
HOUSE BILL 2847

State of Washington 56th Legislature 2000 Regular Session

By Representatives Mulliken, Edwards, Cairnes and Mielke

Read first time 01/21/2000. Referred to Committee on Local Government.

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; and repealing 1998 c 286 s 8 and 1995 c 347 s 433
4 (uncodified).

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.

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

28 (a) Requires an amendment to the comprehensive plan or a
29 development regulation;

30 (b) Requires approval of a new fully contained community as
31 provided in RCW 36.70A.350, a master planned resort as provided in RCW
32 36.70A.360, or the siting of an essential public facility as provided
33 in RCW 36.70A.200; or

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

37 (3) If the local government is unable to issue its final decision
38 within the time limits provided for in this section, it shall provide
39 written notice of this fact to the project applicant. The notice shall

1 include a statement of reasons why the time limits have not been met
2 and an estimated date for issuance of the notice of final decision.

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

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

33 (c) A local government may not compel an applicant to waive the
34 period set in subsection (1) of this section or to waive the provisions
35 of this subsection as a condition for taking any action on a project
36 permit application except when such applications are filed concurrently
37 and considered jointly with a plan amendment.

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

1 NEW SECTION. **Sec. 2.** 1998 c 286 s 8 and 1995 c 347 s 433
2 (uncodified) are each repealed.

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