
SUBSTITUTE SENATE BILL 5290

State of Washington

68th Legislature

2023 Regular Session

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Mullet, Kuderer, Fortunato, Liias, Nobles, Saldaña, and C. Wilson; by request of Office of the Governor)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to consolidating local permit review processes;
2 amending RCW 36.70B.140, 36.70B.020, 36.70B.070, 36.70B.080, and
3 36.70B.160; adding new sections to chapter 36.70B RCW; creating a new
4 section; and providing an effective date.

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

6 **Sec. 1.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
7 read as follows:

8 (1) A local government by ordinance or resolution may exclude the
9 following project permits from the provisions of RCW 36.70B.060
10 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark
11 designations, street vacations, or other approvals relating to the
12 use of public areas or facilities, or other project permits, whether
13 administrative or quasi-judicial, that the local government by
14 ordinance or resolution has determined present special circumstances
15 that warrant a review process or timelines for approval which are
16 different from that provided in RCW 36.70B.060 through 36.70B.090 and
17 36.70B.110 through 36.70B.130.

18 (2) A local government by ordinance or resolution also may
19 exclude the following project permits from the provisions of RCW
20 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary
21 adjustments and building and other construction permits, or similar

1 administrative approvals, categorically exempt from environmental
2 review under chapter 43.21C RCW, or for which environmental review
3 has been completed in connection with other project permits.

4 (3) A local government must exclude project permits for interior
5 alterations from site plan review, provided that the interior
6 alterations do not result in the following:

7 (a) Additional sleeping quarters or bedrooms;

8 (b) Nonconformity with federal emergency management agency
9 substantial improvement thresholds; or

10 (c) Increase the total square footage or valuation of the
11 structure thereby requiring upgraded fire access or fire suppression
12 systems.

13 (4) Nothing in this section exempts interior alterations from
14 otherwise applicable building, plumbing, mechanical, or electrical
15 codes.

16 (5) For purposes of this section, "interior alterations" include
17 construction activities that do not modify the existing site layout
18 or its current use and involve no exterior work adding to the
19 building footprint.

20 NEW SECTION. Sec. 2. A new section is added to chapter 36.70B
21 RCW to read as follows:

22 (1) Subject to the availability of funds appropriated for this
23 specific purpose, the department of commerce must establish a
24 consolidated permit review grant program. The department may award
25 grants to any local government that provides, by ordinance,
26 resolution, or other action, a commitment to the following building
27 permit review consolidation requirements:

28 (a) Issuing final decisions on residential permit applications
29 within 45 business days or 90 calendar days.

30 (i) To achieve permit review within the stated time frame, a
31 local government must provide consolidated review for building permit
32 applications. This may include an initial technical peer review of
33 the application for conformity with the requirements of RCW
34 36.70B.070 by all departments, divisions, and sections of the local
35 government with jurisdiction over the project.

36 (ii) A local government may contract with a third-party business
37 to conduct the consolidated permit review or as additional inspection
38 staff. Any funds expended for such a contract may be eligible for
39 reimbursement under this act.

1 (b) Establishing an application fee structure that would allow
2 the jurisdiction to continue providing consolidated permit review
3 within 45 business days or 90 calendar days.

4 (i) A local government may consult with local building
5 associations to develop a reasonable fee system.

6 (ii) A local government must determine, no later than August 1,
7 2023, the specific fee structure needed to provide permit review
8 within the timeline specified in subsection (1)(b) of this section.

9 (2) A jurisdiction that is awarded a grant under this section
10 must provide a quarterly report to the department of commerce. The
11 report must include the average and maximum time for permit review
12 during the jurisdiction's participation in the grant program.

13 (3) If a jurisdiction is unable to successfully meet the terms
14 and conditions of the grant, the jurisdiction must enter a 90-day
15 probationary period. If the jurisdiction is not able to meet the
16 requirements of this section by the end of the probationary period,
17 the jurisdiction is no longer eligible to receive grants under this
18 section.

19 (4) For the purposes of this section, "residential permit" means
20 a permit issued by a city or county that satisfies the conditions of
21 RCW 19.27.015(5) and is within the scope of the international
22 residential code, as adopted in accordance with chapter 19.27 RCW.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70B
24 RCW to read as follows:

25 Subject to the availability of funds appropriated for this
26 specific purpose, the department of commerce must establish a grant
27 program for local governments to update their permit review process
28 from paper filing systems to software systems capable of processing
29 digital permit applications, virtual inspections, electronic review,
30 and capacity for video storage.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70B
32 RCW to read as follows:

33 (1) Subject to the availability of amounts appropriated for this
34 specific purpose, the department of commerce must convene a digital
35 permitting process work group to examine potential license and
36 permitting software for local governments to encourage streamlined
37 and efficient permit review.

