

SB0204S01 compared with SB0204

~~text~~ shows text that was in SB0204 but was deleted in SB0204S01.

inserted text shows text that was not in SB0204 but was inserted into SB0204S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Kirk A. Cullimore proposes the following substitute bill:

PERMITTING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to permitting.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a local entity or state agency to include certain information in a local or state permit application;
- ▶ requires a local entity or state agency to make a ~~final~~ determination on a permit application within a specified time and allows for certain extensions;
- ▶ provides that a permit application is deemed approved if a local entity or state agency fails to make a ~~final~~ determination within a specified time, unless certain conditions are met;

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- ▶ establishes certain requirements for a local permit that considers criteria related to health:
 - ▶ allows a permit applicant to challenge the denial of a local or state permit through an administrative appeal process and subsequent judicial review; and
 - ▶ provides exceptions for certain local and state permits.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-65-101, Utah Code Annotated 1953
11-65-102, Utah Code Annotated 1953
11-65-103, Utah Code Annotated 1953
11-65-201, Utah Code Annotated 1953
11-65-202, Utah Code Annotated 1953
63G-27-101, Utah Code Annotated 1953
63G-27-102, Utah Code Annotated 1953
63G-27-103, Utah Code Annotated 1953
63G-27-201, Utah Code Annotated 1953
63G-27-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-65-101** is enacted to read:

CHAPTER 65. LOCAL PERMITTING ACT

Part 1. General Provisions

11-65-101. Title.

This chapter is known as the "Local Permitting Act."

Section 2. Section **11-65-102** is enacted to read:

11-65-102. Definitions.

As used in this section:

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(1) "Applicant" means a person that submits an application for a local permit to a local entity.

(2) "Local entity" means a county, city, town, or metro township.

(3) (a) "Local permit" means ~~fa permit~~an objective administrative approval issued by a local entity when the local entity requires a ~~permit for a~~person to obtain the local entity's approval to engage in an activity within the local entity's jurisdiction.

(b) "Local permit" does not include:

(i) a building permit; ~~or~~

(ii) a land use permit issued under:

(A) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(B) Title 17, Chapter 27a, County Land Use, Development, and Management Act~~;~~

(iii) a negotiated contract;

(iv) a permit issued by a local entity on behalf or under the direction of a state agency as defined in Section 67-25-102, in accordance with a permitting process established in a written policy; or

(v) a permit issued by an airport operator, as defined in Section 72-10-102, for airport operations.

Section 3. Section **11-65-103** is enacted to read:

11-65-103. Applicability of chapter limited.

This chapter does not apply to a local permit if a specific permitting process for the local permit is established in another provision in the Utah Code.

Section 4. Section **11-65-201** is enacted to read:

Part 2. Local Permitting Requirements

11-65-201. Content of local permit application -- Local permitting process.

(1) (a) A local entity that requires a local permit shall include in the local permit application the criteria that the local entity uses to determine whether to grant the local permit to an applicant.

(b) The criteria described in Subsection (1)(a) shall be:

(i) in writing; and

(ii) stated in clear and unambiguous language.

(2) Subject to Subsections (3) and (4), within 30 days after the day on which an

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applicant submits a local permit application to a local entity, the local entity shall:

(a) make a {final} determination on the local permit application; and

(b) notify the applicant of the {final} determination.

(3) If a local permit requires the approval of a state or federal agency:

(a) Subsection (2) does not apply; and

(b) within 60 days after the day on which an applicant submits a local permit

application to a local entity, the local entity shall:

(i) make a {final} determination on the local permit application; and

(ii) notify the applicant of the {final} determination.

(4) (a) A local entity may extend the deadline described in Subsection (2) or (3) if:

(i) before the day of the deadline, the local entity provides written notice to the

applicant that an extension of time is needed, including:

(A) the reasons for needing the extension; and

(B) if the local entity needs additional information from the applicant, a description of

the additional information; or

(ii) the applicant requests an extension in writing.

(b) A local entity that provides written notice of an extension under Subsection

(4)(a)(i) shall make a {final} determination on the local permit application and notify the applicant regarding the {final} determination:

(i) within 30 days after the day on which the local entity provides written notice of the extension; or

(ii) if the local entity requests additional information under Subsection (4)(a)(i)(B), within 30 days after the day on which the applicant provides the additional information.

(5) If a local entity fails to make a {final} determination on a local permit application in accordance with Subsections (2) through (4), the local permit application is deemed approved unless:

(a) the local permit application submitted by the applicant is incomplete or otherwise deficient;

(b) the local entity provides written notice of the deficiency to the applicant before the day of the deadline; and

(c) the applicant fails to correct the deficiency within 30 days after the day on which

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the local entity provides written notice of the deficiency.

(6) If a local entity considers criteria related to health in issuing a local permit, the criteria may not be more restrictive than the criteria established by the local health department with jurisdiction over the area in which the local entity is located.

