

SENATE BILL REPORT

SB 6461

As of January 23, 2020

Title: An act relating to permit timelines.

Brief Description: Concerning permit timelines.

Sponsors: Senators Fortunato, Zeiger and Warnick.

Brief History:

Committee Activity: Local Government: 1/23/20.

Brief Summary of Bill

- Amends the timelines for project permit applications for jurisdictions planning under the Growth Management Act.
- Requires submission of annual performance reports related to project permit applications and final decision timing to the Department of Commerce and the Legislature; failure to submit results in ineligibility for grants.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Bonnie Kim (786-7316)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA sets forth three broad planning obligations for those counties and cities who plan fully under the GMA: the county legislative authority must adopt a countywide planning policy; the county, and the cities within the county, must adopt comprehensive plans and designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations accordingly; and the county must designate and take other actions related to urban growth areas.

Project Permit Applications. GMA-planning jurisdictions must adopt development regulations establishing time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development

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regulations. The time periods for local government actions for each type of complete project permit application or project type must not exceed 120 days, unless the local government makes written findings that a specified amount of additional time is needed.

GMA-planning counties and cities within those counties with a population of 20,000 or more must identify and establish deadlines for issuing notices of final decisions and minimum requirements for applications to be deemed complete. GMA-planning jurisdictions must also prepare annual performance reports that include, at a minimum, the following:

- total number of complete applications;
- number of complete applications received for which a notice of final decision was issued before the statutory deadline;
- number of applications received for which a notice of final decision was issued after the statutory deadline;
- number of applications received for which an extension of time was mutually agreed upon by the applicant and the county or city;
- variance of actual performance, excluding applications for which mutually agreed time extensions have occurred; and
- the mean processing time and the number standard deviation from the mean.

When special circumstances warrant a different review process, a local government may, by ordinance, exclude the following project permits from the general statutory requirements of the GMA: landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial.

Summary of Bill: The time periods for local government actions for each type of complete project permit application or project type are amended as follows:

- 90 days for ministerial or administrative project permit applications or other permit types subject to the GMA; and
- 120 days for project permit applications or permit types subject to the requirements of the GMA where a quasi-judicial hearing is required.

A local government may, by ordinance, adopt timelines that exceed the above requirements when it makes written findings that a specified amount of additional time is needed to process a specific permit type, or when certain circumstances require additional time. The requirement for additional time must be based on factors such as the complexity and may not be based on a self-imposed review process that exceeds state requirements.

Development regulations must specify the contents of a completed project permit application necessary for complete compliance with the time periods and procedures. When more than one application is submitted and processed as part of a consolidated permit review process, such as an administrative and quasi-judicial permit, the longer time period for review applies. A project permit application is deemed approved if a local government exceeds the allowable time periods.

The new time periods described above apply as follows:

- the number of days from application submittal until a determination of completeness;
- the number of days from the date an application is deemed complete until a complete set of first review comments are sent to the applicant, or a decision is issued for a

- ministerial or administrative permit, or the date of public hearing for a quasi-judicial permit;
- the number of days from application resubmittal of first review comments until a complete set of second review comments are sent to the applicant, or a decision is issued for a ministerial or administrative permit, or the date of public hearing for a quasi-judicial permit; and
- although a local government is not required to count the number of days for a third review or subsequent reviews, once reviews are complete, the days until a decision is issued for a ministerial or administrative permit or the date of public hearing for a quasi-judicial permit must be counted.

The number of days for a local government to process the application includes noticing and notice periods required under the GMA, SEPA, and, if applicable, time periods to set a public hearing. If a local government requires an applicant to submit draft application materials in advance of being able to submit a formal project permit application, the time to review that draft submittal is also included in the time period.

The timeline does not include time periods for the preparation of an environmental impact statement. When an environmental impact statement is required, the timeline will stop on the day the determination of significance is issued and resume on the day a final environmental impact statement is issued.

A local government may not require an applicant to sign a waiver of the timeline requirements or issue a denial of a permit or recommendation to deny a permit to avoid exceeding required time frames for processing a permit application.

GMA-planning counties and cities within those counties with a population of 20,000 or more must identify and establish deadlines for issuing notices of final decisions and minimum requirements for applications to be deemed procedurally complete.

The annual performance reports summarizing information regarding the number of project permit applications and timelines must also include the number of permit applications deemed approved because the local government issued its final decision after the allowable time period. Local governments must submit the report to the Department of Commerce (Commerce) by January 15th each year, and to the Legislature by February 15th each year. Commerce must prepare and provide standardized forms for data collection. Local governments who fail to timely submit the required information are ineligible for grants through Commerce.

In addition to excluding certain project permits from general statutory requirements when special circumstances apply, GMA jurisdictions may also modify timelines for those project permits.

Appropriation: None.

Fiscal Note: Requested on January 20, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The purpose of the legislation is to try to set a known amount of time to process a permit. Cities are asking builders to waive the time limit to process an application. Every month in delay adds \$18,000 to a cost of a project. The problem is that jurisdictions are not approving permits in the 120 days currently required by law. This bill provides some accountability for the jurisdictions. Everyone is prioritizing the housing shortage but housing departments in local government are not being prioritized.

CON: County permitting offices are supportive of moving applications through the process as quickly as possible. We work constantly to improve the permitting experience and processing timeline. Limited staffing, financial, and technical resources make meeting the requirements of this bill very difficult. Delays often depend on personnel availability and the time of year. We cannot always anticipate the complexity of permit applications coming in day-to-day. Approval by default may result in dangers to the public health and safety. Telling jurisdictions to do the same work faster is not the answer. Rather, we need to remove the roadblocks that are the cause of longer review times. Permitting is a complex process based on statute and local regulations. Moving the work to the frontend will likely result in builders frustrated that cities are not accepting their applications. Default approval will create liability for both the cities and builders. This bill applies to all development, not just housing development.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Jan Himebaugh, Building Industry Association of Washington.

CON: Greg Tompkins, Walla Walla County Commissioner; Rob Gelder, Kitsap County Commissioner; Wes McCart, Stevens County Commissioner; Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: No one.