

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H. F. 326

DATE: March 16, 2001

Version: First engrossment

Authors: Ozment

Subject: Deadline for agency action (“60-day rule”)

Analyst: Deborah A. Dyson, 651-296-8291

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

In 1995, the legislature enacted the requirement that an agency, including any local government, must approve or deny within 60 days a written request relating to zoning, permits, licenses, or other governmental approvals needed. The law states that failure to deny a request in the time allowed is approval of the request. It also requires written reasons for denial at the time of denial.

There have been a number of cases involving this statute. In a recent case, the court held that although the Duluth city council rejected a resolution to grant a zoning application, that did not equate to a denial of the application, and therefore the application was approved. *Demolition Landfill Services, LLC v. City of Duluth*, 609 N.W.2d 278 (Minn. App. 2000), *review denied*. The court also observed that the city did not provide written reasons for its denial at the time of the denial and the court found that this requirement is mandatory under the statute. Thus, the court held that absent a denial within the statutory time limit and simultaneous, written reasons for the denial, the request was approved. In another situation, a tie vote due to a person abstaining due to a conflict of interest was the problem.

This amendment clarifies what constitutes denial of a request by an agency with a multi-member governing body. It also allows the governing body to provide the written reasons for a denial at the next official meeting of the agency (as long as it is within the time for action under the statute) if the reasons are stated on the record at the time.

1 Definition. Adds a definition of "request" to mean a written request on forms provided by the agency. Requires the agency to publish and make the forms available upon request.

2 Deadline for response.

Provides that a tie vote due to a member abstaining due to a conflict of interest is a denial of a request and that no additional written reasons for the denial are required.

States that a motion to approve that fails is **not** denial. Provides that to deny a request, there

must be a motion or resolution to deny that is adopted.

Allows a multi-member governing body that has denied a request to provide the written reasons for denial at the time of the denial or for the multi-member governing body to state the reasons on the record at the time of the denial and provide the written reasons at the next official meeting but within the time allowed for a decision under this section (i.e., within the 60-day period, or within 120 days with an extension).

3 Effective date. Day after enactment.