1 (2) The department of commerce, in consultation with the
2 association of Washington cities and Washington state association of
3 counties, shall appoint members to the work group representing groups
4 including but not limited to:

- 5 (a) Cities and counties;
- 6 (b) Building industries; and
- 7 (c) Building officials.

8 (3) The department of commerce must convene the first meeting of
9 the work group by August 1, 2023. The department must submit a final
10 report to the governor and the appropriate committees of the
11 legislature by August 1, 2024. The final report must:

12 (a) Evaluate the existing need for digital permitting systems,
13 including impacts on existing digital permitting systems that are
14 already in place;

15 (b) Review barriers preventing local jurisdictions from accessing
16 or adopting digital permitting systems;

17 (c) Evaluate the benefits and costs associated with a statewide
18 permitting software system; and

19 (d) Provide budgetary, administrative policy, and legislative
20 recommendations to increase the adoption of or establish a statewide
21 system of digital permit review.

22 **Sec. 5.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Closed record appeal" means an administrative appeal on the
27 record to a local government body or officer, including the
28 legislative body, following an open record hearing on a project
29 permit application when the appeal is on the record with no or
30 limited new evidence or information allowed to be submitted and only
31 appeal argument allowed.

32 (2) "Local government" means a county, city, or town.

33 (3) "Open record hearing" means a hearing, conducted by a single
34 hearing body or officer authorized by the local government to conduct
35 such hearings, that creates the local government's record through
36 testimony and submission of evidence and information, under
37 procedures prescribed by the local government by ordinance or
38 resolution. An open record hearing may be held prior to a local
39 government's decision on a project permit to be known as an "open

1 record predecision hearing." An open record hearing may be held on an
2 appeal, to be known as an "open record appeal hearing," if no open
3 record predecision hearing has been held on the project permit.

4 (4) "Project permit" or "project permit application" means any
5 land use or environmental permit or license required from a local
6 government for a project action, including but not limited to
7 (~~building permits,~~) subdivisions, binding site plans, planned unit
8 developments, conditional uses, shoreline substantial development
9 permits, site plan review, permits or approvals required by critical
10 area ordinances, site-specific rezones (~~authorized by a~~
11 ~~comprehensive plan or subarea plan~~) which do not require a
12 comprehensive plan amendment, but excluding the adoption or amendment
13 of a comprehensive plan, subarea plan, or development regulations
14 except as otherwise specifically included in this subsection.

15 (5) "Public meeting" means an informal meeting, hearing,
16 workshop, or other public gathering of people to obtain comments from
17 the public or other agencies on a proposed project permit prior to
18 the local government's decision. A public meeting may include, but is
19 not limited to, a design review or architectural control board
20 meeting, a special review district or community council meeting, or a
21 scoping meeting on a draft environmental impact statement. A public
22 meeting does not include an open record hearing. The proceedings at a
23 public meeting may be recorded and a report or recommendation may be
24 included in the local government's project permit application file.

25 **Sec. 6.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
26 read as follows:

27 (1) (a) Within (~~twenty-eight~~) 20 days after receiving a project
28 permit application, a local government planning pursuant to RCW
29 36.70A.040 shall (~~mail or~~) provide (~~in person~~) a written
30 determination to the applicant (~~stating~~).

31 (b) The written determination must state either:

32 (~~(a)~~) (i) That the application is complete; or

33 (~~(b)~~) (ii) That the application is incomplete and that the
34 procedural submission requirements of the local government have not
35 been met. The determination shall outline what is necessary to make
36 the application procedurally complete.

37 (c) The number of days shall be calculated by counting five days
38 per week, excluding holidays.

1 (d) To the extent known by the local government, the local
2 government shall identify other agencies of local, state, or federal
3 governments that may have jurisdiction over some aspect of the
4 application.

