

HOUSE BILL REPORT

SSB 5532

As Reported By House Committee On:
Government Reform & Land Use

Title: An act relating to mediation in land-use decisions involving conditional or special use permits.

Brief Description: Requiring mediation before appeal of land-use decisions involving conditional use permits.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Winsley).

Brief History:

Committee Activity:

Government Reform & Land Use: 2/23/98, 2/27/98 [DP].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 10 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Bush; Fisher; Mielke; Mulliken and Thompson.

Staff: Caroleen Dineen (786-7156).

Background: The legislative body of a county or city may adopt a hearing examiner system for the purpose of hearing and deciding certain types of applications and appeals. Examples of issues a hearing examiner may consider include applications for conditional use permits, variances, rezones, subdivision approvals, shoreline permits or other types of development or land use permit applications. The hearing examiner system may serve as an alternative to a planning commission or board of adjustment with respect to applications or appeals the hearing examiner is authorized to review and decide.

RCW 5.60.070 governs disclosure of communications made or materials submitted in connection with mediation of a civil action.

Summary of Bill: Mediation is required before an appeal may be filed of a hearing examiner's final decision regarding a conditional or special use permit application sought by any person licensed or certified by the Department of Social and Health Services

(DSHS) or the Department of Corrections (DOC). The aggrieved party is required to initiate formal mediation procedures within five days after the hearing examiner's final decision.

A trained mediator is to be selected by agreement of the parties within five days after formal mediation procedures are initiated. If the parties cannot agree, the mediator is to be selected by lot from among the parties' nominees.

The parties' agreement to mediate must be in writing and is subject to the disclosure requirements of RCW 5.60.070. Mediation is to be completed within 14 days of the mediator's selection unless the parties agree to a longer mediation period. The mediator must provide the parties with a mediation report summarizing the issues and describing any agreements.

A local government is not considered a "party" for purposes of the mediation procedure and does not receive a copy of the mediation report unless the parties agree to allow the mediator to provide it to the local government.

Limitations periods for filing appeals are tolled during the mediation period.

A new section specifying the mediation procedures is added to each of the following chapters:

- Chapter 35.22, First Class Cities;
- Chapter 35.63, Planning Commissions;
- Chapter 35A.63, Optional Municipal Code/Planning and Zoning in Code Cities;
- Chapter 36.32, County Commissioners; and
- Chapter 36.70, Planning Enabling Act.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Siting of facilities is more successful if the community is involved. The mediation procedure will directly involve the community before facilities are sited. The proponents are willing to voluntarily attempt mediation without this new requirement.

Testimony Against: None.

Testified: Ian McGowan, Pioneer Human Services (pro).