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**SUBSTITUTE HOUSE BILL 2217**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representatives Quall, Bray, Moak, Appelwick and Wolfe)

Read first time 02/04/94.

1 AN ACT Relating to affordable housing appeals; amending RCW  
2 36.70A.250 and 36.70A.280; adding new sections to chapter 36.70A RCW;  
3 and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.250 and 1991 sp.s. c 32 s 5 are each amended to  
6 read as follows:

7 (1) There are hereby created three growth planning hearings boards  
8 for the state of Washington. The boards shall be established as  
9 follows:

10 (a) An Eastern Washington board with jurisdictional boundaries  
11 including all counties that are required to or choose to plan under RCW  
12 36.70A.040 and are located east of the crest of the Cascade mountains;

13 (b) A Central Puget Sound board with jurisdictional boundaries  
14 including King, Pierce, Snohomish, and Kitsap counties; and

15 (c) A Western Washington board with jurisdictional boundaries  
16 including all counties that are required or choose to plan under RCW  
17 36.70A.040 and are located west of the crest of the Cascade mountains  
18 and are not included in the Central Puget Sound board jurisdictional  
19 boundaries. Skamania county, should it be required or choose to plan

1 under RCW 36.70A.040, may elect to be included within the  
2 jurisdictional boundaries of either the Western or Eastern board.

3 (2) Each board shall only hear matters pertaining to the cities and  
4 counties located within its jurisdictional boundaries.

5 (3) Each board shall also hear affordable housing appeals filed  
6 under section 3 of this act, in any city or county within its  
7 jurisdictional boundaries.

8 **Sec. 2.** RCW 36.70A.280 and 1991 sp.s. c 32 s 9 are each amended to  
9 read as follows:

10 (1) A growth planning hearings board shall hear and determine only  
11 those petitions alleging either: (a) That a state agency, county, or  
12 city is not in compliance with the requirements of this chapter, or  
13 chapter 43.21C RCW as it relates to plans, regulations, and amendments  
14 thereto, adopted under RCW 36.70A.040; ~~((or))~~ (b) that the twenty-year  
15 growth management planning population projections adopted by the office  
16 of financial management pursuant to RCW 43.62.035 should be adjusted;  
17 or (c) that a county or city has denied or placed excessive  
18 requirements on an application for the development of affordable  
19 housing, as defined in section 3 of this act.

20 (2) Except as provided in section 3 of this act, a petition may be  
21 filed only by the state, a county or city that plans under this  
22 chapter, a person who has either appeared before the county or city  
23 regarding the matter on which a review is being requested or is  
24 certified by the governor within sixty days of filing the request with  
25 the board, or a person qualified pursuant to RCW 34.05.530.

26 (3) For purposes of this section "person" means any individual,  
27 partnership, corporation, association, governmental subdivision or unit  
28 thereof, or public or private organization or entity of any character.

29 (4) When considering a possible adjustment to a growth management  
30 planning population projection prepared by the office of financial  
31 management, a board shall consider the implications of any such  
32 adjustment to the population forecast for the entire state.

33 The rationale for any adjustment that is adopted by a board must be  
34 documented and filed with the office of financial management within ten  
35 working days after adoption.

36 If adjusted by a board, a county growth management planning  
37 population projection shall only be used for the planning purposes set  
38 forth in this chapter and shall be known as a "board adjusted

1 population projection". None of these changes shall affect the  
2 official state and county population forecasts prepared by the office  
3 of financial management, which shall continue to be used for state  
4 budget and planning purposes.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW  
6 to read as follows:

7 (1) Whenever an application for any permit or approval relating to  
8 affordable housing filed under the provisions of chapters 35.63,  
9 35A.63, 36.70, and 58.17 RCW is denied, or is granted with such  
10 conditions and requirements as to make the building or operation of the  
11 housing infeasible, the applicant shall have the right to petition the  
12 appropriate growth planning hearings board for review of the decision.

