
SENATE BILL 5473

State of Washington

68th Legislature

2023 Regular Session

By Senators Gildon, Lias, Mullet, MacEwen, Lovick, L. Wilson, Braun, Randall, Salomon, Shewmake, and Trudeau

Read first time 01/19/23. Referred to Committee on Local Government, Land Use & Tribal Affairs.

1 AN ACT Relating to project permit timelines; amending RCW
2 36.70B.020, 36.70B.070, 36.70B.080, 36.70B.140, and 36.70B.160; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Closed record appeal" means an administrative appeal on the
10 record to a local government body or officer, including the
11 legislative body, following an open record hearing on a project
12 permit application when the appeal is on the record with no or
13 limited new evidence or information allowed to be submitted and only
14 appeal argument allowed.

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

16 (3) "Open record hearing" means a hearing, conducted by a single
17 hearing body or officer authorized by the local government to conduct
18 such hearings, that creates the local government's record through
19 testimony and submission of evidence and information, under
20 procedures prescribed by the local government by ordinance or
21 resolution. An open record hearing may be held prior to a local

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

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

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

26 **Sec. 2.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
27 read as follows:

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

32 (b) The written determination must state either:

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

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

38 (c) The number of days shall be calculated by counting five days
39 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 36.70A.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. 3.** 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) When permit time frames for issuing a final decision are
34 not met as defined in subsection (1)(d) of this section or as
35 amendment by a local government, up to 20 percent of the permit fee
36 shall be refunded as provided for in this section. Alternatively, a
37 local government may collect 80 percent of the fee upfront and
38 collect the remaining balance if permit time frames are met.

1 (i) Ten percent of the permit fees shall be returned or
2 discounted when the established time frame is exceeded up to 20
3 percent.

4 (ii) Twenty percent of the permit fees shall be returned or
5 discounted when the established time frame is exceeded by more than
6 20 percent.

7 (b) The provisions in (a) of this subsection are not applicable
8 to cities and counties which have implemented at least three of the
9 options in RCW 36.70B.160(1) at the time an application is deemed
10 procedurally complete.

11 (3)(a) Counties subject to the requirements of RCW 36.70A.215 and
12 the cities within those counties that have populations of at least
13 ((twenty thousand)) 20,000 must, for each type of permit application,
14 identify the total number of project permit applications for which
15 decisions are issued according to the provisions of this chapter. For
16 each type of project permit application identified, these counties
17 and cities must establish and implement a deadline for issuing a
18 notice of final decision as required by subsection (1) of this
19 section and minimum requirements for applications to be deemed
20 complete under RCW 36.70B.070 as required by subsection (1) of this
21 section.

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

27 (i) Total number of complete applications received during the
28 year;

29 (ii) Number of complete applications received during the year for
30 which a notice of final decision was issued before the deadline
31 established under this subsection;

32 (iii) Number of applications received during the year for which a
33 notice of final decision was issued after the deadline established
34 under this subsection;

35 (iv) Number of applications received during the year for which an
36 extension of time was mutually agreed upon by the applicant and the
37 county or city;

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

1 ~~(vi) The mean processing time and the number standard deviation~~
2 ~~from the mean.~~

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

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

7 ~~(ii) Post electronic facsimiles of the annual performance reports~~
8 ~~through the county's or city's website. Postings on a county's or~~
9 ~~city's website indicating that the reports are available by~~
10 ~~contacting the appropriate county or city department or official do~~
11 ~~not comply with the requirements of this subsection.~~

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

16 ~~(3)) includes information outlining time frames for certain~~
17 ~~permit types associated with housing. The information collected is~~
18 ~~not intended to demonstrate the total time for a project to receive~~
19 ~~construction approval from a city or county. It will, however,~~
20 ~~provide:~~

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

23 ~~(ii) Ongoing information to those submitting permits, local~~
24 ~~governments, and the state regarding permit time frames associated~~
25 ~~with permit processes for housing;~~

26 ~~(iii) The total number of decisions issued during the year for~~
27 ~~the following permit types: Preliminary subdivisions, final~~
28 ~~subdivisions, binding site plans, permit processes associated with~~
29 ~~the approval of multifamily housing, and construction plan review for~~
30 ~~each of these permit types when submitted separately;~~

31 ~~(iv) The total number of decisions for each permit type which~~
32 ~~included consolidated project permit review, such as concurrent~~
33 ~~review of a rezone or construction plans;~~

34 ~~(v) The total number of days from a submittal to a decision being~~
35 ~~issued. This shall be calculated from the day completeness is~~
36 ~~determined under RCW 36.70B.070 to the date a decision is issued on~~
37 ~~the application. The number of days shall be calculated by counting~~
38 ~~five days per week, excluding holidays;~~

39 ~~(vi) The total number of days the application was in review with~~
40 ~~the county or city. This shall be calculated from the day~~

1 completeness is determined under RCW 36.70B.070 to the date a final
2 decision is issued on the application. The number of days shall be
3 calculated by counting five days per week, excluding holidays. The
4 days the application is in review with the county or city does not
5 include time periods between where the county or city has notified
6 the applicant, in writing, that additional information is required to
7 further process the application and when that information is
8 submitted by the applicant. Time periods shall also be stopped when
9 an applicant informs the local government, in writing, that they
10 would like to temporarily suspend review of the project permit
11 application; and

12 (vii) The total number of days the permit is the responsibility
13 of the applicant, including days the county or city is waiting for
14 additional information.

