



House of Representatives

General Assembly

File No. 458

January Session, 2009

Substitute House Bill No. 6586

House of Representatives, April 2, 2009

The Committee on Planning and Development reported through REP. SHARKEY of the 88th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EXPEDITED ECONOMIC DEVELOPMENT PERMIT APPLICATION TEAMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this
2 section:

3 (1) "Jobs" means permanent, full-time equivalent positions, not
4 including construction jobs;

5 (2) "Commissioner" means the Commissioner of Economic and
6 Community Development;

7 (3) "Permit applications" means applications for state permits and
8 licenses, and at the option of a participating municipality, local
9 development permits;

10 (4) "Regional planning organization" means a regional council of
11 governments organized under the provisions of sections 4-124i to 4-
12 124p, inclusive, of the general statutes, a regional council of elected

13 officials organized under the provisions of sections 4-124c to 4-124h,
14 inclusive, of the general statutes or a regional planning agency
15 organized under the provisions of chapter 127 of the general statutes;
16 and

17 (5) "Team" means an expedited action review team established
18 under this section.

19 (b) (1) The Commissioner of Economic and Community
20 Development shall establish teams for the purpose of expediting
21 review of permit applications for projects that (A) would create at least
22 one hundred jobs, (B) would create fifty jobs, if such project is to be
23 located in an enterprise zone designated pursuant to section 32-70 of
24 the general statutes, or (C) would be located in brownfields, as defined
25 in section 32-9cc of the general statutes. Projects ineligible for review
26 under this section are projects the primary purpose of which are to (i)
27 effect the final disposal of solid waste, biomedical waste or hazardous
28 waste in this state; (ii) produce electrical power, unless the production
29 of electricity is incidental and not the primary function of the project;
30 (iii) extract natural resources; (iv) produce oil; and (v) construct,
31 maintain, or operate an oil, petroleum, natural gas or sewage pipeline.

32 (2) Notwithstanding the provisions of subdivision (1) of this
33 subsection, a municipality, by resolution adopted by the legislative
34 body, may request the commissioner to establish an expedited action
35 review team for a project that would create a minimum of ten jobs. The
36 commissioner may establish a team upon consideration of economic
37 impact factors of the project that include, but are not limited to, the
38 following: (A) The proposed wage and skill levels relative to those
39 existing in the area in which the project may be located, (B) the
40 project's potential to diversify and strengthen the area's economy, (C)
41 the amount of capital investment, and (D) the number of jobs that will
42 be made available for persons served by the employment services
43 program established pursuant to section 17b-688c of the general
44 statutes.

45 (c) Each team shall be established by a memorandum of

46 understanding between (1) the Departments of Economic and
47 Community Development, Environmental Protection and
48 Transportation, (2) appropriate regional planning organizations, and
49 (3) voluntarily participating municipalities and other political
50 subdivisions. The memorandum of understanding may include
51 provisions for participation by federal agencies. The Commissioner of
52 Economic and Community Development, in cooperation with
53 municipalities and the Departments of Environmental Protection and
54 Transportation, shall develop a standard form for each memorandum
55 of understanding. A municipality shall conduct a public workshop to
56 review and explain to the public the expedited permitting process and
57 the terms and conditions of the standard form memorandum of
58 understanding.

59 (d) A municipality shall hold a public hearing prior to entering into
60 a memorandum of understanding for a qualified project.
61 Notwithstanding any other provision of law, and at the option of the
62 municipality, the workshop provided for in subsection (c) of this
63 section may be conducted on the same date and at the same place as
64 the public hearing held under this subsection. The memorandum of
65 understanding shall include a provision identifying necessary
66 municipal procedures and time limits that will be modified to allow
67 for the municipality to approve the project in not more than ninety
68 days after receipt of a completed permit application. The
69 memorandum of understanding shall state that the expedited
70 permitting and review process does not modify, qualify or otherwise
71 alter existing municipal nonprocedural standards for applications,
72 unless expressly provided.

