

2 SHB 2176 - S AMD TO GO COMM AMD (S5638.1) - 000361
3 By Senators Haugen and Winsley

4 ADOPTED 3/3/94

5 On page 9, beginning on line 37 of the amendment, strike all of
6 sections 16 and 17 and insert the following:

7 "**Sec. 16.** RCW 36.93.160 and 1988 c 202 s 40 are each amended to
8 read as follows:

9 (1) When the jurisdiction of the boundary review board has been
10 invoked, the board shall set the date, time and place for a public
11 hearing on the proposal. The board shall give at least thirty days'
12 advance written notice of the date, time and place of the hearing to
13 the governing body of each governmental unit having jurisdiction within
14 the boundaries of the territory proposed to be annexed, formed,
15 incorporated, disincorporated, dissolved or consolidated, or within the
16 boundaries of a special district whose assets and facilities are
17 proposed to be assumed by a city or town, and to the governing body of
18 each city within three miles of the exterior boundaries of ((~~such~~)) the
19 area and to the proponent of ((~~such~~)) the change. Notice shall also be
20 given by publication in any newspaper of general circulation in the
21 area of the proposed boundary change at least three times, the last
22 publication of which shall be not less than five days prior to the date
23 set for the public hearing. Notice shall also be posted in ten public
24 places in the area affected for five days when the area is ten acres or
25 more. When the area affected is less than ten acres, five notices
26 shall be posted in five public places for five days. Notice as
27 provided in this subsection shall include any territory which the board
28 has determined to consider adding in accordance with RCW 36.93.150(2).

29 (2) A verbatim record shall be made of all testimony presented at
30 the hearing and upon request and payment of the reasonable costs
31 thereof, a copy of the transcript of ((~~such~~)) the testimony shall be
32 provided to any person or governmental unit.

33 (3) The chairman upon majority vote of the board or a panel may
34 direct the chief clerk of the boundary review board to issue subpoenas
35 to any public officer to testify, and to compel the production by him
36 of any records, books, documents, public records or public papers.

1 (4) Within forty days after the conclusion of the final hearing on
2 the proposal, the board shall file its written decision, setting forth
3 the reasons therefor, with the board of county commissioners and the
4 clerk of each governmental unit directly affected. The written
5 decision shall indicate whether the proposed change is approved,
6 rejected or modified and, if modified, the terms of ~~((such))~~ the
7 modification. The written decision need not include specific data on
8 every factor required to be considered by the board, but shall indicate
9 that all standards were given consideration. Dissenting members of the
10 board shall have the right to have their written dissents included as
11 part of the decision.

12 (5) Unanimous decisions of the hearing panel or a decision of a
13 majority of the members of the board shall constitute the decision of
14 the board and shall not be appealable to the whole board. Any other
15 decision shall be appealable to the entire board within ten days.
16 Appeals shall be on the record, which shall be furnished by the
17 appellant, but the board may, in its sole discretion, permit the
18 introduction of additional evidence and argument. Decisions shall be
19 final and conclusive unless within ~~((ten))~~ thirty days from the date of
20 ~~((said))~~ the action a governmental unit affected by the decision or any
21 person owning real property or residing in the area affected by the
22 decision files in the superior court a notice of appeal.

23 The filing of ~~((such))~~ the notice of appeal within ~~((such))~~ the
24 time limit shall stay the effective date of the decision of the board
25 until such time as the appeal shall have been adjudicated or withdrawn.
26 On appeal the superior court shall not take any evidence other than
27 that contained in the record of the hearing before the board.

28 (6) The superior court may affirm the decision of the board or
29 remand the case for further proceedings; or it may reverse the decision
30 if any substantial rights may have been prejudiced because the
31 administrative findings, inferences, conclusions, or decisions are:

- 32 (a) In violation of constitutional provisions, or
- 33 (b) In excess of the statutory authority or jurisdiction of the
34 board, or
- 35 (c) Made upon unlawful procedure, or
- 36 (d) Affected by other error of law, or
- 37 (e) Unsupported by material and substantial evidence in view of the
38 entire record as submitted, or
- 39 (f) ~~((Arbitrary or capricious))~~ Clearly erroneous.

1 An aggrieved party may seek appellate review of any final judgment of
2 the superior court in the manner provided by law as in other civil
3 cases."

4 Renumber the remaining sections consecutively and correct any
5 internal references accordingly.

6 **SHB 2176** - S AMD TO GO COMM AMD (S5638.1) - 000361
7 By Senators Haugen and Winsley

8 ADOPTED 3/3/94

9 On page 14, line 34 of the title amendment, after "36.93.160,"
10 strike "36.70A.280,"

--- END ---