
SENATE BILL 5508

State of Washington 60th Legislature 2007 Regular Session

By Senators Kilmer, Zarelli, Hatfield, Schoesler, Holmquist, Kastama, Tom, Sheldon, Shin and Rasmussen

Read first time 01/22/2007. Referred to Committee on Economic Development, Trade & Management.

1 AN ACT Relating to economic development project permitting;
2 amending RCW 43.155.070, 43.160.060, 39.102.040, 43.160.230, and
3 43.42.010; creating a new section; making an appropriation; and
4 providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that permit
7 programs have been legislatively established to protect the health,
8 welfare, economy, and environment of Washington's citizens and to
9 provide a fair, competitive opportunity for business innovation and
10 consumer confidence. The legislature also finds that uncertainty in
11 government processes to permit an activity by a citizen of Washington
12 state is undesirable and erodes confidence in government. The
13 legislature further finds that in the case of projects that would
14 further economic development in the state, information about the
15 permitting process is critical for an applicant's planning and
16 financial assessment of the proposed project. The legislature also
17 finds that applicants have a responsibility to provide complete and
18 accurate information.

1 (2) The legislature recommends that applicants be provided with the
2 following information when applying for a development permit from a
3 city, county, or state agency:

4 (a) The minimum and maximum time an agency will need to make a
5 decision on a permit, including public comment requirements;

6 (b) The minimum amount of information required for an agency to
7 make a decision on a permit;

8 (c) When an agency considers an application complete for
9 processing;

10 (d) The minimum and maximum costs in agency fees that will be
11 incurred by the permit applicant; and

12 (e) The reasons for a denial of a permit in writing.

13 (3) In providing this information to applicants, an agency should
14 base estimates on the best information available about the permitting
15 program and prior applications for similar permits, basing these
16 estimates on the information provided by the applicant. New
17 information provided by the applicant subsequent to the agency
18 estimates may change the information provided by an agency per
19 subsection (2) of this section. Project modifications by an applicant
20 may result in more time, more information, or higher fees being
21 required for permit processing.

22 (4) This section does not create an independent cause of action,
23 affect any existing cause of action, or establish time limits for
24 purposes of RCW 64.40.020.

25 (5) City, county, and state agencies issuing development permits
26 are encouraged to track the progress in providing the information to
27 applicants per subsection (2) of this section by preparing an annual
28 report of its performance for the preceding fiscal year. The report
29 should be posted on its web site made available and provided to the
30 appropriate standing committees of the senate and house of
31 representatives.

32 **Sec. 2.** RCW 43.155.070 and 2001 c 131 s 5 are each amended to read
33 as follows:

34 (1) To qualify for loans or pledges under this chapter the board
35 must determine that a local government meets all of the following
36 conditions:

1 (a) The city or county must be imposing a tax under chapter 82.46
2 RCW at a rate of at least one-quarter of one percent;

3 (b) The local government must have developed a capital facility
4 plan; and

5 (c) The local government must be using all local revenue sources
6 which are reasonably available for funding public works, taking into
7 consideration local employment and economic factors.

8 (2) Except where necessary to address a public health need or
9 substantial environmental degradation, a county, city, or town planning
10 under RCW 36.70A.040 must have adopted a comprehensive plan, including
11 a capital facilities plan element, and development regulations as
12 required by RCW 36.70A.040. This subsection does not require any
13 county, city, or town planning under RCW 36.70A.040 to adopt a
14 comprehensive plan or development regulations before requesting or
15 receiving a loan or loan guarantee under this chapter if such request
16 is made before the expiration of the time periods specified in RCW
17 36.70A.040. A county, city, or town planning under RCW 36.70A.040
18 which has not adopted a comprehensive plan and development regulations
19 within the time periods specified in RCW 36.70A.040 is not prohibited
20 from receiving a loan or loan guarantee under this chapter if the
21 comprehensive plan and development regulations are adopted as required
22 by RCW 36.70A.040 before submitting a request for a loan or loan
23 guarantee.