5 (2) A project permit application is complete for purposes of this
6 section when it meets the procedural submission requirements of the
7 local government (~~(and is sufficient for continued processing even~~
8 ~~though additional information may be required or project~~
9 ~~modifications may be undertaken subsequently)), as outlined on the
10 project permit application. Additional information or studies may be
11 required or project modifications may be undertaken subsequent to the
12 procedural review of the application by the local government. The
13 determination of completeness shall not preclude the local government
14 from requesting additional information or studies either at the time
15 of the notice of completeness or subsequently if new information is
16 required or substantial changes in the proposed action occur.
17 However, if the procedural submission requirements, as outlined on
18 the project permit application have been provided, the need for
19 additional information or studies may not preclude a completeness
20 determination.~~

21 (3) The determination of completeness may include or be combined
22 with the following (~~(as optional information)~~):

23 (a) A preliminary determination of those development regulations
24 that will be used for project mitigation;

25 (b) A preliminary determination of consistency, as provided under
26 RCW 36.70B.040; (~~(or)~~)

27 (c) Other information the local government chooses to include; or

28 (d) The notice of application pursuant to the requirements in RCW
29 36.70B.110.

30 (4) (a) An application shall be deemed procedurally complete on
31 the 29th day after receiving a project permit application under this
32 section if the local government does not provide a written
33 determination to the applicant that the application is procedurally
34 incomplete as provided in subsection (1) (b) (ii) of this section. When
35 the local government does not provide a written determination, they
36 may still seek additional information or studies as provided for in
37 subsection (2) of this section.

38 (b) Within (~~(fourteen)~~) 14 days after an applicant has submitted
39 to a local government additional information identified by the local
40 government as being necessary for a complete application, the local

1 government shall notify the applicant whether the application is
2 complete or what additional information is necessary.

3 (c) The notice of application shall be provided within 14 days
4 after the determination of completeness pursuant to RCW 36.70B.110.

5 **Sec. 7.** RCW 36.70B.080 and 2004 c 191 s 2 are each amended to
6 read as follows:

7 (1)(a) Development regulations adopted pursuant to RCW 36.70A.040
8 must establish and implement time periods for local government
9 actions for each type of project permit application and provide
10 timely and predictable procedures to determine whether a completed
11 project permit application meets the requirements of those
12 development regulations. The time periods for local government
13 actions for each type of complete project permit application or
14 project type should not exceed (~~one hundred twenty days, unless the~~
15 ~~local government makes written findings that a specified amount of~~
16 ~~additional time is needed to process specific complete project permit~~
17 ~~applications or project types)) those specified in this section.~~

18 (b) The development regulations must, for each type of permit
19 application, specify the contents of a completed project permit
20 application necessary for the complete compliance with the time
21 periods and procedures.

22 ~~((+2))~~ (c) A jurisdiction may exclude certain permit types and
23 timelines for processing project permit applications as provided for
24 in RCW 36.70B.140.

25 (d) The time periods for local government action to issue a final
26 decision for each type of complete project permit application or
27 project type subject to this chapter should not exceed the following
28 time frames unless modified by the local government pursuant to this
29 section or RCW 36.70B.140.

	<u>45 days</u>	<u>70 days</u>	<u>120 days</u>
<u>Permits which do not require public notice</u>	<u>X</u>		
<u>Permits which require public notice</u>		<u>X</u>	
<u>Permits which require public notice and a public hearing</u>			<u>X</u>

35 (e) A jurisdiction may modify the table in (d) of this subsection
36 to add permit types not identified, change the permit names or types
37 in each category, address how consolidated review time frames may be

1 different than permits submitted individually, and that projects of a
2 certain size or type may be differentiated. Unless otherwise provided
3 for the consolidated review of more than one permit, the time frame
4 for a final decision shall be the longest of the permit timelines
5 identified in (d) of this subsection or as amended by a local
6 government.

7 (f) If a local government does not adopt an ordinance or
8 resolution modifying the provisions in (d) of this subsection, the
9 timelines in the table shall be applied.

10 (g) The total number of days the application is in review with
11 the county or city shall be calculated from the day completeness is
12 determined under RCW 36.70B.070 to the date a final decision is
13 issued on the project permit application. The number of days shall be
14 calculated by counting five days per week, excluding holidays. The
15 days the application is in review with the county or city does not
16 include time periods between where the county or city has notified
17 the applicant, in writing, that additional information is required to
18 further process the application and the day when responsive
19 information is resubmitted by the applicant. Time periods shall also
20 be stopped when an applicant informs the local government, in
21 writing, that they would like to temporarily suspend review of the
22 project permit application.

23 (h) Time periods for local government actions for each type of
24 complete project permit application is stopped when an administrative
25 appeal is filed that extends the time period to issue a final
26 decision.

27 (i) Annual amendments to the comprehensive plan are not subject
28 to the requirements of this section.

29 (j) Adopting a resolution or ordinance to implement this
30 subsection shall not be subject to appeal unless the table in (d) of
31 this subsection is modified to include a permit type for which more
32 than 120 days is provided for.