73 (e) Each memorandum of understanding shall include a process for
74 final agency action on permit applications not more than ninety days
75 after receipt of a completed permit application, unless the applicant
76 agrees to a longer time period or the commissioner determines that
77 unforeseen or uncontrollable circumstances preclude final agency
78 action within such time frame. Permit applications subject to federally
79 delegated or approved permitting programs that would prohibit or be

80 inconsistent with the time frame established in this subsection are
81 exempt from the provisions of this subsection but shall be processed
82 by the agency operating the federally delegated or approved
83 permitting program as expeditiously as possible.

84 (f) The memorandum of understanding may provide for the waiver
85 or modification of procedural rules prescribing forms, fees, procedures
86 or time limits for the review or processing of permit applications under
87 the jurisdiction of those agencies that are party to the memorandum of
88 understanding. Notwithstanding any other provision of law, a
89 memorandum of understanding shall, to the extent feasible, provide
90 for proceedings and hearings otherwise held separately by the parties
91 to the memorandum of understanding to be combined into one
92 proceeding or held jointly and at one location. Such waivers or
93 modifications shall not be available for permit applications governed
94 by federally delegated or approved permitting programs, the
95 requirements of which would prohibit, or be inconsistent with, such
96 waivers or modifications.

97 (g) The memorandum of understanding shall include guidelines to
98 be used in working with state and municipal permitting authorities.
99 Guidelines may include, but are not limited to, the following: (1) A
100 central contact point for filing permit applications and local
101 comprehensive plan amendments and for obtaining information on
102 permit requirements; (2) identification of the individual or individuals
103 within each respective agency who shall be responsible for processing
104 the expedited permit application or local comprehensive plan
105 amendment for that agency; (3) a mandatory preapplication review
106 process to reduce permitting conflicts by providing guidance to
107 applicants on (A) the permits needed from each agency, (B)
108 specifications for site planning and development, site suitability and
109 limitations, facility design, and (C) steps the applicant can take to
110 ensure expeditious permit application and local comprehensive plan
111 amendment review; (4) preparation of a single, coordinated project
112 description form and checklist and an agreement by state and regional
113 agencies to reduce the necessity that an applicant provide duplicate

114 information to multiple agencies; and (5) additional incentives for an
115 applicant who proposes a project that provides a net ecosystem
116 benefit.

117 (h) The first team meeting to discuss a project shall be held not more
118 than fourteen days after the commissioner's determination that the
119 project is eligible for expedited review. Subsequent interagency
120 meetings may be scheduled to accommodate the needs of participating
121 local governments that are unable to meet public notice requirements
122 for executing a memorandum of understanding as provided in this
123 section, except that such meetings shall not be more than forty-five
124 days after the commissioner determines that the project is eligible for
125 expedited review.

126 (i) The applicant, the permit action team and participating
127 municipalities may agree to incorporate into a single document the
128 permits, licenses and approvals that are obtained through the
129 expedited permit process.

130 (j) The expedited permitting process established pursuant to this
131 section shall not modify, qualify or otherwise alter existing agency
132 nonprocedural standards for permit applications, unless expressly
133 authorized by law. If it is determined that the applicant is not eligible
134 to use this process, the applicant may apply for permitting of the
135 project through the normal permitting processes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

Statement of Legislative Commissioners:

Section 1(g)(3) was rewritten for clarity, provisions regarding the first team meeting were designated as Subsec. (h), and other changes were made for accuracy and consistency with the intent of the bill.

PD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Transportation	TF - Cost	715,000	715,000
Department of Economic & Community Development	GF - Cost	Potential Significant	Potential Significant
Department of Environmental Protection	EQ - Cost	Potential Significant	Potential Significant
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	See Below	See Below

Note: TF=Transportation Fund; GF=General Fund; EQ=Environmental Quality Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Cost	Potential	Potential

Explanation

The bill will result in a cost to the state and municipalities associated with establishing permit application teams for certain projects.