24 (3) In considering awarding loans for public facilities to special
25 districts requesting funding for a proposed facility located in a
26 county, city, or town planning under RCW 36.70A.040, the board shall
27 consider whether the county, city, or town planning under RCW
28 36.70A.040 in whose planning jurisdiction the proposed facility is
29 located has adopted a comprehensive plan and development regulations as
30 required by RCW 36.70A.040.

31 (4) The board shall develop a priority process for public works
32 projects as provided in this section. The intent of the priority
33 process is to maximize the value of public works projects accomplished
34 with assistance under this chapter. The board shall attempt to assure
35 a geographical balance in assigning priorities to projects. The board
36 shall consider at least the following factors in assigning a priority
37 to a project:

1 (a) Whether the local government receiving assistance has
2 experienced severe fiscal distress resulting from natural disaster or
3 emergency public works needs;

4 (b) Whether the project is critical in nature and would affect the
5 health and safety of a great number of citizens;

6 (c) Whether the applicant has a good record of providing
7 information to those applying for development permits consistent with
8 section 1(2) of this act;

9 (d) The cost of the project compared to the size of the local
10 government and amount of loan money available;

11 ~~((d))~~ (e) The number of communities served by or funding the
12 project;

13 ~~((e))~~ (f) Whether the project is located in an area of high
14 unemployment, compared to the average state unemployment;

15 ~~((f))~~ (g) Whether the project is the acquisition, expansion,
16 improvement, or renovation by a local government of a public water
17 system that is in violation of health and safety standards, including
18 the cost of extending existing service to such a system;

19 ~~((g))~~ (h) The relative benefit of the project to the community,
20 considering the present level of economic activity in the community and
21 the existing local capacity to increase local economic activity in
22 communities that have low economic growth; and

23 ~~((h))~~ (i) Other criteria that the board considers advisable.

24 (5) Existing debt or financial obligations of local governments
25 shall not be refinanced under this chapter. Each local government
26 applicant shall provide documentation of attempts to secure additional
27 local or other sources of funding for each public works project for
28 which financial assistance is sought under this chapter.

29 (6) Before November 1 of each year, the board shall develop and
30 submit to the appropriate fiscal committees of the senate and house of
31 representatives a description of the loans made under RCW 43.155.065,
32 43.155.068, and subsection (9) of this section during the preceding
33 fiscal year and a prioritized list of projects which are recommended
34 for funding by the legislature, including one copy to the staff of each
35 of the committees. The list shall include, but not be limited to, a
36 description of each project and recommended financing, the terms and
37 conditions of the loan or financial guarantee, the local government
38 jurisdiction and unemployment rate, demonstration of the jurisdiction's

1 critical need for the project and documentation of local funds being
2 used to finance the public works project. The list shall also include
3 measures of fiscal capacity for each jurisdiction recommended for
4 financial assistance, compared to authorized limits and state averages,
5 including local government sales taxes; real estate excise taxes;
6 property taxes; and charges for or taxes on sewerage, water, garbage,
7 and other utilities.

8 (7) The board shall not sign contracts or otherwise financially
9 obligate funds from the public works assistance account before the
10 legislature has appropriated funds for a specific list of public works
11 projects. The legislature may remove projects from the list
12 recommended by the board. The legislature shall not change the order
13 of the priorities recommended for funding by the board.

14 (8) Subsection (7) of this section does not apply to loans made
15 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

16 (9) Loans made for the purpose of capital facilities plans shall be
17 exempted from subsection (7) of this section.

18 (10) To qualify for loans or pledges for solid waste or recycling
19 facilities under this chapter, a city or county must demonstrate that
20 the solid waste or recycling facility is consistent with and necessary
21 to implement the comprehensive solid waste management plan adopted by
22 the city or county under chapter 70.95 RCW.