33 (2)(a) Counties subject to the requirements of RCW 36.70A.215 and
34 the cities within those counties that have populations of at least
35 (~~twenty thousand~~) 20,000 must, for each type of permit application,
36 identify the total number of project permit applications for which
37 decisions are issued according to the provisions of this chapter. For
38 each type of project permit application identified, these counties
39 and cities must establish and implement a deadline for issuing a
40 notice of final decision as required by subsection (1) of this

1 section and minimum requirements for applications to be deemed
2 complete under RCW 36.70B.070 as required by subsection (1) of this
3 section.

4 (b) Counties and cities subject to the requirements of this
5 subsection also must prepare an annual performance report((s)) that
6 ((include, at a minimum, the following information for each type of
7 project permit application identified in accordance with the
8 requirements of (a) of this subsection:

9 ~~(i) Total number of complete applications received during the
10 year;~~

11 ~~(ii) Number of complete applications received during the year for
12 which a notice of final decision was issued before the deadline
13 established under this subsection;~~

14 ~~(iii) Number of applications received during the year for which a
15 notice of final decision was issued after the deadline established
16 under this subsection;~~

17 ~~(iv) Number of applications received during the year for which an
18 extension of time was mutually agreed upon by the applicant and the
19 county or city;~~

20 ~~(v) Variance of actual performance, excluding applications for
21 which mutually agreed time extensions have occurred, to the deadline
22 established under this subsection during the year; and~~

23 ~~(vi) The mean processing time and the number standard deviation
24 from the mean.~~

25 ~~(c) Counties and cities subject to the requirements of this
26 subsection must:~~

27 ~~(i) Provide notice of and access to the annual performance
28 reports through the county's or city's website; and~~

29 ~~(ii) Post electronic facsimiles of the annual performance reports
30 through the county's or city's website. Postings on a county's or
31 city's website indicating that the reports are available by
32 contacting the appropriate county or city department or official do
33 not comply with the requirements of this subsection.~~

34 ~~If a county or city subject to the requirements of this
35 subsection does not maintain a website, notice of the reports must be
36 given by reasonable methods, including but not limited to those
37 methods specified in RCW 36.70B.110(4).~~

38 ~~(3)) includes information outlining time frames for certain
39 permit types associated with housing. The information collected is
40 not intended to demonstrate the total time for a project to receive~~

1 construction approval from a city or county. It will, however,
2 provide:

3 (i) Permit time frames for certain permit processes in counties
4 and cities in relation to those established under this section;

5 (ii) Ongoing information to those submitting permits, local
6 governments, and the state regarding permit time frames associated
7 with permit processes for housing;

8 (iii) The total number of decisions issued during the year for
9 the following permit types: Preliminary subdivisions, final
10 subdivisions, binding site plans, permit processes associated with
11 the approval of multifamily housing, and construction plan review for
12 each of these permit types when submitted separately;

13 (iv) The total number of decisions for each permit type which
14 included consolidated project permit review, such as concurrent
15 review of a rezone or construction plans;

16 (v) The total number of days from a submittal to a decision being
17 issued. This shall be calculated from the day completeness is
18 determined under RCW 36.70B.070 to the date a decision is issued on
19 the application. The number of days shall be calculated by counting
20 five days per week, excluding holidays;

21 (vi) The total number of days the application was in review with
22 the county or city. This shall be calculated from the day
23 completeness is determined under RCW 36.70B.070 to the date a final
24 decision is issued on the application. The number of days shall be
25 calculated by counting five days per week, excluding holidays. The
26 days the application is in review with the county or city does not
27 include time periods between where the county or city has notified
28 the applicant, in writing, that additional information is required to
29 further process the application and when that information is
30 submitted by the applicant. Time periods shall also be stopped when
31 an applicant informs the local government, in writing, that they
32 would like to temporarily suspend review of the project permit
33 application; and

34 (vii) The total number of days the permit is the responsibility
35 of the applicant, including days the county or city is waiting for
36 additional information.

37 (c) Counties and cities subject to the requirements of this
38 subsection must:

39 (i) Post the annual performance report through the county's or
40 city's website; and

1 (ii) Submit the annual performance report to the department of
2 commerce by March 1st each year.

3 (d)(i) No later than July 1st each year, the department of
4 commerce shall publish a report, which includes the annual
5 performance report data for each county and city subject to the
6 requirements of this subsection, and a list of those counties and
7 cities whose time frames are shorter than established under this
8 section in order that best practices can be gleaned from those
9 counties and cities.

