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**SECOND SUBSTITUTE SENATE BILL 5290**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Mullet, Kuderer, Fortunato, Liias, Nobles, Saldaña, and C. Wilson; by request of Office of the Governor)

AN ACT Relating to consolidating local permit review processes; amending RCW 36.70B.140, 36.70B.020, 36.70B.070, 36.70B.080, and 36.70B.160; adding new sections to chapter 36.70B RCW; creating a new section; and providing an effective date.

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

**Sec.**  RCW 36.70B.140 and 1995 c 347 s 418 are each amended to read as follows:

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process or timelines for approval which are different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.

(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

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

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on residential permit applications within 45 business days or 90 calendar days.

(i) To achieve permit review within the stated time frame, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection staff. Any funds expended for such a contract may be eligible for reimbursement under this act.

(iii) Local governments are authorized to use grant funds to contract outside assistance to audit their development regulations to identify and correct barriers to housing development.

(b) Establishing an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within 45 business days or 90 calendar days.

(i) A local government may consult with local building associations to develop a reasonable fee system.

(ii) A local government must determine, no later than August 1, 2023, the specific fee structure needed to provide permit review within the timeline specified in this subsection (1)(b).

(2) A jurisdiction that is awarded a grant under this section must provide a quarterly report to the department of commerce. The report must include the average and maximum time for permit review during the jurisdiction's participation in the grant program.

(3) If a jurisdiction is unable to successfully meet the terms and conditions of the grant, the jurisdiction must enter a 90-day probationary period. If the jurisdiction is not able to meet the requirements of this section by the end of the probationary period, the jurisdiction is no longer eligible to receive grants under this section.

(4) For the purposes of this section, "residential permit" means a permit issued by a city or county that satisfies the conditions of RCW 19.27.015(5) and is within the scope of the international residential code, as adopted in accordance with chapter 19.27 RCW.

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

Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and capacity for video storage.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must convene a digital permitting process work group to examine potential license and permitting software for local governments to encourage streamlined and efficient permit review.

(2) The department of commerce, in consultation with the association of Washington cities and Washington state association of counties, shall appoint members to the work group representing groups including but not limited to:

(a) Cities and counties;

(b) Building industries; and

(c) Building officials.

(3) The department of commerce must convene the first meeting of the work group by August 1, 2023. The department must submit a final report to the governor and the appropriate committees of the legislature by August 1, 2024. The final report must:

(a) Evaluate the existing need for digital permitting systems, including impacts on existing digital permitting systems that are already in place;

(b) Review barriers preventing local jurisdictions from accessing or adopting digital permitting systems;

(c) Evaluate the benefits and costs associated with a statewide permitting software system; and

(d) Provide budgetary, administrative policy, and legislative recommendations to increase the adoption of or establish a statewide system of digital permit review.

**Sec.**  RCW 36.70B.020 and 1995 c 347 s 402 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

(2) "Local government" means a county, city, or town.

(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to ((~~building permits,~~)) subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones ((~~authorized by a comprehensive plan or subarea plan~~)) which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

**Sec.**  RCW 36.70B.070 and 1995 c 347 s 408 are each amended to read as follows:

(1)(a) Within ((~~twenty-eight~~)) 20 days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall ((~~mail or~~)) provide ((~~in person~~)) a written determination to the applicant((~~, stating~~)).

(b) The written determination must state either:

((~~(a)~~)) (i) That the application is complete; or

((~~(b)~~)) (ii) That the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

(c) The number of days shall be calculated by counting five days per week, excluding holidays.

(d) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government ((~~and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently~~)), as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the local government. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.

(3) The determination of completeness may include or be combined with the following ((~~as optional information~~)):

(a) A preliminary determination of those development regulations that will be used for project mitigation;

(b) A preliminary determination of consistency, as provided under RCW 36.70B.040; ((~~or~~))

(c) Other information the local government chooses to include; or

(d) The notice of application pursuant to the requirements in RCW 36.70B.110.

(4)(a) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application under this section if the local government does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection (1)(b)(ii) of this section. When the local government does not provide a written determination, they may still seek additional information or studies as provided for in subsection (2) of this section.

(b) Within ((~~fourteen~~)) 14 days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

(c) The notice of application shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

**Sec.**  RCW 36.70B.080 and 2004 c 191 s 2 are each amended to read as follows:

(1)(a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed ((~~one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types~~)) those specified in this section.

((~~The~~)) (b) For project permits submitted after January 1, 2025, the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

((~~(2)~~)) (c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.

(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time frames unless modified by the local government pursuant to this section or RCW 36.70B.140.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 45 days | 70 days | 120 days |
| Permits which do not require public notice | X |  |  |
| Permits which require public notice |  | X |  |
| Permits which require public notice and a public  hearing |  |  | X |

(e) A jurisdiction may modify the table in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time frames may be different than permits submitted individually, and that projects of a certain size or type may be differentiated. Unless otherwise provided for the consolidated review of more than one permit, the time frame for a final decision shall be the longest of the permit timelines identified in (d) of this subsection or as amended by a local government.

