allow de minimis general system improvements to
4 be funded if they are critically linked to the viability of the
5 economic development project assisted under this section.

6 (11) Applications under this section need not demonstrate evidence
7 that specific private development or expansion is ready to occur or
8 will occur if funds are provided.

9 (12) The board shall establish guidelines for providing financial
10 assistance under this section to ensure that the requirements of this
11 chapter are complied with. The guidelines shall include:

12 (a) A process to equitably compare and evaluate applications from
13 competing communities that includes a preference for applicants that
14 meet the permitting timelines established in section 5 of this act in
15 at least ninety percent of permit applications.

16 (b) Criteria to ensure that approved projects will have a high
17 probability of success and are likely to provide long-term economic
18 benefits to the community. The criteria shall include: (i) A minimum
19 amount of local participation, determined by the board per application,
20 to verify community support for the project; (ii) an analysis that
21 establishes the project is feasible using standard economic principles;
22 and (iii) an explanation from the applicant regarding how the project
23 is consistent with the communities' economic strategy and goals.

24 (c) A method of evaluating the impact of the financial assistance
25 on the economy of the community and whether the financial assistance
26 achieved its purpose.

--- END ---