23 **Sec. 3.** RCW 43.160.060 and 2004 c 252 s 3 are each amended to read
24 as follows:

25 The board is authorized to make direct loans to political
26 subdivisions of the state and to federally recognized Indian tribes for
27 the purposes of assisting the political subdivisions and federally
28 recognized Indian tribes in financing the cost of public facilities,
29 including development of land and improvements for public facilities,
30 project-specific environmental, capital facilities, land use,
31 permitting, feasibility, and marketing studies and plans; project
32 design, site planning, and analysis; project debt and revenue impact
33 analysis; as well as the construction, rehabilitation, alteration,
34 expansion, or improvement of the facilities. A grant may also be
35 authorized for purposes designated in this chapter, but only when, and
36 to the extent that, a loan is not reasonably possible, given the
37 limited resources of the political subdivision or the federally

1 recognized Indian tribe and the finding by the board that financial
2 circumstances require grant assistance to enable the project to move
3 forward. However, at least ten percent of all financial assistance
4 provided by the board in any biennium shall consist of grants to
5 political subdivisions and federally recognized Indian tribes.

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

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

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

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

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

17 (d) For a project the primary purpose of which is to facilitate or
18 promote gambling.

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

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

34 (b) For projects which it finds will improve the opportunities for
35 the successful maintenance, establishment, or expansion of industrial
36 or commercial plants or will otherwise assist in the creation or
37 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 (a) The relative benefits provided to the community by the jobs the
6 project would create, not just the total number of jobs it would create
7 after the project is completed and according to the unemployment rate
8 in the area in which the jobs would be located; ~~((and))~~

9 (b) The rate of return of the state's investment, that includes the
10 expected increase in state and local tax revenues associated with the
11 project; and

12 (c) Whether the applicant has a good record of providing
13 information to those applying for development permits consistent with
14 section 1(2) of this act.

15 (4) A responsible official of the political subdivision or the
16 federally recognized Indian tribe shall be present during board
17 deliberations and provide information that the board requests.

18 Before any financial assistance application is approved, the
19 political subdivision or the federally recognized Indian tribe seeking
20 the assistance must demonstrate to the community economic
21 revitalization board that no other timely source of funding is
22 available to it at costs reasonably similar to financing available from
23 the community economic revitalization board.

24 **Sec. 4.** RCW 39.102.040 and 2006 c 181 s 202 are each amended to
25 read as follows:

26 (1) Prior to applying to the board to use local infrastructure
27 financing, a sponsoring local government shall:

28 (a) Designate a revenue development area within the limitations in
29 RCW 39.102.060;

30 (b) Certify that the conditions in RCW 39.102.070 are met;

31 (c) Complete the process in RCW 39.102.080;

32 (d) Provide public notice as required in RCW 39.102.100; and

33 (e) Pass an ordinance adopting the revenue development area as
34 required in RCW 39.102.090.

35 (2) Any local government that has created an increment area under
36 chapter 39.89 RCW that has not issued bonds to finance any public
37 improvement shall be considered a revenue development area under this

1 chapter without creating a new increment area under RCW 39.102.090 and
2 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1)
3 and otherwise meets the conditions and limitations under this chapter.

4 (3) As a condition to imposing a sales and use tax under RCW
5 82.14.475, a sponsoring local government, including any cosponsoring
6 local government seeking authority to impose a sales and use tax under
7 RCW 82.14.475, must apply to the board and be approved for a project
8 award amount. The application shall be in a form and manner prescribed
9 by the board and include but not be limited to information establishing
10 that the applicant is an eligible candidate to impose the local sales
11 and use tax under RCW 82.14.475, the anticipated effective date for
12 imposing the tax, the estimated number of years that the tax will be
13 imposed, and the estimated amount of tax revenue to be received in each
14 fiscal year that the tax will be imposed. The board shall make
15 available forms to be used for this purpose. As part of the
16 application, each applicant must provide to the board a copy of the
17 ordinance or ordinances creating the revenue development area as
18 required in RCW 39.102.090. A notice of approval to use local
19 infrastructure financing shall contain a project award that represents
20 the maximum amount of state contribution that the applicant, including
21 any cosponsoring local governments, can earn each year that local
22 infrastructure financing is used. The total of all project awards
23 shall not exceed the annual state contribution limit. The
24 determination of a project award shall be made based on information
25 contained in the application and the remaining amount of annual state
26 contribution limit to be awarded. Determination of a project award by
27 the board is final.