10 (ii) The annual report published by the department of commerce
11 shall also include key metrics and findings from the information
12 collected.

13 (e) Annual reports must be submitted to the department of
14 commerce beginning in 2025.

15 (3) Nothing in this section prohibits a county or city from
16 extending a deadline for issuing a decision for a specific project
17 permit application for any reasonable period of time mutually agreed
18 upon by the applicant and the local government.

19 ~~((4) The department of community, trade, and economic~~
20 ~~development shall work with the counties and cities to review the~~
21 ~~potential implementation costs of the requirements of subsection (2)~~
22 ~~of this section. The department, in cooperation with the local~~
23 ~~governments, shall prepare a report summarizing the projected costs,~~
24 ~~together with recommendations for state funding assistance for~~
25 ~~implementation costs, and provide the report to the governor and~~
26 ~~appropriate committees of the senate and house of representatives by~~
27 ~~January 1, 2005.))~~

28 **Sec. 8.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to
29 read as follows:

30 (1) Each local government is encouraged to adopt further project
31 review and code provisions to provide prompt, coordinated review and
32 ensure accountability to applicants and the public, including
33 expedited review for project permit applications for projects that
34 are consistent with adopted development regulations ~~((and within the~~
35 ~~capacity of systemwide infrastructure improvements))~~, including:

36 (a) Collect reasonable fees, consistent with RCW 82.02.020, from
37 an applicant for a permit or other governmental approval to cover the
38 cost to the city, town, county, or other municipal corporation of
39 processing applications, inspecting and reviewing plans, or preparing

1 detailed statements required by chapter 43.21C RCW, including
2 reasonable fees that are consistent with RCW 43.21C.420(6),
3 43.21C.428, and, beginning July 1, 2024, RCW 35.91.020. The cost of
4 reasonable fees to process administrative appeals is not included in
5 this provision;

6 (b) Enter into an interlocal agreement with another jurisdiction
7 to share permitting staff and resources;

8 (c) Have on-call permitting assistance in place and budgeted for
9 when permit volumes or staffing levels change rapidly;

10 (d) Have new positions budgeted that are contingent on increased
11 permit revenue;

12 (e) Adopt development regulations which only require public
13 hearings for permit applications required to have a public hearing by
14 statute;

15 (f) Adopt development regulations which make preapplications
16 meetings optional rather than a requirement of permit application
17 submittal;

18 (g) Adopt development regulations which make housing types an
19 outright permitted use in all zones where the housing type is
20 permitted;

21 (h) Adopt a program to allow for outside professionals with
22 appropriate professional licenses to certify components of
23 applications consistent with their license; and

24 (i) Offer a meeting with the applicant to attempt to resolve
25 outstanding issues during the review process. The meeting shall be
26 scheduled within 14 days of a second request for corrections during
27 permit review. If the meeting cannot resolve the issues and a local
28 government proceeds with a third request for additional information
29 or corrections, the local government shall approve or deny the
30 application.

31 (2) Where measures in subsection (1) of this section have been
32 taken and permit timelines are not meeting those established in RCW
33 36.70B.080 at least 50 percent of the time, the city or county shall,
34 as part of the periodic update established in RCW 36.70A.130, adopt
35 new measures aimed at reducing permit timelines.

36 ~~((2))~~ (3) Nothing in this chapter is intended or shall be
37 construed to prevent a local government from requiring a
38 preapplication conference or a public meeting by rule, ordinance, or
39 resolution.

1 ~~((3))~~ (4) Each local government shall adopt procedures to
2 monitor and enforce permit decisions and conditions.

3 ~~((4))~~ (5) Nothing in this chapter modifies any independent
4 statutory authority for a government agency to appeal a project
5 permit issued by a local government.

6 (6) Technical assistance from the department of commerce should
7 focus on local governments that have implemented at least three of
8 the options in subsection (1) of this section.

9 (7) Technical assistance from the department of commerce must
10 include guidance to assist local governments in setting appropriate
11 fee structures to ensure that fees under subsection (1)(a) of this
12 section are both reasonable and sufficient to recover true costs,
13 including guidance on appropriate growth factors or other measures to
14 reflect cost increases over time.

15 NEW SECTION. **Sec. 9.** The department of commerce shall develop a
16 template for counties and cities subject to the requirements in RCW
17 36.70B.080, which will be utilized for reporting data. Counties and
18 cities subject to the requirements in RCW 36.70B.080 must begin
19 collecting data consistent with this section in 2024.

20 NEW SECTION. **Sec. 10.** Section 7 of this act takes effect
21 January 1, 2025.

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