

SENATE BILL REPORT

ESHB 2847

As of February 22, 2000

Title: An act relating to remedies for exceeding the one hundred twenty day timeline for land use project permit applications.

Brief Description: Providing sanctions when a local government fails to issue a final decision on a project permit application within the applicable time period.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Mulliken, Edwards, Cairnes and Mielke).

Brief History:

Committee Activity: State & Local Government: 2/23/2000.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Staff: Roger Brodniak (786-7445)

Background: Counties and cities planning under the Growth Management Act (GMA) are required to issue a final decision on a permit application within 120 days after the applicant is notified the application is complete. This 120-day permit requirement does not include:

- any period during which the applicant is requested to correct plans, perform required studies, or provide additional information;
- the period during which an environmental impact statement is prepared;
- any period for administrative appeals of permits with certain limitations; and
- a mutually agreed upon time extension.

The 120-day permit requirement does not apply to projects requiring an amendment of the comprehensive plan or development regulations, new fully contained communities, master planned resorts, or essential public facilities. If an applicant substantially revises the proposal, the 120-day permit period starts again.

Counties and cities are not liable for damages due to failure to make a final decision within this 120-day permit period. The 120-day permit requirement and local government liability waiver are scheduled to expire on June 30, 2000.

Summary of Bill: The expiration of the 120-day permit requirement liability is removed.

A permit applicant may file a peremptory writ of mandamus action in superior court if the local government fails to take final action on the project permit application within 120 days after the application is deemed complete, subject to the statutory basis for extension of the 120-day permit period. This new mandamus authority is null and void unless funded in the budget.

The mandamus action may seek to compel the local government to issue an approval for the project permit application. The person filing the action must give notice to all persons entitled to notice under the local project review statutes (RCW 36.70B.110) and any person who participated orally or in writing in the local evidentiary hearing on the project permit application.

The superior court has jurisdiction for all decisions regarding the project permit application. The superior court must issue the peremptory writ of mandamus unless the local government shows that the approval would violate a substantive provision of its comprehensive plan or land use regulations.

A new exemption period for the 120-day permit requirement is created.

Appropriation: None.

Fiscal Note: Requested on January 21, 2000.

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