28 (4) Sponsoring local governments, and any cosponsoring local
29 governments, must submit completed applications to the board no later
30 than July 1, 2007. By September 15, 2007, in consultation with the
31 department of revenue and the department of community, trade, and
32 economic development, the board shall approve qualified projects, up to
33 the annual state contribution limit. Except as provided in RCW
34 39.102.050, approvals shall be based on the following criteria:

35 (a) The project potential to enhance the sponsoring local
36 government's regional and/or international competitiveness;

37 (b) The project's ability to encourage mixed use development and
38 the redevelopment of a geographic area;

1 (c) Whether the applicant has a good record of providing
2 information to those applying for development permits consistent with
3 section 1(2) of this act;

4 (d) Achieving an overall distribution of projects statewide that
5 reflect geographic diversity;

6 ~~((d))~~ (e) The estimated wages and benefits for the project is
7 greater than the average labor market area;

8 ~~((e))~~ (f) The estimated state and local net employment change
9 over the life of the project;

10 ~~((f))~~ (g) The estimated state and local net property tax change
11 over the life of the project; and

12 ~~((g))~~ (h) The estimated state and local sales and use tax
13 increase over the life of the project.

14 (5) A revenue development area is considered created when the
15 sponsoring local government, including any cosponsoring local
16 government, has adopted an ordinance creating the revenue development
17 area and the board has approved the sponsoring local government to use
18 local infrastructure financing. If a sponsoring local government
19 receives approval from the board after the fifteenth day of October to
20 use local infrastructure financing, the revenue development area is
21 considered created in the calendar year following the approval. Once
22 the board has approved the sponsoring local government, and any
23 cosponsoring local governments, to use local infrastructure financing,
24 notification shall be sent to the sponsoring local government, and any
25 cosponsoring local governments, authorizing the sponsoring local
26 government, and any cosponsoring local governments, to impose the local
27 sales and use tax authorized under RCW 82.14.475, subject to the
28 conditions in RCW 82.14.475.

29 **Sec. 5.** RCW 43.160.230 and 2005 c 425 s 2 are each amended to read
30 as follows:

31 (1) The job development fund program is created to provide grants
32 for public infrastructure projects that will stimulate job creation or
33 assist in job retention. The program is to be administered by the
34 board. The board shall establish a competitive process to request and
35 prioritize proposals and make grant awards.

36 (2) For the purposes of chapter 425, Laws of 2005, "public

1 infrastructure projects" has the same meaning as "public facilities" as
2 defined in RCW 43.160.020(11).

3 (3) The board shall conduct a statewide request for project
4 applications. The board shall apply the following criteria for
5 evaluation and ranking of applications:

6 (a) The relative benefits provided to the community by the jobs the
7 project would create, including, but not limited to: (i) The total
8 number of jobs; (ii) the total number of full-time, family wage jobs;
9 (iii) the unemployment rate in the area; and (iv) the increase in
10 employment in comparison to total community population;

11 (b) The present level of economic activity in the community and the
12 existing local financial capacity to increase economic activity in the
13 community;

14 (c) Whether the applicant has a good record of providing
15 information to those applying for development permits consistent with
16 section 1(2) of this act;

17 (d) The rate of return of the state's investment, that includes the
18 expected increase in state and local tax revenues associated with the
19 project;

20 ~~((d))~~ (e) The lack of another timely source of funding available
21 to finance the project which would likely prevent the proposed
22 community or economic development, absent the financing available under
23 chapter 425, Laws of 2005;

24 ~~((e))~~ (f) The ability of the project to improve the viability of
25 existing business entities in the project area;

26 ~~((f))~~ (g) Whether or not the project is a partnership of multiple
27 jurisdictions;

28 ~~((g))~~ (h) Demonstration that the requested assistance will
29 directly stimulate community and economic development by facilitating
30 the creation of new jobs or the retention of existing jobs; and

31 ~~((h))~~ (i) The availability of existing assets that applicants may
32 apply to projects.

