HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 326 DATE: February 9, 2001

Version: Author's delete-everything amendment

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Subject: 60-day rule

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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.

Addressing the type of situation that occurred in the Duluth case, this bill clarifies what constitutes denial of a request by an agency with a multi-member governing body by stating that a motion or resolution to approve a request that fails is denial. It also allows the governing body to provide the written reasons for the denial at the next regular meeting of the body.

Section

1 Time deadline for agency action.

Subd. 1. Definitions. Adds a definition of "request" to require that it be in writing on forms provided by the agency. Requires the agency to publish and otherwise make the request forms available.

Subd. 2. Deadline for response. Clarifies what constitutes denial of a request by an agency with a multi-member governing body by stating that a motion or resolution to approve a request

that fails is denial. Requires the agency to state in the record the reasons for denial at the time of denial and allows an agency with a multi-member governing body to either provide the written reasons for denial at the time of the denial or at the next regular meeting of the agency's governing body. Requires written reasons provided at the next regular meeting to be consistent with the reasons stated in the record at the time of the denial.

Subd. 3. Application; extensions. Technical conforming changes.

2 **Effective date.** Day after enactment.