
ENGROSSED SUBSTITUTE HOUSE BILL 2847

State of Washington

56th Legislature

2000 Regular Session

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

Read first time 02/02/2000. Referred to Committee on .

1 AN ACT Relating to remedies for exceeding the one hundred twenty
2 day timeline for land use project permit applications; amending RCW
3 36.70B.090; amending 1998 c 286 s 8 (uncodified); and creating a new
4 section.

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

6 **Sec. 1.** RCW 36.70B.090 and 1995 c 347 s 413 are each amended to
7 read as follows:

8 (1) Except as otherwise provided in subsection (2) of this section,
9 a local government planning under RCW 36.70A.040 shall issue its notice
10 of final decision on a project permit application within one hundred
11 twenty days after the local government notifies the applicant that the
12 application is complete, as provided in RCW 36.70B.070. In determining
13 the number of days that have elapsed after the local government has
14 notified the applicant that the application is complete, the following
15 periods shall be excluded:

16 (a)(i) Any period during which the applicant has been requested by
17 the local government to correct plans, perform required studies, or
18 provide additional required information. The period shall be
19 calculated from the date the local government notifies the applicant of

1 the need for additional information until the earlier of the date the
2 local government determines whether the additional information
3 satisfies the request for information or fourteen days after the date
4 the information has been provided to the local government.

5 (ii) If the local government determines that the information
6 submitted by the applicant under (a)(i) of this subsection is
7 insufficient, it shall notify the applicant of the deficiencies and the
8 procedures under (a)(i) of this subsection shall apply as if a new
9 request for studies had been made;

10 (b) Any period during which an environmental impact statement is
11 being prepared following a determination of significance pursuant to
12 chapter 43.21C RCW, if the local government by ordinance or resolution
13 has established time periods for completion of environmental impact
14 statements, or if the local government and the applicant in writing
15 agree to a time period for completion of an environmental impact
16 statement;

17 (c) Any period for administrative appeals of project permits, if an
18 open record appeal hearing or a closed record appeal, or both, are
19 allowed. The local government by ordinance or resolution shall
20 establish a time period to consider and decide such appeals. The time
21 period shall not exceed: (i) Ninety days for an open record appeal
22 hearing; and (ii) sixty days for a closed record appeal. The parties
23 to an appeal may agree to extend these time periods; ~~((and))~~

24 (d) Any extension of time mutually agreed upon by the applicant and
25 the local government; and

26 (e) Any time period required for a state or federal agency to
27 review a project permit application under review by the local
28 government if: (i) Such review by the state or federal agency is
29 mandated by state or federal statute; and (ii) approval by the state or
30 federal agency is necessary for a local government to issue a final
31 decision.

32 (2) The time limits established by subsection (1) of this section
33 do not apply if a project permit application:

34 (a) Requires an amendment to the comprehensive plan or a
35 development regulation;

36 (b) Requires approval of a new fully contained community as
37 provided in RCW 36.70A.350, a master planned resort as provided in RCW
38 36.70A.360, or the siting of an essential public facility as provided
39 in RCW 36.70A.200; or

1 (c) Is substantially revised by the applicant, in which case the
2 time period shall start from the date at which the revised project
3 application is determined to be complete under RCW 36.70B.070.

4 (3) If the local government is unable to issue its final decision
5 within the time limits provided for in this section, it shall provide
6 written notice of this fact to the project applicant. The notice shall
7 include a statement of reasons why the time limits have not been met
8 and an estimated date for issuance of the notice of final decision.

9 (4)(a) Except when an extension applies under subsection (1)(b),
10 (c), (d), or (e) of this section, if the local government or its
11 designee does not take final action on a project permit application
12 within one hundred twenty days after the application is deemed
13 complete, the applicant may file a petition for a peremptory writ of
14 mandamus in the superior court of the county where the application was
15 submitted to compel the local government or its designee to issue the
16 approval. The local government shall retain jurisdiction to make a
17 decision on the project permit application until a petition for a
18 peremptory writ of mandamus is filed. Upon filing a petition for a
19 peremptory writ of mandamus jurisdiction for all decisions regarding
20 the application, including settlement, shall be with the superior
21 court. A person who files a petition for a peremptory writ of mandamus
22 under this section shall provide written notice of the filing to all
23 persons who would be entitled to notice under RCW 36.70B.110 and to any
24 person who participated orally or in writing in any evidentiary hearing
25 on the application held prior to the filing of the petition. The
26 notice shall be mailed or hand delivered on the same day the petition
27 is filed. The superior court shall issue a peremptory writ of mandamus
28 unless the local government shows that the approval would violate a
29 substantive provision of the applicable comprehensive plan or land use
30 regulations.

31 (b) If the local government does not take final action on a project
32 permit application within one hundred twenty days after the date the
33 application is deemed complete, the applicant may elect to proceed with
34 the application according to the applicable provisions of the
35 comprehensive plan and land use regulations and/or to file a petition
36 for a peremptory writ of mandamus under this section.

37 (c) A local government may not compel an applicant to waive the
38 period set in subsection (1) of this section or to waive the provisions
39 of this subsection as a condition for taking any action on a project

1 permit application except when such applications are filed concurrently
2 and considered jointly with a plan amendment.

3 (5) This section shall apply to project permit applications filed
4 on or after April 1, 1996.

5 **Sec. 2.** 1998 c 286 s 8 (uncodified) is amended to read as follows:
6 RCW ((36.70B.090 and)) 64.40.050 shall expire June 30, 2000. The
7 provisions of RCW ((36.70B.090 and)) 64.40.050 shall apply to project
8 permit applications determined to be complete pursuant to RCW
9 36.70B.070 on or before June 30, 2000.

10 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
11 section 1 of this act, referencing this act by bill or chapter number,
12 is not provided by June 30, 2000, in the omnibus appropriations act,
13 section 1 of this act is null and void.

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