
SENATE BILL 5090

State of Washington

56th Legislature

1999 Regular Session

By Senators Swecker, Morton and Rasmussen

Read first time 01/12/1999. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to land use and environmental review and permitting
2 and economic development in rural counties; amending RCW 36.70B.020,
3 90.60.030, 43.21C.033, 43.21C.034, 43.157.010, and 43.160.060; adding
4 a new section to chapter 36.70B RCW; adding a new section to chapter
5 90.60 RCW; adding a new section to chapter 36.70C RCW; repealing RCW
6 43.131.387 and 43.131.388; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70B RCW
9 to read as follows:

10 (1) A rural county may conduct a collaborative procedure for land
11 use and environmental review and permitting of rural economic
12 development projects. A rural county may:

13 (a) Adopt one economic development project per year as a community
14 economic revitalization project or industrial project of state-wide
15 significance;

16 (b) Request funding in addition to other project funding for
17 coordination and facilitation;

18 (c) Appoint or retain a project coordinator and a local permit
19 facilitator;

1 (d) Use the collaborative procedure with the project applicant and
2 the relevant state permitting agencies, as an alternative to the
3 consolidated permit review process in this chapter; and

4 (e) Invite federal agencies and tribes to participate in the
5 collaborative procedure.

6 (2) The collaborative procedure in this section shall be a modified
7 form of the local consolidated permit review process adopted under this
8 chapter and consist of:

9 (a) One or more preapplication conferences that:

10 (i) Include the applicant, the project coordinator, the local
11 permit facilitator, and the permit assistance center acting as state
12 permit facilitator;

13 (ii) Discuss options for project design and for land use,
14 environmental review, and permitting;

15 (iii) Identify potential permitting agencies, permits, schedules,
16 and costs; and

17 (iv) Identify a potential project team that includes
18 representatives of the applicant and relevant local and state
19 permitting agencies;

20 (b) A determination of completeness under this chapter of the
21 project application provided by the county to the applicant within
22 thirty-five days, or fourteen days after receipt of requested
23 supplementation that includes both a determination of completeness
24 issued by the county, according to its local consolidated permit review
25 process under this chapter, and determinations of completeness issued
26 by the state permitting agencies;

27 (c) Coordination of permitting and integration of processes that:

28 (i) Is achieved by negotiation among the applicant and the various
29 permitting agencies;

30 (ii) Results in an integrated schedule keyed to the longest notice
31 and public hearing requirement;

32 (iii) Includes negotiations for cost recovery arrangements for
33 permitting agencies; and

34 (iv) Uses an integrated record of decision;

35 (d) An integrated review that includes:

36 (i) Issuance of threshold determination under chapter 43.21C RCW;

37 (ii) Public notice that describes the project, the permits, the
38 applicable regulations, and any preliminary determinations; lists and

1 gives the location of documents and studies; describes public comment,
2 hearing, and appeal processes; and sets out the schedule; and
3 (iii) An integrated public hearing held in the county;
4 (e) Coordination of local appeals under this chapter and state
5 appeals under chapter 90.60 RCW;
6 (f) An integrated decision;
7 (g) Consolidated judicial review under the land use petition act,
8 chapter 36.70C RCW; and
9 (h) An optional development agreement under this chapter.

10 **Sec. 2.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Closed record appeal" means an administrative appeal on the
15 record to a local government body or officer, including the legislative
16 body, following an open record hearing on a project permit application
17 when the appeal is on the record with no or limited new evidence or
18 information allowed to be submitted and only appeal argument allowed.

19 (2) "Local government" means a county, city, or town.

20 (3) "Open record hearing" means a hearing, conducted by a single
21 hearing body or officer authorized by the local government to conduct
22 such hearings, that creates the local government's record through
23 testimony and submission of evidence and information, under procedures
24 prescribed by the local government by ordinance or resolution. An open
25 record hearing may be held prior to a local government's decision on a
26 project permit to be known as an "open record predecision hearing." An
27 open record hearing may be held on an appeal, to be known as an "open
28 record appeal hearing," if no open record predecision hearing has been
29 held on the project permit.

30 (4) "Project permit" or "project permit application" means any land
31 use or environmental permit or license required from a local government
32 for a project action, including but not limited to building permits,
33 subdivisions, binding site plans, planned unit developments,
34 conditional uses, shoreline substantial development permits, site plan
35 review, permits or approvals required by critical area ordinances,
36 site-specific rezones authorized by a comprehensive plan or subarea
37 plan, but excluding the adoption or amendment of a comprehensive plan,

1 subarea plan, or development regulations except as otherwise
2 specifically included in this subsection.

3 (5) "Public meeting" means an informal meeting, hearing, workshop,
4 or other public gathering of people to obtain comments from the public
5 or other agencies on a proposed project permit prior to the local
6 government's decision. A public meeting may include, but is not
7 limited to, a design review or architectural control board meeting, a
8 special review district or community council meeting, or a scoping
9 meeting on a draft environmental impact statement. A public meeting
10 does not include an open record hearing. The proceedings at a public
11 meeting may be recorded and a report or recommendation may be included
12 in the local government's project permit application file.

