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AB-955 Highways: encroachment permits: broadband facilities. (2021-2022)

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Assembly Bill No. 955

CHAPTER 670

An act to amend Section 671.5 of the Streets and Highways Code, relating to highways.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 955, Quirk. Highways: encroachment permits: broadband facilities.

Under existing law, the Department of Transportation may issue permits authorizing encroachments, as defined, on highways. Existing law requires the department to either approve or deny an application for an encroachment permit within 60 days of receiving a completed application. The department's failure to notify an applicant within that 60-day period that the permit is denied is deemed to constitute approval of the permit.

This bill would establish additional procedures for the department's review of an application for an encroachment permit for a broadband facility. Under the bill, these procedures would require the department, among other things, to notify an applicant in writing whether the application is complete within 30 days of receiving the application, to take certain actions if it deems an application incomplete, and to approve or deny an application that requires supplemental information within 30 days after receiving that information. If the department fails to notify the applicant that the application is incomplete within that 30-day time period, the bill would deem the department's failure to notify to constitute a finding that the permit application is complete.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 671.5 of the Streets and Highways Code is amended to read:

671.5. (a) The department shall either approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application, as determined by the department. An application for an encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), have been complied with. The department's failure to notify the applicant within that 60-day period that the permit is denied shall be deemed to constitute approval of the permit. Thereafter, upon notifying the department, the applicant may act in accordance with its permit application, as if the permit had been approved.

(b) All of the following shall apply to the department's review of an application for an encroachment permit for a broadband facility:

(1) The department shall specify in writing all permit application criteria. It is the intent of the Legislature to ensure a streamlined, predictable, and expeditious process by which the department reviews broadband facility permit applications in order to achieve the rapid deployment of broadband facilities on highways.

(2) Within 30 days after an application for an encroachment permit for a broadband facility is submitted, the department shall notify the applicant in writing whether the permit application is deemed complete. If the department does not notify the applicant within that 30-day period that the application is incomplete, the failure to notify shall be deemed to constitute a finding that the permit application is complete.

(3) If the department deems a permit application incomplete, the department shall do all of the following:

(A) At the time of notifying the applicant that the application is incomplete, furnish to the applicant a detailed explanation why the application is incomplete, with reference to the specific application criteria that the application does not meet.

(B) Identify all supplemental information necessary to complete the application.

(C) In a timely manner and no later than 14 days after a meeting is requested by the applicant, meet with the applicant to discuss any outstanding supplemental information necessary to complete the application. The department shall not be required to participate in more than three individual meetings with the applicant and shall not be required to meet in excess of four hours for each permit application.

(D) Provide the applicant with no less than 30 days to resubmit its application with the supplemental information that the department identified in the notice. The applicant's failure to respond with additional information during that period shall be deemed to constitute a withdrawal of the application.

(4) Within 30 days after receiving supplemental information from an applicant pursuant to paragraph (3), the department shall approve or deny the application.

(c) If the department denies an application for an encroachment permit, the department shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

(d) The department shall adopt regulations prescribing procedures for an applicant to appeal to the director for a final determination of the department's denial of an application. The appeal shall be made in writing to the director. There shall be a final written determination by the director within 60 calendar days after receipt of the applicant's written appeal. The adopted regulations shall require the appellant to pay to the department a fee of not more than 50 percent of the estimated administrative cost to the department of conducting the appeal.

(e) Nothing in this section precludes an applicant and the department from mutually agreeing to an extension of any time limit provided by this section.