FINAL BILL REPORT
E2SHB 2418

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Synopsis as Enacted

Brief Description: Concerning permit review processes.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Duerr, Zahn, Parshley, Peterson and Reed).

House Committee on Local Government
House Committee on Appropriations
Senate Committee on Local Government

Background:

Before developing land, a developer must obtain permits from the county or city (local government) with jurisdiction over the land allowing the development. These permits can include land use permits, environmental permits, conditional use permits, and others, and are known as project permits. Depending on the size and complexity of the proposed development, different procedures may apply to the local government's review of the project permit application. Some permit applications require the local government reviewing it to provide notice to the public of the application, some require both public notice and that the local government hold a public hearing on the application prior to approval, and some require neither public notice nor a hearing.

A building permit, which is generally required to ensure that a structure or facilitycomplies with the building code, is not considered a project permit.

When a local government is planning under the Growth Management Act (GMA), its processing of project permits must be guided by the comprehensive plan and development regulations that it has adopted pursuant to the GMA. Development regulations are land use controls such as zoning ordinances. Counties that plan under the GMA are required to designate urban growth areas. These are areas in which urban growth is encouraged, and outside of which urban growth is prohibited.

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

Local governments that plan under the GMA are also subject to additional requirements related to processing project permit applications.

One such requirement is that a local government planning under the GMA must determine if a project permit application is complete within 28 days of receiving it. An application is complete if it complies with the procedural submission requirements set by the local government. An application may be complete even if additional information may later be required, as long as the procedural submission requirements have been complied with. If the local government does not make the determination of completeness within the allotted time, then the application is deemed to be complete.

Once an application is determined or deemed complete, a local government planning under the GMA is required to issue a final decision on the project permit application by a certain deadline, with the specific deadline dependent on the type of project permit application. The local government may exclude from the deadline project permits that the local government has determined present special circumstances warranting a different period of review. Local governments may also add to or change the types of permits that each deadline applies to, address how consolidated permits may require a different review period than an individual permit application, and provide for how permits of a certain scope or type can be differentiated.

If a local government has not excluded a project permit because of special circumstances or modified the deadline applicable to the permit, then the following deadlines apply:

- for project permits that do not require public notice, the local government must issue a final decision within 65 days of the determination of completeness;
- for project permits that do require public notice, but not a public hearing, the final decision must be issued within 100 days of the determination of completeness; and
- for project permits that require both public notice and a public hearing, the final decision must be issued within 170 days of the determination of completeness.

The deadlines run from the date that the application is officially determined or deemed to be complete to the date that a final decision is issued on the project. Certain time periods are excluded from counting toward the deadlines. Periods during which the local government is waiting for additional information from the applicant, while an administrative appeal is being resolved, and after an applicant has notified the local government that the applicant wishes to temporarily suspend review of the application are all excluded from the calculation of how long the permit has been in review by the local government.

Additional time may be added to the period that the local government has for review if the applicant is unresponsive for a significant period of time, and the time periods may be restarted if the applicant makes certain significant changes to the proposed use in the project. An applicant may also agree in writing to extend the deadline for a reasonable and certain period of time mutually agreed on between the applicant and the local government.

If a local government ultimately does not issue its final decision by the deadline, then it may be required to refund a portion of the permit fee it received from an applicant, with the amount of the refund dependent on by how much the deadline was missed. If the local government missed the deadline by 20 percent or less of the original time period, then 10 percent of the permit fee must be refunded. If the deadline was instead missed by more than 20 percent of the original time period, then 20 percent of the permit fee must be refunded.

Local governments that take at least three specified actions from a list of measures meant to speed permitting review or to ensure accountability are exempt from the requirement to provide a refund if a permitting deadline is missed. Examples of such actions include entering into an agreement with another jurisdiction to share permitting resources, having on-call permitting assistance available when permit volumes or staffing levels change rapidly, or making preapplication meetings optional rather than mandatory. A local government that has taken sufficient specified actions may still become subject to the permitting refund requirement if at least five years have passed since it adopted the measures and it is not meeting the permitting deadlines at least half of the time in the period since its last comprehensive plan update.

Counties west of the crest of the Cascade Mountains that had more than 150,000 people in 1996, and cities with a current population of at least 20,000 within these counties, are also required to prepare annual permitting reports related to housing permits. This information must include, among other things, the number of decisions issued during the year for certain types of permits, such as subdivisions, and the number of days that each such permit was under review by the local government. This information must be posted on the local government's website and submitted to the Department of Commerce to be used in an annual performance report prepared by the department.

In addition to a local government's own review, the State Environmental Policy Act (SEPA) may impose procedural requirements on the review of a proposed development action. When a review under SEPA is required, a government agency, including potentially a local government, will be designated as the lead agency with the primary responsibility for complying with SEPA procedural requirements. The lead agency must determine a responsible official who acts for the agency when complying with SEPA requirements.

As part of the review under SEPA, the proposed action will be subject to a determination of whether the action is likely to have a significant adverse environmental impact. The review will either result in a determination of significance, or a determination of nonsignificance. If there is a determination of significance, then the lead agency will be required to prepare an environmental impact statement for the project.

Special purpose districts are limited-authority government entities. Generally, a special purpose district is empowered to take actions related to its specific purpose within the limited geographic area encompassing the district. The range of special purpose districts includesport districts operating international airports and major marine container cargo

facilities and cemetery districts responsible for a single cemetery.

Public utility districts are non-profit municipal corporations governed by elected commissioners that provide utility service to residents within the district.