13 (6) "Rural county" means a county with a population density of
14 fewer than one hundred persons per square mile, as determined by the
15 office of financial management.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.60 RCW
17 to read as follows:

18 (1)(a) State permitting agencies shall participate in the
19 collaborative procedure in section 1 of this act, including the
20 integrated public hearing, and use the integrated record of decision.

21 (b) State permitting agencies shall adopt a consolidated single
22 state appeal procedure, and use the integrated record of decision.

23 (c) State permitting agencies may recover costs of the
24 collaborative procedure from applicants.

25 (d) Reviews of state permit decisions under this chapter shall be
26 consolidated with judicial reviews of land use decisions under chapter
27 36.70C RCW.

28 (2) The center may coordinate development of memoranda between
29 state and federal agencies.

30 **Sec. 4.** RCW 90.60.030 and 1997 c 429 s 35 are each amended to read
31 as follows:

32 The permit assistance center is established within the department.
33 The center shall:

34 (1) Publish and keep current one or more handbooks containing lists
35 and explanations of all permit laws. To the extent possible, the
36 handbook shall include relevant federal and tribal laws. A state
37 agency or local government shall provide a reasonable number of copies

1 of application forms, statutes, ordinances, rules, handbooks, and other
2 informational material requested by the center and shall otherwise
3 fully cooperate with the center. The center shall seek the cooperation
4 of relevant federal agencies and tribal governments;

5 (2) Establish, and make known, a point of contact for distribution
6 of the handbook and advice to the public as to its interpretation in
7 any given case;

8 (3) Work closely and cooperatively with the business license center
9 in providing efficient and nonduplicative service to the public;

10 (4) Seek the assignment of employees from the permit agencies
11 listed under RCW 90.60.020(6)(a) to serve on a rotating basis in
12 staffing the center;

13 (5) Collect and disseminate information to public and private
14 entities on federal, state, local, and tribal government programs that
15 rely on private professional expertise to assist governmental agencies
16 in project permit review; ((and))

17 (6) Participate in the collaborative procedure under section 1 of
18 this act as the state permit facilitator; and

19 (7) Provide an annual report to the legislature on potential
20 conflicts and perceived inconsistencies among existing statutes. The
21 first report shall be submitted to the appropriate standing committees
22 of the house of representatives and senate by December 1, 1996.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70C RCW
24 to read as follows:

25 Reviews of land use decisions under this chapter shall be
26 consolidated with judicial reviews of state permit decisions under
27 chapter 90.60 RCW.

28 **Sec. 6.** RCW 43.21C.033 and 1995 c 347 s 422 are each amended to
29 read as follows:

30 (1) Except as provided in subsection (2) of this section, the
31 responsible official shall make a threshold determination on a
32 completed application within ninety days after the application and
33 supporting documentation are complete. The applicant may request an
34 additional thirty days for the threshold determination. The
35 governmental entity responsible for making the threshold determination
36 shall by rule, resolution, or ordinance adopt standards, consistent
37 with rules adopted by the department to implement this chapter, for

1 determining when an application and supporting documentation are
2 complete.

3 (2) This section shall not apply to a city, town, or county that:

4 (a) By ordinance adopted prior to April 1, 1992, has adopted
5 procedures to integrate permit and land use decisions with the
6 requirements of this chapter; (~~or~~)

7 (b) Is planning under RCW 36.70A.040 and is subject to the
8 requirements of RCW 36.70B.090; or

9 (c) Is operating under the collaborative procedure in section 1 of
10 this act.

11 **Sec. 7.** RCW 43.21C.034 and 1993 c 23 s 1 are each amended to read
12 as follows:

13 (1) Lead agencies are authorized to use in whole or in part
14 existing environmental documents for new project or nonproject actions,
15 if the documents adequately address environmental considerations set
16 forth in RCW 43.21C.030. The prior proposal or action and the new
17 proposal or action need not be identical, but must have similar
18 elements that provide a basis for comparing their environmental
19 consequences such as timing, types of impacts, alternatives, or
20 geography. The lead agency shall independently review the content of
21 the existing documents and determine that the information and analysis
22 to be used is relevant and adequate. If necessary, the lead agency may
23 require additional documentation to ensure that all environmental
24 impacts have been adequately addressed.

25 (2) Lead agencies may use an integrated record of decision
26 developed under section 1 of this act.