15 (c) Counties and cities subject to the requirements of this
16 subsection must:

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

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

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

28 (ii) The department of commerce shall develop a template for
29 counties and cities subject to these requirements, which will be
30 utilized for reporting data. The annual report published by the
31 department of commerce shall also include key metrics and findings
32 from the information collected.

33 (e) Annual reports must be submitted to the department of
34 commerce beginning in 2025. Counties and cities subject to these
35 requirements must begin collecting data consistent with this section
36 in 2024.

37 (f) A county or city subject to these requirements that does not
38 submit the annual performance report to the department of commerce by
39 March 1st each year is subject to the requirements of RCW
40 36.70A.130(7).

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

5 ~~((4) The department of community, trade, and economic
6 development shall work with the counties and cities to review the
7 potential implementation costs of the requirements of subsection (2)
8 of this section. The department, in cooperation with the local
9 governments, shall prepare a report summarizing the projected costs,
10 together with recommendations for state funding assistance for
11 implementation costs, and provide the report to the governor and
12 appropriate committees of the senate and house of representatives by
13 January 1, 2005.))~~

14 **Sec. 4.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
15 read as follows:

16 (1) A local government by ordinance or resolution may exclude the
17 following project permits from the provisions of RCW 36.70B.060
18 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark
19 designations, street vacations, or other approvals relating to the
20 use of public areas or facilities, or other project permits, whether
21 administrative or quasi-judicial, that the local government by
22 ordinance or resolution has determined present special circumstances
23 that warrant a review process or timelines for approval which are
24 different from that provided in RCW 36.70B.060 through 36.70B.090 and
25 36.70B.110 through 36.70B.130.

26 (2) A local government by ordinance or resolution also may
27 exclude the following project permits from the provisions of RCW
28 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary
29 adjustments and building and other construction permits, or similar
30 administrative approvals, categorically exempt from environmental
31 review under chapter 43.21C RCW, or for which environmental review
32 has been completed in connection with other project permits.

33 **Sec. 5.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to
34 read as follows:

35 (1) Each local government is encouraged to adopt further project
36 review and code provisions to provide prompt, coordinated review and
37 ensure accountability to applicants and the public, including
38 expedited review for project permit applications for projects that

1 are consistent with adopted development regulations (~~and within the~~
2 ~~capacity of systemwide infrastructure improvements~~), including:

3 (a) Collect reasonable fees, consistent with RCW 82.02.020, from
4 an applicant for a permit or other governmental approval to cover the
5 cost to the city, town, county, or other municipal corporation of
6 processing applications, inspecting and reviewing plans, or preparing
7 detailed statements required by chapter 43.21C RCW, including
8 reasonable fees that are consistent with RCW 43.21C.420(6),
9 43.21C.428, and, beginning July 1, 2024, RCW 35.91.020. The cost of
10 reasonable fees to process administrative appeals is not included in
11 this provision;

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

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

16 (d) Have new positions budgeted that are contingent on increased
17 permit revenue;

18 (e) Adopt development regulations which only require public
19 hearings for permit applications required to have a public hearing by
20 statute;

21 (f) Adopt development regulations which make preapplications
22 meetings optional rather than a requirement of permit application
23 submittal;

24 (g) Adopt development regulations which make housing types an
25 outright permitted use in all zones where the housing type is
26 permitted;

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

30 (i) Offer a meeting with the applicant to attempt to resolve
31 outstanding issues during the review process. The meeting shall be
32 scheduled within 14 days of a second request for corrections during
33 permit review. If the meeting cannot resolve the issues and a local
34 government proceeds with a third request for additional information
35 or corrections, the local government shall approve or deny the
36 application.

37 (2) Where measures in subsection (1) of this section have been
38 taken and permit timelines are not meeting those established in RCW
39 36.70B.080 at least 50 percent of the time, the city or county shall,
40 as part of the periodic update established in RCW 36.70A.130, adopt

1 new measures aimed at reducing permit timelines. If new measures are
2 not adopted, then RCW 36.70B.080(2)(a) (i) and (ii) shall apply. The
3 city or county shall average the timelines for permit applications
4 using years three through six after the last periodic update to
5 determine if additional measures must be taken.

6 ~~((2))~~ (3) Nothing in this chapter is intended or shall be
7 construed to prevent a local government from requiring a
8 preapplication conference or a public meeting by rule, ordinance, or
9 resolution.

10 ~~((3))~~ (4) Each local government shall adopt procedures to
11 monitor and enforce permit decisions and conditions.

12 ~~((4))~~ (5) Nothing in this chapter modifies any independent
13 statutory authority for a government agency to appeal a project
14 permit issued by a local government.

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

18 (7) Technical assistance must develop guidance to assist local
19 governments in setting appropriate fee structures to ensure that fees
20 under subsection (1)(a) of this section are both reasonable and
21 sufficient to recover true costs, including guidance on appropriate
22 growth factors or other measures to reflect cost increases over time.

23 NEW SECTION. Sec. 6. Section 3 of this act takes effect January
24 1, 2025.

--- END ---