

HOUSE BILL REPORT

HB 1458

As Reported by House Committee On:
Local Government & Housing

Title: An act relating to establishing a timeline for final decisions on land use project permit applications.

Brief Description: Establishing a timeline for final decisions on land use project permit applications.

Sponsors: Representatives Edwards, Mulliken, Hatfield, DeBolt, Mielke, Edmonds and Rockefeller.

Brief History:

Committee Activity:

Local Government & Housing: 2/5/01, 2/26/01 [DPS].

Brief Summary of Substitute Bill

- Specifies that the bill relates to establishing a timeline for final decisions on project permit applications.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Dunshee, Democratic Co-Chair; Mulliken, Republican Co-Chair; Mielke, Republican Vice Chair; Berkey, Crouse, DeBolt, Dunn, Edmonds, Hatfield and Jarrett.

Minority Report: Do not pass. Signed by 1 member: Representative Kirby.

Staff: Caroleen Dineen (786-7156).

Background:

Legislation enacted in 1995 required counties and cities required or choosing to plan under the Growth Management Act (GMA jurisdictions) to establish an integrated and consolidated development permit process for all projects involving two or more permits and to provide for no more than one open record hearing and one closed record appeal.

Other jurisdictions may incorporate some or all of the integrated and consolidated development permit process.

The 1995 legislation specified the permit process must include a determination of completeness of the project application within 28 days of submission. A project permit application is determined to be complete when it meets the local procedural submission requirements even if additional information is needed because of subsequent project modifications. The determination must specify what is necessary to complete an application if it is determined incomplete. Within 14 days of receiving requested additional information, the local government must notify the applicant whether the application is deemed complete.

The determination of completeness does not preclude a request for additional information if new information is required or substantial project changes occur. A project permit application is deemed complete if the GMA jurisdiction does not provide the determination within the required time period.

The 1995 legislation contained some provisions of limited duration.

- 120-day permit period -- A GMA jurisdiction was required to issue a final permit decision within 120 days after the applicant was notified the application is complete, with exemptions for certain types of projects and provisions for time periods not included in the 120-day calculation; and
- Local government liability waiver -- GMA jurisdictions were deemed not liable for damages due to failure to make a final decision within this 120-day period.

Both the 120-day permit period and the local government liability waiver expired on June 30, 2000.

Summary of Substitute Bill:

A provision is included specifying the bill relates to establishing a timeline for final decisions on project permit applications.

Substitute Bill Compared to Original Bill:

The substitute eliminated provisions: (1) requiring counties and cities planning under the Growth Management Act (GMA jurisdictions) to provide the applicant a detailed list of information needed to make a project permit application complete and to inform the applicant of other federal, state, or local agencies that may have jurisdiction over the application; (2) specifying the determination of completeness does not preclude requests for additional information if the project is substantially modified; (3) specifying the project permit application is deemed complete on the 29th day after the local government

first received the application if: (a) no determination of completeness is issued; or (b) the local government fails to notify an applicant within 14 days of receiving additional requested information whether the application is complete; (4) requiring GMA jurisdictions to issue a final permit decision within 120 days after the applicant is notified the application is complete and specifying which periods are excluded from the 120-day permit period; and (5) requiring a GMA jurisdiction to notify a project permit applicant if a final decision cannot be issued within 120 days, including a statement of reasons why the time limit has not been met and an estimated issuance date for the final decision.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: (Original bill) Most cities charge fees for permit processing and usually cover their costs with those fees. A number of city managers and mayors did not object to this bill, as they already do this and want to meet deadlines. The 120-day requirement does not mandate approval; the only requirement is for a final decision within the specified timeline.

The timeline is very flexible. Four months is plenty of time for a decision, especially because the application has been deemed complete before the time period starts. This bill creates the needed accountability in this process.

The exact list of information needed by the local government provides important information to the applicant and helps to move the process along. The "deemed complete" provisions address a problem that builders are experiencing in not being notified when the clock starts. The substantial project modification provision addresses a loophole used by opponents to delay or stop a project by requesting many additional studies. The liability waiver was initially enacted because the prior 120-day provision was an experiment; jurisdictions admit they do not have a problem with the timeline now.

Builders' number one frustration is getting permits. The time limit creates predictability for the construction industry. Environmental regulations are a large problem for businesses in this state, and businesses are looking for consistency in regulatory application. Builders want to know what the rules are, and they will play by them. Delays result in large carrying costs, and these costs increase the cost of housing. This bill will help to keep the costs of housing down.

(Original bill - Support with amendments) The 120-day rule is a good one. The bill should be amended to include the liability waiver as well as the time period. The state

should create a reasonable list of consistent criteria to be included in local ordinances to define a complete project permit application. The loophole exempting short subdivisions from the five-year limit for subdivisions should be eliminated. The Legislature should clarify the intent of vesting provisions because of recent court decisions.

Testimony Against: (Original bill) Current law makes local governments accountable if they fail to meet their own deadlines. Many jurisdictions have retained the 120-day timeline in local ordinances -- this is a solution in search of a problem. Permits have gotten more complicated with Endangered Species Act listings, and this bill will not allow modification of timelines to address other needs.

Permit processing staff is supported by fees, and this bill does not take into account staffing levels and available resources at the local level. Local governments do not have the ability to fully staff building departments in many cases, and some financial support should accompany this bill because it requires a certain level of staffing in all areas.

The provision prohibiting stopping the 120-day clock for project modifications will create problems if a project is changed toward the end of the process. Requiring an exact list at the determination of completeness stage will create problems if unanticipated issues arise and may result in asking for much more documentation before an application is accepted.

Testified: (In support) Representative Jeanne Edwards, prime sponsor; John Erwin, Olympia Master Builders; Jodi Slavik, Building Industry Association of Washington; Jeff Hansel, Building Industry Association of Washington; Paul Green, LeRoy Surveyors and Engineers; Kristin Sawin, Association of Washington Business; Larry Stout, Washington Association of Realtors; Jim Halstrom, Master Builders of King and Snohomish County; and Carolyn Logue, National Federation of Independent Business.

(Support with amendments) Steve Stuart, 1000 Friends of Washington

(Opposed) Chuck Williams, King County; Dave Williams, Association of Washington Cities; Jackie White, Washington State Association of Counties; and Phil Watkins, Cities of Bainbridge Island and Kennewick.