33 (4) Job development fund program grants may only be awarded to
34 those applicants that have entered into or expect to enter into a
35 contract with a private developer relating to private investment that
36 will result in the creation or retention of jobs upon completion of the
37 project. Job development fund program grants shall not be provided for
38 any project where:

1 (a) The funds will not be used within the jurisdiction or
2 jurisdictions of the applicants; or

3 (b) Evidence exists that the project would result in a development
4 or expansion that would displace existing jobs in any other community
5 in the state.

6 (5) The board shall, with the joint legislative audit and review
7 committee, develop performance criteria for each grant and evaluation
8 criteria to be used to evaluate both how well successful applicants met
9 the community and economic development objectives stated in their
10 applications, and how well the job development fund program performed
11 in creating and retaining jobs.

12 **Sec. 6.** RCW 43.42.010 and 2003 c 71 s 2 are each amended to read
13 as follows:

14 (1) The office of regulatory assistance is created in the office of
15 financial management and shall be administered by the office of the
16 governor to assist citizens, businesses, and project applicants.

17 (2) The office shall:

18 (a) Maintain and furnish information as provided in RCW 43.42.040;

19 (b) Furnish facilitation as provided in RCW 43.42.050;

20 (c) Furnish coordination as provided in RCW 43.42.060;

21 (d) Coordinate cost reimbursement as provided in RCW 43.42.070;

22 (e) Work with state agencies and local governments to continue to
23 develop a range of permit assistance options for project applicants;

24 (f) (~~Review initiatives developed by the transportation permit~~
25 ~~efficiency and accountability committee established in chapter 47.06C~~
26 ~~RCW and determine if any would be beneficial if implemented for other~~
27 ~~types of projects~~) Help local jurisdictions comply with the
28 requirements of RCW 36.70B.080 by:

29 (i) Providing information about best practices and compliance with
30 the requirements of RCW 36.70B.080; and

31 (ii) Providing technical assistance in reducing the turnaround time
32 between submittal of an application for a development permit and the
33 issuance of the permit;

34 (g) Work to develop informal processes for dispute resolution
35 between agencies and permit applicants;

36 (h) Conduct customer surveys to evaluate its effectiveness; and

1 (i) Provide the following biennial reports to the governor and the
2 appropriate committees of the legislature:

3 (i) A performance report, based on the customer surveys required in
4 (h) of this subsection;

5 (ii) A report on any statutory or regulatory conflicts identified
6 by the office in the course of its duties that arise from differing
7 legal authorities and roles of agencies and how these were resolved.
8 The report may include recommendations to the legislature and to
9 agencies; and

10 (iii) A report regarding use of outside independent consultants
11 under RCW 43.42.070, including the nature and amount of work performed
12 and implementation of requirements relating to costs.

13 (3) A director of the office shall be hired no later than June 1,
14 2003.

15 (4) The office shall give priority to furnishing assistance to
16 small projects when expending general fund moneys allocated to it.

17 NEW SECTION. **Sec. 7.** The sum of forty-five thousand dollars, or
18 as much thereof as may be necessary, is appropriated for the fiscal
19 year ending June 30, 2008, from the general fund to the office of
20 regulatory assistance, created within the office of financial
21 management under RCW 43.42.010, for the purposes of this act.

22 NEW SECTION. **Sec. 8.** Section 4 of this act expires June 30, 2039.

23 NEW SECTION. **Sec. 9.** Section 5 of this act expires June 30, 2011.

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