

FISCAL NOTE

November 9, 2021

Bill No:	HB 604	Printer's No:	1907	Sponsor:	Fritz
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COST / (SAVINGS)

Fund (s)	2021-22	2022-23
Federal Funds	See Fiscal Impact	See Fiscal Impact

SUMMARY: HB 604 institutes time limits on permit and plan approval applications.

ANALYSIS: HB 604 establishes that the Department of Environmental Protection (DEP) must rule on a general plan or general permit application within 45 days of the date the application is delivered to the department or within the time frame required by law.

An application is considered administratively complete if it contains the necessary information requested in the application, not necessarily if the information is sufficient to grant the application and disagreements between the applicant and department shall not make the application administratively incomplete. An application accompanied by an affidavit from a professional licensed by the commonwealth affirming the application is administratively complete shall be presumed to be administratively complete unless DEP rebuts the presumption by clear and convincing evidence.

An application determined by DEP to be administratively incomplete shall be returned to the applicant within 15 days of the date the application was filed with a written statement of the information necessary to complete the application.

A dispute of the administrative completeness of the application may be submitted by the applicant to a referee, three of which are chosen from a list compiled by the Environmental Hearing Board (who must compile such a list no later than three months following the effective date of this act). A referee must be a professional engineer, landscape architect, geologist or land surveyor, who has consented to serve as a referee. Applicants and DEP must both eliminate one referee and failure to do so within five days shall result in a ruling for the opposing side. The individual whose name remains on the list shall be the referee to decide the dispute. DEP must file a written response to the applicant's submission of the dispute within 10 days of the service of the submission dispute.

The referee's decision must be rendered without a hearing within 10 days of the filing of DEP's written response or within 20 days if DEP does not file a response. Failure of the referee to comply with the time requirements shall be deemed to be a ruling in favor of the applicant. These referee decisions are not appealable.

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DEP shall approve the plan or permit if environmental laws governing the subject are satisfied. Applications shall be deemed approved if DEP fails to comply with time requirements or if received with the professional engineer's affidavit.

This act shall take effect in 60 days.

FISCAL IMPACT: HB 604 does not allow for mandated public participation, eliminates technical review by the agency and does not allow for needed review time, or required permit conditions if the application is deemed approved. Each of these issues would be a direct violation of environmental laws administered by the commonwealth, as well as federal laws delegated to DEP for administration such as the federal Clean Air Act and the Clean Water Act. The bill would put DEP's delegated programs in jeopardy leading to the loss of significant federal money, including highway funding. This would be \$4.9 million for the Clean Air Act and \$1.73 billion in federal highway funds.