

SENATE BILL REPORT

2SSB 5290

As Amended by House, April 10, 2023

Title: An act relating to consolidating local permit review processes.

Brief Description: Concerning consolidating local permit review processes.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Mullet, Kuderer, Fortunato, Lias, Nobles, Saldaña and Wilson, C.; by request of Office of the Governor).

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/24/23, 2/09/23 [DPS-WM].

Ways & Means: 2/20/23, 2/24/23 [DP2S].

Floor Activity: Passed Senate: 3/6/23, 49-0.

Passed House: 4/10/23, 98-0.

Brief Summary of Second Substitute Bill

- Requires a local government to exempt project permits for interior alterations from site plan review under certain conditions.
- Establishes a consolidated permit review grant program for local governments to issue final decisions for residential permit applications within specified time frames.
- Creates a grant program to support local governments' transition from a paper permit filing system to software systems capable of processing a digital permit applications system.
- Requires the Department of Commerce to convene a temporary work group to study potential statewide license and permitting software for local governments to streamline existing permit review processes.
- Amends the process for jurisdictions to provide a written determination

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

of completeness for project permit applications.

- Establishes project permit review time periods for permit applications that meet certain public notice and public hearing requirements.
- Amends annual performance reporting requirements for jurisdictions issuing project permits.
- Requires local governments to use the project permit application review time periods established by this act after January 1, 2025.
- Authorizes local governments to add an additional time period to issue a final decision for each type of project if the applicant is not responsive for more than 60 consecutive days after the local government has notified the applicant.
- Clarifies that local governments can use the grant funding to audit their development regulations.
- Requires local governments to refund a proportion of the permit fees if the local government has not issued a final decision by the established time period.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5290 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

Staff: Maggie Douglas (786-7279)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5290 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Mahnur Khan (786-7437)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes a wide array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes referred to as fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations. Development regulations include zoning ordinances, official controls, subdivision ordinances, and other regulations.

Development regulations must also establish and implement time periods for local governments to take action on each type of project permit application. These time periods should not exceed 120 days unless the local government makes written findings that additional time is needed to process specific types of applications.

Project Permit Process. Before developing land, a developer must obtain permits from the local government allowing the development. These permits can include land use permits, environmental permits, building permits, and others, and are known as project permits. When a county or city planning under the GMA is reviewing a project, its comprehensive plan and development regulations must serve as the basis for the project permit review.

Local governments must issue a determination of completeness of the project permit application within 28 days of submission and must notify other governments and agencies of the application if they have jurisdiction over some aspect of the project. The determination of completeness may include a preliminary determination of the development regulations that will be used for project mitigation or determination of consistency.

If the locality determines the application is incomplete, the locality must notify the applicant what additional information is needed to make the application complete. The local government must notify an applicant whether the application is complete or what additional information is needed within 14 days of resubmission.

A project permit application is determined to be complete when it meets the local procedural submission requirements and is sufficient for continued processing. 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.

Within 14 days of a local government determining a project permit application complete, the locality must provide notice of application to the public and to affected departments. The notice must include a determination, statement of public comment period, and scoping notice under the State Environmental Policy Act (SEPA), if applicable. A public comment

period must be at least 14 days but no more than 30 days following the date of notice of application.

If an open record pre-decision meeting is required for the project permit, the local government must issue its notice of application at least 15 days prior to the open record pre-decision hearing. No more than one open record hearing and one closed record appeal may be provided, except for the appeal of a determination as provided under SEPA.

A local government must provide a notice of decision that includes a statement of any threshold determination made under SEPA. The notice of action should be issued within the time period specified by the local government for each type of project permit application, and should not exceed 120 days unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.

Should a local government deny a project permit application, a local government may, but is not required to, provide for administrative appeals. If provided, an administrative appeal of the project decision, combined with any environmental determinations, shall be filed within 14 days after the notice of the decision has been made and is appealable.

