

HOUSE BILL REPORT

HB 1007

As Reported by House Committee On:
State Government

Title: An act relating to a permitting bill of rights.

Brief Description: Establishing a permitting bill of rights.

Sponsors: Representatives Morris, Linville, Conway, Sullivan and Upthegrove.

Brief History:

Committee Activity:

State Government: 1/21/03, 3/4/03 [DPS].

<p>Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">· Creating the Permitting Bill of Rights.
--

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Nixon and Wallace.

Minority Report: Do not pass. Signed by 2 members: Representatives McDermott and Tom.

Staff: Anne Warwick (786-7291).

Background:

The Permit Assistance Center (PAC) was created in 1995 in the Department of Ecology to provide the public information regarding environmental permitting laws and assistance to businesses and public agencies in complying with these laws. In addition to other requirements, the PAC was directed to develop and provide a coordinated state permitting procedure that permit applicants could use at their option and expense, and was authorized by statute to recover costs for this coordinated permit process.

In 2002 all funding, powers, duties, functions, and records of the PAC were transferred to the Office of Permit Assistance (OPA). The OPA was created in the Office of Financial Management, to be administered by the Office of the Governor.

The OPA is required to operate on the principle that state citizens should receive:

- a date and time for a decision on a permit;
- notification of information required to make a decision on a permit, recognizing that the information required may change; and
- an estimate of the maximum amount of costs in fees, studies, or public processes that will be incurred by the applicant.

Summary of Substitute Bill:

Citizens have the right to know the following information when applying for a permit, license, or authorization to engage in lawful activity: a) the minimum and maximum amount of time required for a decision; b) the minimum and maximum amount of information required; c) the minimum and maximum costs that will be incurred by the applicant; and d) when the application is complete or the reasons for a denial. The agency will make its decision on the best information available and past permit applications. Agencies will track the progress of meeting the information requirements and report its findings the following fiscal year. The Permitting Bill of Rights applies only to state agencies and does not apply to licenses where a fee is the only requirement to receive the license. This section does not create an independent cause of action.

Substitute Bill Compared to Original Bill:

Clarifies the following information will be provided to an applicant during the permitting process:

- minimum and maximum time required by an agency for a decision on a permit;
- minimum and maximum amount of information required for an agency to make a decision;
- minimum and maximum amount of costs in fees that will be incurred by permit applicant; and
- know when the application process is complete or receive the reasons for denial of a permit application in writing.

The permitting agency is now required to provide the best information available to the applicant based on information gathered and prior applications. A disclaimer is included for project modifications which may result in more time, more information or more costs. Any independent cause of action is removed. Each agency will track its progress in meeting the above listed requirements and post those results on the agency website before December 31, 2004. The permitting rights in this section are only applied to state

permits, licenses or other legal authorizations, removing any local government requirement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The Permitting Bill of Rights is a simple and fundamental concept. People are facing a continual frustration in the permit application process. Currently people don't know what information is needed or required in obtaining a permit or license. There is no expectation of an agency to indicate when or if a permit will be issued. The newly created OPA will function in giving some clarity in the permitting process, but this bill is needed to ensure that the people of Washington can expect to know the exact costs and information required in obtaining a permit. Additionally, people have the right to know a concrete yes or no answer. This bill has no intention of undermining any environmental laws or provisions.

Testimony Against: The bill, as drafted, is too broad. Because there are so many variables involved in the permitting process, and this bill includes such strict guidelines, it may result in some serious unintended consequences. Agencies and local governments do not have the ability to predict or control the time it will take to complete the permitting process. Often, additional information is discovered during the permitting process, which would subsequently lengthen the permitting time and permitting costs. The fact that an agency or local government could be held liable for any delay could potentially bankrupt the permitting agency. Agencies often receive partial information from the applicant which could cause a delay and in turn result in a lawsuit against the agency.

Testified: (In support) Representative Morris, prime sponsor; and Representative Linville.

(With concerns) Carolyn Logue, National Federation of Independent Business.

(Opposed) Joe Ryan, Washington Environmental Council; and Bruce Wishart, People for Puget Sound.