Implementing the permit application team process will result in an ongoing cost to the Department of Transportation (DOT) of \$896,825 in FY 10 and thereafter which consists of \$715,000 for 11 staff positions and \$181,825 for fringes. The table below presents the number and type of positions for each.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

<u>Department</u>	<u>Positions Required</u>	<u>Position Title</u>	<u>Salary² Each</u>
Planning	1	Transportation Planner 2	\$40,000
Traffic Engineering	4	Traffic Engineer 3	75,000
Maintenance	5	District Service Agent 2	60,000
State Traffic Commission	<u>1</u>	Transportation Engineer 3	75,000
	11		

²Midpoint between value for each grade.

Total Cost to DOT per Fiscal Year

<u>Department</u>	<u>Total Salary</u>	<u>Total Fringes</u>	<u>Total Cost</u>
Planning	\$40,000	\$10,172	\$50,172
Traffic Engineering	300,000	76,290	376,290
Maintenance	<u>75,000</u>	<u>19,073</u>	<u>94,073</u>
State Traffic Comm	\$715,000	\$181,825	\$896,825

The cost to the Department of Economic and Community Development (DECD) is associated with additional staff (annual salary of approximately \$50,200 and fringe benefits of 12,800 for Civil Engineers) to review such applications. Additional costs for legal assistance to prepare the required memorandum of understanding (MOU) would also be required (approximately \$3,500 per MOU). To the extent that numerous projects require review, additional expenses would be incurred.

The bill will result in a cost to the Environmental Quality fund of the Department of Environmental Protection (DEP) for an additional Environmental Analyst position plus related fringe benefits.² DEP would incur additional expenses to the extent that the bill increases the number of permit applications they would be required to review and expedite within a certain time allowance.

Municipalities could also incur expenses associated with participating on the permit application team and conducting public

workshops on the expedited permit review. The bill allows municipalities to request an expedited action review team for a project that would create a minimum of ten jobs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

² Fringe benefits for this fund are budgeted directly by the agency. The rate is about 29% in the first year and 59% in the second year.

OLR Bill Analysis

sHB 6586

***AN ACT CONCERNING EXPEDITED ECONOMIC DEVELOPMENT
PERMIT APPLICATION TEAMS.***

SUMMARY:

This bill creates a mechanism for expeditiously reviewing state and municipal permits required for projects (1) located on contaminated land or (2) that create a specified number of jobs. The mechanism is an interagency expedited action review team for issuing necessary permits and licenses within 90 days after the applications were filed.

The Department of Economic and Community Development (DECD) commissioner must convene the team for projects requiring state permits. She may also convene it for projects requiring municipal approval if the municipality asks her to do so. In these cases, the municipality must serve on the team and conduct public workshops and hearings on the expedited permitting process. Each agency on the team must act on the permit application within 90 days after receiving it.

The permitting agencies must coordinate their actions by entering into a memorandum of understanding (MOU) delineating how they will expedite the permits and licenses within the 90-day period. The bill specifies the MOU's content, which must include guidelines for working with the permitting agencies.

EFFECTIVE DATE: October 1, 2009

ELIGIBLE PROJECTS

The bill authorizes the DECD commissioner to convene the expedited action review team for projects requiring state and

municipal permits. The bill requires her to do so for projects requiring state permits and licenses if they would:

1. create at least 100 jobs,
2. create at least 50 jobs in one of the state's 17 enterprise zones, or
3. occur on abandoned or underused property that must be cleaned up before they can be redeveloped (i.e., brownfields).

But it excludes from expedited permitting any project that primarily:

1. disposes of solid, biomedical, or hazardous waste;
2. produces electricity;
3. extracts natural resources;
4. produces oil; or
5. constructs, maintains, or operates an oil, petroleum, natural gas, or sewage pipeline.