Project Review—Required Elements. A proposed project must be consistent with a local government's development regulations, or in the absence of applicable regulations, the adopted comprehensive plan. Applicable regulations must be determinative of the following:

- type of land use permitted at the site, including uses that may be allowed under certain circumstances;
- density of residential development in urban growth areas; and
- availability and adequacy of public facilities identified in the comprehensive plan or development regulations.

Site Plan Review. A local government may require a binding site plan to be included with any permit application prior to the issuance of construction permits. The site plan may include a description of physical details that relate to the site and the type of use proposed, including landscaping, design, parking location, and other site-specific issues. A site plan provides exact locations, and detail for the type of information appropriately addressed as a part of property division, such as infrastructure, certification, and other requirements of typical subdivisions.

The review of a site plan must include a preapplication conference, conceptual review, public participation meeting, design guidance review, and a final design review and recommendation. A site plan may be subject to review by the local public health district, city engineering department, or the local planning commission.

Annual Performance Report Requirements. Counties located west of the crest of the

Cascade mountain range and whose populations were greater than 150,000 in 1996 as determined by the Office of Financial Management, and the cities located within those counties with populations of at least 20,000, must prepare annual performance reports that include, at minimum, the following information:

- total number of complete applications received during the year;
- number of complete applications received during the year for which a notice of final decision was issued before the 120 day deadline;
- number of applications received during the year for which a notice of final decision was issued after the 120 day deadline;
- number of applications received during the year for which an extension of time was mutually agreed upon by the applicant and the county or city;
- variance of actual performance to the 120 day deadline; and
- the mean processing time and the number of standard deviation from the mean.

A county or city required to complete the annual performance report must provide notice of and access to the report on the jurisdiction's website.

Summary of Second Substitute Bill: Project Permit Applications—Determination of Completeness. Within 20 business days of receiving a project permit application, a city or county fully planning under the GMA must provide a written determination to the applicant. The written determination must state either:

- the application is complete; or
- the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

A project permit application is deemed complete when it meets the procedural submission requirements of the project permit application as outlined by the local government. Additional information or studies or project modifications may be required or undertaken subsequent to the procedural review of the application by the local government.

The need for additional information or studies may not preclude a completeness determination if the procedural submission requirements outlined by the project permit application have been provided.

A determination of completeness may include or be combined with:

- a preliminary determination of those development regulations that will be used for project mitigation;
- a preliminary determination of consistency;
- other information the local government chooses to include; or
- the notice of application pursuant to the requirements of the urban growth area under the GMA.

An application shall be deemed procedurally complete on the 29th day after receiving a

project permit application if the local government does not provide a written determination to the applicant that the application is procedurally incomplete. When the local government does not provide a written determination, they may still seek additional information or studies. The notice of application shall be provided within 14 days after the determination of completeness.

Project Permit Application Time Periods. Local governments must establish and implement time periods for local government actions for each type of project permit application in their development regulations. The time periods should not exceed the following unless modified by the local government:

- 45 days for permits which do not require public notice;
- 70 days for permits which require public notice; and
- 120 days for permits which require public notice and a public hearing.

A local government may modify the time periods to add permits types not identified, change permit names or types in each category, address how consolidated review time frames may be different than permits submitted individually, and address how projects of a certain size or type may be differentiated.

If a local government does not adopt an ordinance or resolution modifying the time periods established in this act, then the time periods established in this act must be applied. Adopting a resolution or ordinance to implement the time periods established in this act are not subject to appeal unless the time periods are modified to include a permit type for which more than 120 days is provided for.

The total number of days the application is in review with the local government is calculated from the date a determination of completeness is issued to the date a final decision is issued on the project permit application. The number of days is measured by counting five days per week, excluding holidays. The number of days the application is in review with the local government does not include the following:

- time period between when the local government has notified the applicant that additional information is required and the day when additional information is submitted by the applicant;
- if an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application; and
- if an administrative appeal is filed that extends the time period to issue a final decision.

Project Permit Applications—Exemptions. Project permit applications for interior alterations must be exempted from site plan review under the condition that the interior alterations do not result in additional sleeping quarters, nonconformity with federal emergency management agency substantial improvement thresholds, or increase the total square footage or valuation of the structure, which would all require upgraded fire access or fire suppression systems. Any interior alteration may not modify the existing site layout,

current use, or building footprint.