(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the timelines in the table shall be applied.

(g) The total number of days the application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting five days per week, excluding holidays. The days the application is in review with the county or city does not include time periods between where the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant. Time periods shall also be stopped when an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application.

(h) Time periods for local government actions for each type of complete project permit application is stopped when an administrative appeal is filed that extends the time period to issue a final decision.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(k) Adopting a resolution or ordinance to implement this subsection shall not be subject to appeal unless the table in (d) of this subsection is modified to include a permit type for which more than 120 days is provided for.

(l)(i) When permit time frames provided for in (d) of this subsection or as amended by a local government for issuing a final decision are not met, a portion of the permit fee must be refunded to the applicant as provided in this section. A local government may provide for the collection of only 80 percent of the fee initially, and for the collection of the remaining balance if the permitting time frames are met. The portion of the fee refunded for missing time frames shall be:

(A) 10 percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time frame; and

(B) 20 percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time frame.

(ii) Except as provided in RCW 36.70B.160, the provisions in this subsection (1)(l) are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (k) at the time an application is deemed procedurally complete.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least ((~~twenty thousand~~)) 20,000 must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare an annual performance report((~~s~~)) that ((~~include, at a minimum, the following information for each type of project permit application identified in accordance with the requirements of (a) of this subsection:~~

~~(i) Total number of complete applications received during the year;~~

~~(ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;~~

~~(iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;~~

~~(iv) 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;~~

~~(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; and~~

~~(vi) The mean processing time and the number standard deviation from the mean.~~

~~(c) Counties and cities subject to the requirements of this subsection must:~~

~~(i) Provide notice of and access to the annual performance reports through the county's or city's website; and~~

~~(ii) Post electronic facsimiles of the annual performance reports through the county's or city's website. Postings on a county's or city's website indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection.~~

~~If a county or city subject to the requirements of this subsection does not maintain a website, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).~~

~~(3)~~)) includes information outlining time frames for certain permit types associated with housing. The information collected is not intended to demonstrate the total time for a project to receive construction approval from a city or county. It will, however, provide:

(i) Permit time frames for certain permit processes in counties and cities in relation to those established under this section;

(ii) Ongoing information to those submitting permits, local governments, and the state regarding permit time frames associated with permit processes for housing;

(iii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iv) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(v) The total number of days from a submittal to a decision being issued. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting five days per week, excluding holidays;

(vi) The total number of days the application was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting five days per week, excluding holidays. The days the application is in review with the county or city does not include time periods between where the county or city has notified the applicant, in writing, that additional information is required to further process the application and when that information is submitted by the applicant. Time periods shall also be stopped when an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application; and

(vii) The total number of days the permit is the responsibility of the applicant, including days the county or city is waiting for additional information.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Post the annual performance report through the county's or city's website; and

(ii) Submit the annual performance report to the department of commerce by March 1st each year.

(d)(i) No later than July 1st each year, the department of commerce shall publish a report, which includes the annual performance report data for each county and city subject to the requirements of this subsection, and a list of those counties and cities whose time frames are shorter than established under this section in order that best practices can be gleaned from those counties and cities.

(ii) The annual report published by the department of commerce shall also include key metrics and findings from the information collected.

(e) Annual reports must be submitted to the department of commerce beginning in 2025.

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

((~~(4) The department of community, trade, and economic development shall work with the counties and cities to review the potential implementation costs of the requirements of subsection (2) of this section. The department, in cooperation with the local governments, shall prepare a report summarizing the projected costs, together with recommendations for state funding assistance for implementation costs, and provide the report to the governor and appropriate committees of the senate and house of representatives by January 1, 2005.~~))

**Sec.**  RCW 36.70B.160 and 1995 c 347 s 420 are each amended to read as follows:

(1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations ((~~and within the capacity of systemwide infrastructure improvements~~)) by:

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city from imposing a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license;

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections; or

(k) Offering a meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting shall be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government shall approve or deny the application.

(2) Where measures in subsection (1) of this section have been taken and permit timelines are not meeting those established in RCW 36.70B.080 at least 50 percent of the time, the city or county shall, as part of the periodic update established in RCW 36.70A.130, adopt new measures aimed at reducing permit timelines.

((~~(2)~~)) (3) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

((~~(3)~~)) (4) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

((~~(4)~~)) (5) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

(6) Technical assistance from the department of commerce should focus on local governments that have implemented at least three of the options in subsection (1) of this section.

(7) Technical assistance from the department of commerce must include guidance to assist local governments in setting appropriate fee structures to ensure that fees under subsection (1)(b) of this section are both reasonable and sufficient to recover true costs, including guidance on appropriate growth factors or other measures to reflect cost increases over time.

NEW SECTION. **Sec.**  The department of commerce shall develop a template for counties and cities subject to the requirements in RCW 36.70B.080, which will be utilized for reporting data. Counties and cities subject to the requirements in RCW 36.70B.080 must begin collecting data consistent with this section in 2024.

NEW SECTION. **Sec.**  Section 7 of this act takes effect January 1, 2025.

**--- END ---**