The commissioner may extend expedited permitting to projects requiring municipal permits if the municipality's legislative body adopts a resolution requesting it and the project creates at least 10 jobs. The commissioner may approve the request based on economic factors, including:

1. the proposed wage and skill levels relative to those in the area where the project is located,
2. the extent to which the project will diversify and strengthen the area's economy,
3. the amount of capital invested in the project, and
4. the number of jobs it will provide for Temporary Assistance For Needy Families recipients.

If the commissioner determines that a proposed project does not qualify for expedited permitting, the project's sponsor can apply for permits under the normal permitting procedures.

EXPEDITED ACTION REVIEW TEAM

The bill specifies the team's composition. The team must consist of the departments of Transportation, Environmental Protection, and Economic and Community Development and the regional planning organization for the area in which the project is located. It must also include a municipality or other political subdivision. The team may collaborate with federal agencies involved in the project.

If the commissioner approves a project for expedited permitting, the team must meet within 14 days of her decision. The team may schedule subsequent meetings to accommodate the needs of participating municipalities that cannot issue public notices of the MOU in time to comply with the 14-day rule. These meetings must be held within 45 days of the commissioner's decision.

MOU

90-Day Deadline

The bill requires the DECD commissioner to convene the team for each project based on a standard MOU, which she must develop in cooperation with other state participants and municipalities. The MOU must specify the process each agency will follow to act on a permit application within 90 days after receiving a completed application. But that expedited process cannot supersede any nonprocedural standards without explicit legal authorization.

The process cannot take longer than 90 days, unless the applicant agrees to a longer period or the DECD commissioner determines that unforeseen or uncontrollable circumstances prevent the agency from acting within that period. The bill exempts agencies from acting on permits within 90 days if doing so conflicts with federal requirements. In these cases, the agency must process the permit as expeditiously as possible.

If the MOU covers municipal permits, the MOU must identify the municipal procedures and timeframes that must be modified to process the permits within 90 days after the local permitting agency receives a completed application. The MOU must state that it does not affect nonprocedural standards for approving permits unless expressly provided.

Joint Hearings, Reviews, and Approvals

To the extent feasible, the MOU must allow the agencies to combine and jointly hear and act on permit applications at one location. The team and the applicant may incorporate the required permits, licenses, and approvals in one document.

Waivers

The MOU may allow the agencies to waive or modify procedural rules governing timeframes, forms, fees, procedures, and time limits for reviewing or processing applications. This option is not available if the agencies must comply with conflicting federal rules.

Guidelines

The MOU must contain guidelines for working with state and municipal permitting agencies. These guidelines may include:

1. a central contact point for obtaining permit information and completing permit applications and municipal comprehensive plan amendments,
2. a list of agency personnel responsible for processing these documents,
3. a single, coordinated project description form and checklist,
4. an agreement among state and regional agencies to reduce the need for duplicate information to multiple agencies,
5. incentives for projects providing a net ecosystem benefit (which the bill does not define), and

6. mandatory pre-application review processes for reducing potential conflicts.

The re-application review process must:

1. describe the permits an applicant needs for his or her project;
2. specify the requirements for (a) planning and developing a project on the site, (b) determining its limitations and suitability for a project, and (c) the standards for designing a facility on the site; and
3. steps the applicant can take to expedite the permit application and the local comprehensive plan amendment review.

MUNICIPAL WORKSHOPS AND HEARINGS

Municipalities participating in expedited reviews must hold public workshops and hearings on the process. The workshop must review the process and the standard MOU's terms and conditions.

The municipalities must also hold a hearing on a project's MOU before executing it. They may combine the hearing with the workshop and conduct both at the same date and place.

BACKGROUND

Related Bill

sHB 5821 (File 321) allows state-licensed engineers to certify that economic development projects comply with all state permitting requirements.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 18 Nay 0 (03/13/2009)