Annual Performance Report. A city or county required to establish an Urban Growth Capacity Report under the GMA must produce an annual performance report that includes information outlining time periods for certain permit types associated with housing. The information collected is intended to provide:

- permit time periods for certain permit processes in counties and cities;
- ongoing information to those submitting permits, local governments, and the state regarding permit time frames associated with permit processes for housing;
- the total number of decisions issued during the year for the following permit types:
 - preliminary subdivisions;
 - final subdivisions;
 - binding site plans;
- permit processes associated with the approval of multifamily housing;
- construction plan review for each of these permit types when submitted separately;
- the total number of decisions for each permit type which included consolidated project permit review; and
- the total number of days from a submittal to a decision being issued, the application was in review with the county or city, and the permit is the responsibility of the applicant.

Beginning in 2024, cities and counties must begin collecting data for purposes of producing the annual report. A county or city required to produce an annual report under this act must post the report on the jurisdiction's website and submit the annual report to the Department of Commerce (Commerce) by March 1st.

Commerce must develop a template for jurisdictions to utilize when reporting data. No later than July 1st each year, Commerce must publish an annual report that includes:

- annual performance report data for each county and city subject to the reporting requirements;
- list of those counties and cities whose time frames are shorter than established by this act in order to glean best practices from the jurisdictions; and
- key metrics and findings from information and data collected.

Project Review and Code Revisions. Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review for project permit applications. This includes, but is not limited to:

- collecting reasonable fees from an applicant for a permit approval to cover the cost to the jurisdiction processing applications, inspecting and reviewing plans, or preparing detailed statements as required by SEPA;
- entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;
- having on-call permitting assistance in place and budgeted for when permit volumes or staffing levels change rapidly;

- having new positions budgeted that are contingent on increased permit revenue; and
- adopting development regulations which:
 1. only require public hearings for permit applications required to have a public hearing by statute;
 2. make preapplication meetings optional rather than a requirement of permit application submittal; and
 3. make housing types an outright permitted use in all zones where the housing type is permitted.

If a local government has taken measures to provide prompt, coordinated review for project permit applications and is not meeting the time periods identified by this act at least 50 percent of the time, the county or city must adopt new measures, as part of its comprehensive plan periodic update, aimed at reducing permit timelines.

Commerce must develop technical assistance that focuses on local governments that have implemented at least three of the project permit review options established by this act. Technical assistance must provide guidance to assist local governments in setting appropriate fee structures to ensure that fees are both reasonable and sufficient to recover true costs, including guidance on growth factors or other measures to reflect cost increases over time.

Financial Assistance. Commerce must:

- establish a consolidated permit review grant program for eligible local governments; and
- establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and capacity for video storage.

Prior to receiving a consolidated permit review grant, a local government must commit to issuing final permit application decisions within 45 business days or 90 calendar days and establish an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within the same time frame. A local government may use the grant moneys to contract with a third-party business to conduct consolidated permit review, or to provide additional inspection staff. Any jurisdiction awarded moneys under the consolidated permit review grant program must provide a quarterly report to Commerce, detailing the jurisdiction's average and maximum time for permit review during its participation in the grant program.

Digital Permitting Process Work Group. Commerce must convene a digital permitting process work group, that includes cities, counties, and building industries, to examine a potential statewide license and permitting software for local governments to encourage streamlined and efficient permit review. The work group must submit a final report to the Legislature by August 2024.

Appropriation: None.

Fiscal Note: Available.

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 on Original Bill (Local Government, Land Use & Tribal Affairs): *The committee recommended a different version of the bill than what was heard.* PRO: When this bill died in House Appropriations last year, it began a process to find common ground between cities, counties, and builders. This bill reduces the need for unnecessary review of interior remodeling. It incentivizes quicker review of permit applications through the use of contracting with third parties. Using third party contracting services will help departments with heavy permit workload. The bill also helps departments upgrade from a paper permit system to an electronic version. It will help departments that are not currently taking advantage of such tools to help improve the consistency and experience for applicants. This bill allows flexibility for local governments to expand permitting capacity as needed and reduce capacity if not. The dollar amount has been left open ended so budget writers can determine how much they want to dedicate to that program to speed up turnaround times. This bill provides a financial grant program to try and get every jurisdiction in Washington switched to electronic filing.