13 (2) The petition shall be made within twenty days after the date of  
14 the city or county's notice of final decision by filing with the growth  
15 planning hearings board a statement of the prior proceedings and the  
16 reasons upon which the petition is based. The growth planning hearings  
17 board shall immediately notify the city or county that a petition for  
18 review has been filed. The city or county shall, within ten days of  
19 the receipt of the growth planning hearings board's notification,  
20 transmit a copy of its decision and the reasons to the growth planning  
21 hearings board.

22 (3) The petition shall be heard by the growth planning hearings  
23 board within forty-five days after receipt of the applicant's  
24 statement. The growth planning hearings board shall provide a written  
25 final order, based upon a majority vote, stating its findings of fact,  
26 and its conclusions and recommendations, within forty-five days after  
27 the termination of the hearing, unless the time has been extended by  
28 mutual agreement between the growth planning hearings board and the  
29 applicant. The growth planning hearings board's final order may be  
30 appealed in the state supreme court.

31 (4) The provisions of this section apply to any housing subsidized  
32 by the federal, state, or local government under a program designed to  
33 assist in the construction or rehabilitation of affordable housing that  
34 is built or operated by any organization eligible to receive assistance  
35 through the Washington housing trust fund created in chapter 43.185 RCW  
36 or any private developer.

37 (5) As used in this section and section 4 of this act, "affordable  
38 housing" means residential housing that is rented or owned by a person

1 who qualifies as a very low-income household, low-income household, or  
2 moderate-income household, or special needs population, as defined in  
3 applicable federal or state statutes, and whose monthly housing costs,  
4 including utilities other than telephone, do not exceed thirty percent  
5 of the household's monthly income.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW  
7 to read as follows:

8 (1) In hearing a petition filed under section 3 of this act, the  
9 growth planning hearings board shall determine if: (a) In the case of  
10 the denial of an application, the decision of the city or county was  
11 reasonable and consistent with local needs, or (b) in the case of an  
12 application with conditions and requirements imposed, if those  
13 conditions and requirements make construction or operation of the  
14 affordable housing infeasible and if they are consistent with local  
15 needs.

16 (2) The standards for reviewing the petition shall include, but are  
17 not limited to:

18 (a) The consistency of the decision to deny or condition the permit  
19 with the city or county's comprehensive plan;

20 (b) The consideration of the health and safety of existing  
21 residents;

22 (c) The extent to which the city or county applies local zoning  
23 ordinances and conditional use permits evenly on applications to  
24 develop subsidized and unsubsidized housing.

25 (3) If the growth planning hearings board finds, in the case of a  
26 denial, that the decision of the city or county was unreasonable and  
27 not consistent with local needs, it shall vacate the decision and shall  
28 issue a decision and final order approving the application. If the  
29 growth planning hearings board finds, in the case of an approval with  
30 conditions and requirements imposed, that the decision of the city or  
31 county makes the building or operation of the affordable housing  
32 infeasible, and is not consistent with local needs, it shall issue a  
33 decision and final order, modifying or removing any condition or  
34 requirement so as to make the proposal feasible, and approving the  
35 application. The growth planning hearings board shall not issue any  
36 decision and final order that would permit the building or operation of  
37 the housing that does not meet applicable federal, state, and local  
38 building and site plan requirements.

1 (4) Decisions or conditions and requirements made or imposed by a  
2 city or county that are consistent with local needs shall not be  
3 vacated, modified, or removed by the growth planning hearings board  
4 even if the decision or conditions and requirements have the effect of  
5 denying or making the applicant's proposal infeasible.

6 (5) The applicant shall have the power to enforce the final order  
7 of the growth planning hearings board by an action brought in the  
8 superior court of the county where the proposed affordable housing  
9 development is located. The city or county shall carry out the  
10 decision and final order of the growth planning hearings board within  
11 thirty days of its entry and, upon failure to do so, the decision and  
12 final order of the growth planning hearings board shall be deemed to be  
13 the action of the city or county, unless the applicant consents to a  
14 different decision and final order by the city or county.

15 (6) The decision and final order of the growth planning hearings  
16 board shall be binding on the city or county, which shall immediately  
17 issue any and all necessary permits and approvals to allow the  
18 construction and operation of the affordable housing as approved by the  
19 growth planning hearings board.

20 NEW SECTION. **Sec. 5.** This act shall take effect July 1, 1995.

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