Section 5. Section **11-65-202** is enacted to read:

11-65-202. Appeals.

(1) (a) If a local entity denies an application for a local permit in accordance with Section 11-65-201, the local entity shall:

(i) notify the applicant in writing of the reasons for the denial; and

(ii) give the applicant an opportunity to challenge the denial through an administrative appeal process established by the local entity.

(b) Subsection (1)(a) does not apply to a denial under Subsection 11-65-201(5).

~~{ (2) The administrative appeal process described in Subsection (1)(a)(ii) shall substantially comply with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.~~

+ ~~{3}2~~ (2) An applicant that challenges the denial of a local permit through the administrative appeal process described in Subsection (1)(a)(ii) may bring an action in a court of competent jurisdiction for de novo review of the local entity's final decision.

Section 6. Section **63G-27-101** is enacted to read:

CHAPTER 27. STATE PERMITTING ACT

Part 1. General Provisions

63G-27-101. Title.

This chapter is known as the "State Permitting Act."

Section 7. Section **63G-27-102** is enacted to read:

63G-27-102. Definitions.

As used in this section:

(1) "Applicant" means a person that submits an application for a state permit to a state agency.

(2) "State agency" means the same as that term is defined in Section 67-25-102.

(3) (a) "State permit" means ~~{a permit}~~ an objective administrative approval issued by a state agency when the state agency requires a ~~{permit for a }~~ person to obtain the state agency's

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approval to engage in an activity within the state's jurisdiction.

(b) "State permit" does not include:

(i) a negotiated contract; or

(ii) a permit issued by an airport operator, as defined in Section 72-10-102, for airport operations.

Section 8. Section **63G-27-103** is enacted to read:

63G-27-103. Applicability of chapter limited.

This chapter does not apply to a state permit if a specific permitting process for the state permit is established:

(1) in another provision in the Utah Code;

(2) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(3) in a written policy adopted by the state agency that issues the state permit.

Section 9. Section **63G-27-201** is enacted to read:

Part 2. State Permitting Requirements

63G-27-201. Content of state permit application -- State permitting process.

(1) (a) A state agency that requires a state permit shall include in the state permit application the criteria that the state agency uses to determine whether to grant the state permit to an applicant.

(b) The criteria described in Subsection (1)(a) shall be:

(i) in writing; and

(ii) stated in clear and unambiguous language.

(2) Subject to Subsections (3) and (4), within 30 days after the day on which an applicant submits a state permit application to a state agency, the state agency shall:

(a) make a ~~final~~ determination on the state permit application; and

(b) notify the applicant of the ~~final~~ determination.

(3) If a state permit requires the approval of a state or federal agency:

(a) Subsection (2) does not apply; and

(b) within 60 days after the day on which an applicant submits a state permit application to a state agency, the state agency shall:

(i) make a ~~final~~ determination on the state permit application; and

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(ii) notify the applicant of the {final} determination.

(4) (a) A state agency may extend the deadline described in Subsection (2) or (3) if:

(i) before the day of the deadline, the state agency provides written notice to the applicant that an extension of time is needed, including:

(A) the reasons for needing the extension; and

(B) if the state agency needs additional information from the applicant, a description of the additional information; or

(ii) the applicant requests an extension in writing.

(b) A state agency that provides written notice of an extension under Subsection (4)(a)(i) shall make a {final} determination on the state permit application and notify the applicant regarding the {final} determination:

(i) within 30 days after the day on which the state agency provides written notice of the extension; or

(ii) if the state agency requests additional information under Subsection (4)(a)(i)(B), within 30 days after the day on which the applicant provides the additional information.

(5) If a state agency fails to make a {final} determination on a state permit application in accordance with Subsections (2) through (4), the state permit application is deemed approved unless:

(a) the state permit application submitted by the applicant is incomplete or otherwise deficient;

(b) the state agency provides written notice of the deficiency to the applicant before the day of the deadline; and

(c) the applicant fails to correct the deficiency within 30 days after the day on which the state agency provides written notice of the deficiency.

Section 10. Section **63G-27-202** is enacted to read:

63G-27-202. Appeals.

(1) (a) If a state agency denies an application for a state permit in accordance with Section 63G-27-201, the state agency shall:

(i) notify the applicant in writing of the reasons for the denial; and

(ii) give the applicant an opportunity to challenge the denial through an administrative appeal ~~{process established by the state agency}~~ under Title 63G, Chapter 4, Administrative

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Procedures Act.

(b) Subsection (1)(a) does not apply to a denial under Subsection ~~{63G-27-202}~~63G-27-201(5).

~~(2) The administrative appeal process described in Subsection (1)(a)(ii) shall substantially comply with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.~~

~~—————(3) An applicant that challenges the denial of a state permit through the administrative appeal process described in Subsection (1)(a)(ii) may bring an action in a court of competent jurisdiction for de novo review of the state agency's final decision.~~