27 **Sec. 8.** RCW 43.157.010 and 1997 c 369 s 2 are each amended to read
28 as follows:

29 (1) For purposes of this chapter and RCW 28A.525.166, 28B.80.330,
30 28C.18.080, 43.21A.350, 47.06.030, and 90.58.100 and (~~an~~) an
31 industrial project of state-wide significance is a border crossing
32 project that involves both private and public investments carried out
33 in conjunction with adjacent states or provinces or a private
34 industrial development with private capital investment in manufacturing
35 or research and development. To qualify as an industrial project of
36 state-wide significance, the project must be completed after January 1,
37 1997, and have:

1 (a) In counties with a population of less than or equal to twenty
2 thousand, a capital investment of twenty million dollars;

3 (b) In counties with a population of greater than twenty thousand
4 but no more than fifty thousand, a capital investment of fifty million
5 dollars;

6 (c) In counties with a population of greater than fifty thousand
7 but no more than one hundred thousand, a capital investment of one
8 hundred million dollars;

9 (d) In counties with a population of greater than one hundred
10 thousand but no more than two hundred thousand, a capital investment of
11 two hundred million dollars;

12 (e) In counties with a population of greater than two hundred
13 thousand but no more than four hundred thousand, a capital investment
14 of four hundred million dollars;

15 (f) In counties with a population of greater than four hundred
16 thousand but no more than one million, a capital investment of six
17 hundred million dollars;

18 (g) In counties with a population of greater than one million, a
19 capital investment of one billion dollars; or

20 (h) Been designated by the director of community, trade, and
21 economic development as an industrial project of state-wide
22 significance either: (i) Because the county in which the project is to
23 be located is a distressed county and the economic circumstances of the
24 county merit the additional assistance such designation will bring;
25 ((or)) (ii) because the impact on a region due to the size and
26 complexity of the project merits such designation; or (iii) because it
27 is a rural county as defined in RCW 36.70B.020.

28 (2) The term manufacturing shall have the meaning assigned it in
29 RCW 82.61.010.

30 (3) The term research and development shall have the meaning
31 assigned it in RCW 82.61.010.

32 **Sec. 9.** RCW 43.160.060 and 1996 c 51 s 5 are each amended to read
33 as follows:

34 The board is authorized to make direct loans to political
35 subdivisions of the state for the purposes of assisting the political
36 subdivisions in financing the cost of public facilities, including
37 development of land and improvements for public facilities, as well as
38 the construction, rehabilitation, alteration, expansion, or improvement

1 of the facilities. Grants may be authorized for permit coordination
2 under chapters 36.70B and 90.60 RCW and for facilitation costs of
3 collaborative procedure products under section 1 of this act. A grant
4 may also be authorized for purposes designated in this chapter, but
5 only when, and to the extent that, a loan is not reasonably possible,
6 given the limited resources of the political subdivision and the
7 finding by the board that unique circumstances exist. The board shall
8 not obligate more than twenty percent of its biennial appropriation as
9 grants.

10 Application for funds shall be made in the form and manner as the
11 board may prescribe. In making grants or loans the board shall conform
12 to the following requirements:

13 (1) The board shall not provide financial assistance:

14 (a) For a project the primary purpose of which is to facilitate or
15 promote a retail shopping development or expansion.

16 (b) For any project that evidence exists would result in a
17 development or expansion that would displace existing jobs in any other
18 community in the state.

19 (c) For the acquisition of real property, including buildings and
20 other fixtures which are a part of real property.

21 (2) The board shall only provide financial assistance:

22 (a) For those projects which would result in specific private
23 developments or expansions (i) in manufacturing, production, food
24 processing, assembly, warehousing, and industrial distribution; (ii)
25 for processing recyclable materials or for facilities that support
26 recycling, including processes not currently provided in the state,
27 including but not limited to, de-inking facilities, mixed waste paper,
28 plastics, yard waste, and problem-waste processing; (iii) for
29 manufacturing facilities that rely significantly on recyclable
30 materials, including but not limited to waste tires and mixed waste
31 paper; (iv) which support the relocation of businesses from
32 nondistressed urban areas to distressed rural areas; or (v) which
33 substantially support the trading of goods or services outside of the
34 state's borders.

35 (b) For projects which it finds will improve the opportunities for
36 the successful maintenance, establishment, or expansion of industrial
37 or commercial plants or will otherwise assist in the creation or
38 retention of long-term economic opportunities.

1 (c) When the application includes convincing evidence that a
2 specific private development or expansion is ready to occur and will
3 occur only if the public facility improvement is made.

4 (3) The board shall prioritize each proposed project according to
5 the relative benefits provided to the community by the jobs the project
6 would create, not just the total number of jobs it would create after
7 the project is completed and according to the unemployment rate in the
8 area in which the jobs would be located. As long as there is more
9 demand for financial assistance than there are funds available, the
10 board is instructed to fund projects in order of their priority.

11 (4) A responsible official of the political subdivision shall be
12 present during board deliberations and provide information that the
13 board requests.

14 Before any financial assistance application is approved, the
15 political subdivision seeking the assistance must demonstrate to the
16 community economic revitalization board that no other timely source of
17 funding is available to it at costs reasonably similar to financing
18 available from the community economic revitalization board.

19 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
20 each repealed:

- 21 (1) RCW 43.131.387 and 1995 c 347 s 617; and
22 (2) RCW 43.131.388 and 1995 c 347 s 618.

23 NEW SECTION. **Sec. 11.** Section 10 of this act is necessary for the
24 immediate preservation of the public peace, health, or safety, or
25 support of the state government and its existing public institutions,
26 and takes effect immediately.

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