Summary:

The following are not project permits:
- a permit issued based on compliance with state and local building codes is not a project permit; and
- a special purpose district's or public utility district's determination of service availability, system capacity, infrastructure requirements, or review of proposed water, sewer, or stormwater civil plans.

Determination of Completeness.

A determination of completeness must be based on whether an application is procedurally complete. A determination of completeness is not a substantive review and may not be conditioned on the adequacy, accuracy, or sufficiency of the information submitted.

Permit Review Deadlines.

The following are not included when determining the number of days a project permit application has been in review with a local government:
- Periods during which an applicant has not paid an applicable fee or posted a required notice;
- periods in which a draft of a final environmental impact statement is being prepared following a determination of significance under SEPA; and
- periods between the issuance of a final decision and the expiration of the applicable administrative review period; and
- periods in which a local government has completed all possible work on the application but is waiting on necessary action from another government entity.

Any government entity other than a local government, special purpose district, or public utility district (government entity) that imposes a fee on an applicant for the review of a project permit application related to a residential project must complete its review within the project permit review timelines applicable to a local government. The time period that a government entity has taken to conduct its review of the application is exclusive of the time period that the local government or another public agency has taken to review the application. If the review is not completed within the applicable timeframe, then the government entity must refund 20 percent of the permit review fee that it collected. If a government entity does not impose a fee for its review, then no refund is required.

An applicant may, in writing, waive the permitting review deadlines applicable to a

government entity's review of a project permit application. If an applicant does so, then provisions related to project permit review deadlines and to a potential refund do not apply to the application.

Similarly, if an applicant agrees to the extension of the deadlines for a county or city to issue a decision on a project permit application, then the deadlines and refund provisions related to local government review do not apply to that application.

An applicant may agree to waive or extend the deadlines for a government entity or a local government at any time prior to the denial or the application or the expiration of the deadlines.

Special purpose districts and public utility districts (districts) have different permitting deadlines for project permit applications related to residential projects than local governments or other government entities.

For a district, the time for conducting a review of an application begins after it receives a complete application referral from the local government. A referral is complete if it provides civil plans and related materials that are based on the district's adopted engineering and design standards, and all of the materials required to constitute a complete application under the district's procedures. A district has 15 calendar days from the day it receives the application referral to determine if the application is complete. If it is not complete, the district must notify the local government that referred the application and the applicant in writing that additional information is required. Once the applicant submits the requested information, the district has an additional 15 days to determine if the referral is complete. This cycle may be repeated until the application is complete. If a district does not provide notice that an application is incomplete within 15 days of the referral or of a resubmission, then the application is deemed complete.

Once an application, is complete a district has 45 business days to issue a determination on the application in the form of written comments if the application involved an infrastructure extension or connection that does not require specilization engineering analysis or external regulatory approval.

A written response may confirm the application is consistent with engineering and design standards, identify necessary revisions to the application, identify conditions of service or infrastructure improvements, or identify capacity, regulatory, or system limitations that preclude approval.

If the application involves complex infrastructure, specialized engineering review, regulatory coordination, or third-party technical consultation, an additional 60 business days may be added to the review, for a maximum total review period of 120 calendar days. If additional time is added, the district must provide written notice to the referring local government and the applicant that identifies the basis for the additional time and that

provides an estimated time for completion of the review.

Complex infrastructure that can justify a longer review period includes sewage lift or pump stations, directional drilling, boring, or installation within a state or county right-of-way, system-wide hydraulic or capacity modeling, and construction of off-site capital facilities that have not been previously approved for construction.

Certain time periods are excluded from the calculation of the number of days that a district has been reviewing an application, including periods in which the district is awaiting approval, information, or permits from a local government, state agency, or federal agency and time periods duringwhich the district is awaiting revisions from an applicant in response to written review comments from the district. After an initial period is excluded based on the need for a response from an applicant, subsequent excluded periods are limited to those related to comments from the district on the revised materials, and the district may not reopen issues previously resolved unless necessary for public health or safety, or for regulatory compliance. A district may make additional comments if an applicant's revised materials introduce new deficiencies or design changes to the application.

If a district does not ultimately provide written comments by the applicable deadline, then it must refund 20 percent of the fee it collected for its review of the application. Only fees attributable to civil plan or infrastructure review are eligible for a refund, and a missed deadline does not mean that a project is approved for service.

Requirements related to district permit review do not alter the substantive authority of a district, authorize the imposition of any requirements not otherwise authorized by law, create a cause of action for damages, or require a district to provide service that cannot be safely or legally provided.

Districts must provide permitting information to local governments that referred applications to the district if the referring local government is required to prepare an annual permitting report. The district must provide the date a referral was received, the date it was deemed complete, whether the application was eligible for an extended time period for review, the date the written comments were issued, and whether a refund was required. A local government that is required to prepare an annual permitting report must include the information received from districts in its report.

Designated Permit Officials.

By June 30, 2027, local governments planning under the GMA must include in their development regulations the designation of a permit-responsible official for project permit applications. This official must have the authority to make all final administrative decisions on residential project permit applications. If the local government is also the lead agency on a review under SEPA, the permit-responsible official must also be the responsible official on the SEPA review.

Additionally, the local government must provide for a single point of contact for each project permit application. Each application may have a different point of contact. The point of contact may be an official, position, office, or functional unit of the local government, and can be identified by public phone number or email address. The point of contact must coordinate with other local government departments and with other agencies as necessary to ensure that the local government meets the deadline for issuing a final decision on the project permit application. The designation of a point of contact does not confer final decision-making authority beyond what is authorized under the local government's regulations.

Votes on Final Passage:

House	93	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 2026