HOUSE BILL REPORT
SSB 5462

As Passed House-Amended:
April 16, 1997

Title: An act relating to local government permit timelines.

Brief Description: Changing local government permit timeline provisions.

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

Brief History:
Committee Activity:
Government Reform & Land Use: 3/24/97, 3/27/97 [DP].
Floor Activity:
Passed House-Amended: 4/16/97, 63-34.

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 7 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Bush; Mielke; Mulliken and Thompson.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Fisher and Gardner.

Staff: Kimberly Klaiber (786-7156).

Background:

Growth Management Act

The Growth Management Act (GMA) requires certain counties and the cities within them to use an agreed-upon procedure to adopt a *county-wide planning policy*. This policy establishes a framework– from which the county and cities in the county develop and adopt *comprehensive plans*, which must be *consistent* with the county-wide planning policy. The GMA requires counties to address certain issues in the comprehensive plan (land use, housing, capital facilities plan, utilities, rural designation, transportation) and to protect critical areas, designate and conserve

certain natural resource lands, and designate urban growth areas. Each county and city adopts *development regulations* consistent with its comprehensive plan.

The GMA created an administrative review process consisting of three regional growth management hearings boards (boards) to resolve disputes over comprehensive plans and development regulations. The boards hear requests for review of growth management actions taken by counties and cities located in each of the regions the boards represent if a person with standing to request the review files a petition challenging a county or city's action. The boards are not permitted to consider matters outside of the detailed statement of issues presented for review.

If the board finds that the actions reviewed are not in compliance with the GMA's requirements, the board issues an order to the affected agency, county or city requiring it to take action within a maximum of 180 days to bring it into compliance. After the 180-day period has expired, the board holds a second hearing (known as a compliance hearing) to determine if the agency, county or city has come into compliance. If the board finds that an agency, county, or city has not fixed the problems identified at the first hearing (i.e., is still not in compliance), the board must transmit its findings to the Governor and may recommend that sanctions be imposed. Comprehensive plans and development regulations are presumed to be valid under the GMA. A board finding of invalidity requires a determination that the comprehensive plan or regulations "substantially interfere with the fulfillment of the goals" of the GMA.

Integration of Project Permit Procedures

In 1995, the Legislature amended the GMA to integrate project permit procedures and environmental review required under the State Environmental Policy Act (SEPA).

Under this integrated statutory scheme, when a local government receives a project permit application it must provide a notice of application to the public and the appropriate departments and agencies. The notice must contain, among other things, a description of the proposed project action, a list of the project permits included in the application, and a statement of the public comment period and the time and place of a hearing (if one is scheduled). "Project permit" means any land use or environmental permit or license required from a local government for a project action, including building permits, subdivisions, and others, but not including comprehensive plans or development regulations.

SEPA requires local governments and state agencies to prepare a detailed statement, or environmental impact statement (EIS), if a proposed action may have a probable significant, adverse impact on the environment. Local governments and state agencies must make a threshold determination on a completed project application as to whether a probable significant, adverse environmental impact may result from the project as

proposed. The threshold determination process involves notice of the proposed action and a public comment period.

An EIS must only be prepared if a local government makes a determination of significance (that is to say, determines that a probable significant, adverse environmental impact will result from a proposed action). The lead agency on a local government action that has resulted in a determination of significance (DS) must narrow the scope of every EIS to the probable significant, adverse impacts and reasonable alternatives, including mitigation measures (scoping–). The lead agency must then initiate a 21-day public comment period on the DS where agency representatives, tribes, and the public may comment and address significant environmental issues.

If the local government has made a DS concurrently with the notice of application, it must combine the notice of application with the DS and scoping notice. A local government may issue a DS on a project permit before the expiration of the public comment period, but the local government is not authorized to issue a DNS before the expiration of the public comment period.

Summary of Bill: When a local government makes a threshold determination (either a determination *of significance* (DS) or a determination of *nonsignificance* (DNS) concurrently with the notice of application, the notice of application **may** be combined with the threshold determination. If there is a DS, the notice of application **may** be combined with the determination of significance *and* the scoping notice. The local government may issue a decision or a recommendation on a project permit prior to the expiration of the public comment period on the notice of application for any threshold determination.

The effect of the optional combined notice of application/threshold determination is to eliminate the second public notice period (from 14 to 30 days) from the project timeline.

A local government may pass an ordinance exempting all building permit applications that are consistent with a local government comprehensive plan and development regulations from the notice of application process. The exemption only applies if the applicable section of the comprehensive plan or development regulation is not subject to a growth management hearings board order of invalidity, and the exemption only applies if the particular building permit application does not require a public comment period or an open record predecision hearing.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill will clear up the uncertainty created by the 1995 SEPA/GMA legislation (HB 1724). The bill also solves some problems for Benton County and Walla Walla. It will speed up the permit process. Some of these issues may be addressed in the 1724 cleanup bill.

Testimony Against: None.

Testified: Dave Williams, Association of Washington Cities (pro); and Paul Parker, Washington State Association of Counties (pro).