
SENATE BILL 5051

State of Washington

55th Legislature

1997 Regular Session

By Senators McCaslin, Deccio, Anderson and Oke

Read first time 01/13/97. Referred to Committee on Government Operations.

1 AN ACT Relating to final orders and decisions by growth management
2 hearings boards; and amending RCW 36.70A.300 and 36.70A.330.

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

4 **Sec. 1.** RCW 36.70A.300 and 1995 c 347 s 110 are each amended to
5 read as follows:

6 (1) The board shall issue a final order within one hundred eighty
7 days of receipt of the petition for review, or, when multiple petitions
8 are filed, within one hundred eighty days of receipt of the last
9 petition that is consolidated. Such a final order shall be based
10 exclusively on whether or not a state agency, county, or city is in
11 compliance with the requirements of this chapter, chapter 90.58 RCW as
12 it relates to adoption or amendment of shoreline master programs, or
13 chapter 43.21C RCW as it relates to plans, development regulations, and
14 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.
15 In the final order, the board shall either: (a) Find that the state
16 agency, county, or city is in compliance with the requirements of this
17 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
18 of shoreline master programs; or (b) find that the state agency,
19 county, or city is not in compliance with the requirements of this

1 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
2 of shoreline master programs, in which case the board shall remand the
3 matter to the affected state agency, county, or city and specify a
4 reasonable time not in excess of one hundred eighty days within which
5 the state agency, county, or city shall comply with the requirements of
6 this chapter.

7 (2) A finding of noncompliance and an order of remand shall not
8 affect the validity of comprehensive plans and development regulations
9 during the period of remand, unless the board's final order also:

10 (a) Includes a determination, supported by findings of fact and
11 conclusions of law, that the continued validity of the plan or
12 regulation would substantially interfere with the fulfillment of the
13 goals of this chapter; and

14 (b) Specifies the particular part or parts of the plan or
15 regulation that are determined to be invalid, and the reasons for their
16 invalidity.

17 (3) A determination of invalidity shall:

18 (a) Be prospective in effect and shall not extinguish rights that
19 vested under state or local law before the date of the board's order;
20 and

21 (b) Subject any development application that would otherwise vest
22 after the date of the board's order to the local ordinance or
23 resolution that both is enacted in response to the order of remand and
24 determined by the board pursuant to RCW 36.70A.330 to comply with the
25 requirements of this chapter.

26 (4) If the ordinance that adopts a plan or development regulation
27 under this chapter includes a savings clause intended to revive prior
28 policies or regulations in the event the new plan or regulations are
29 determined to be invalid, the board shall determine under subsection
30 (2) of this section whether the prior policies or regulations are valid
31 during the period of remand.

32 (5) If a growth management hearings board determines in its final
33 order that a county or city plan or development regulation is invalid,
34 the county or city legislative body may review the board's decision
35 within thirty days. The legislative authority of the county or city
36 adopting or amending the plan or development regulation may, by
37 majority vote, overrule the board's final order and implement the plan
38 or development regulation. Any party aggrieved by a final decision of
39 the hearings board may appeal the decision to superior court as

1 provided in RCW 34.05.514 or 36.01.050 within (~~thirty~~) sixty days of
2 the final order of the board.

3 **Sec. 2.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to
4 read as follows:

5 (1) After the time set for complying with the requirements of this
6 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time
7 upon the motion of a county or city subject to a determination of
8 invalidity under RCW 36.70A.300, which county or city legislative
9 authority has not overruled the growth management hearings board's
10 final order under RCW 36.70A.300(5), the board shall set a hearing for
11 the purpose of determining whether the state agency, county, or city is
12 in compliance with the requirements of this chapter.

13 (2) The board shall conduct a hearing and issue a finding of
14 compliance or noncompliance with the requirements of this chapter. A
15 person with standing to challenge the legislation enacted in response
16 to the board's final order may participate in the hearing along with
17 the petitioner and the state agency, city, or county. A hearing under
18 this subsection shall be given the highest priority of business to be
19 conducted by the board, and a finding shall be issued within forty-five
20 days of the filing of the motion under subsection (1) of this section
21 with the board.

22 (3) If the board finds that the state agency, county, or city is
23 not in compliance, the board shall transmit its finding to the
24 governor. The board may recommend to the governor that the sanctions
25 authorized by this chapter be imposed.

26 (4) The board shall also reconsider its final order and decide:

27 (a) If a determination of invalidity has been made, whether such a
28 determination should be rescinded or modified under the standards in
29 RCW 36.70A.300(2); or

30 (b) If no determination of invalidity has been made, whether one
31 now should be made under the standards in RCW 36.70A.300(2).

32 The board shall schedule additional hearings as appropriate
33 pursuant to subsections (1) and (2) of this section.

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