Persons Testifying (Local Government, Land Use & Tribal Affairs): PRO: Senator Mark Mullet, Prime Sponsor; Paul Jewell, Washington State Association of Counties; Noha Mahgoub, Governor's Office; Bill Stauffacher, Building Industry Association of Washington; Scott Hazlegrove, Master Builders Association of King & Snohomish Counties.

Persons Signed In To Testify But Not Testifying (Local Government, Land Use & Tribal Affairs): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill strikes a good balance between builders, cities, and counties. This bill gives counties the ability to process these permits. This was a bill that was worked on during the interim with stakeholders. Simplifying the permit reform process is necessary. Adding more time for local governments and adding processing time were requested amendments. These amendments were negotiated with the original stakeholder groups. These are not new concepts and ideas. This bill sharpens, clarifies, and adds additional structure to current laws.

Persons Testifying (Ways & Means): PRO: Josie Cummings, Building Industry Association of Washington; Paul Jewell, Washington State Association of Counties; Scott

Hazlegrove, Master Builders Association of King & Snohomish Counties.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Requires local governments participating in the consolidated permit review grant program to determine, no later than July 1, 2024, the specific fee structures needed to provide permit review within the time periods specified by this act.
- Amends criteria for the grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications. Commerce may only provide a grant to a city if the city allows for the development of at least two units per lot on all lots zoned predominantly for residential use within its jurisdiction.
- Amends time period for local governments to issue a written determination to applicant to be 28 calendar days, rather than 20 days.
- Amends time periods for local governments to issue final decisions for each type of complete project permit application:
 1. for project permits which do not require public notice, a local government must issue a final decision within 65 days of determination of completeness;
 2. for project permits which require public notice, a local government must issue a final decision within 100 days of determination of completeness; and
 3. for project permits which require public notice and a public hearing, a local government must issue a final decision within 170 days of determination of completeness.
- Authorizes a jurisdiction to modify these provisions by differentiating between residential and nonresidential permits.
- Requires numbers of days to be calculated by counting every calendar day, rather than five days per week, excluding holidays.
- Clarifies that the number of days an application is in review must be calculated by calendar days and exclude the following time periods:
 1. any time period after an applicant informs the local government they would like to temporarily suspend review of the project permit application, until the time that the applicant notifies the local government they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and
 2. any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.
- Provides that the time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.
- Amends requirements that cities and counties must include as part of an annual

performance report:

1. removes provision that the information collected is not intended to demonstrate total time for a project to receive construction approval from a city or county;
 2. adds that the report must include whether the county or city has established shorter time periods than those provided in this act;
 3. amends provision that the report includes the total number of days from the submittal to a decision being issued for project permit types. The report must include the average number of days;
 4. adds that the report must include the total number of days that were excluded from the time period calculation for each project permit application type; and
 5. requires jurisdictions to submit an initial annual report to Commerce beginning March 1, 2025.
- Requires, after January 1, 2026, a county or city to adopt additional measures at the time of its next comprehensive plan update if it has adopted at least three project review and code provisions more than five years prior, and the jurisdiction is not meeting permitting deadlines at least half the time over the period since its most recent comprehensive plan update.
 - Provides that if a city or county that is required to adopt new measures but fails to do so, the jurisdiction is subject to the permit fee refund requirements.
 - Clarifies that Commerce's technical assistance and guidance must include information on how to utilize growth factors or other measures to reflect cost increases over time. When providing technical assistance, Commerce must prioritize local governments that have implemented at least three of the project review and code provisions established by the bill.
 - Requires Commerce to develop a template for reporting data for counties and cities required to submit annual performance reports.
 - Reconciles two conflicting versions of a current statutory provision.
 - Makes various technical corrections and clarifications.