
HOUSE BILL 2928

State of Washington 56th Legislature 2000 Regular Session

By Representatives Doumit, Scott and Mulliken

Read first time 01/24/2000. Referred to Committee on Local Government.

1 AN ACT Relating to appeals under the shoreline management act; and
2 amending RCW 90.58.190.

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

4 **Sec. 1.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to
5 read as follows:

6 (1) The appeal of the department s decision to adopt a master
7 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(4) is
8 governed by RCW 34.05.510 through 34.05.598.

9 (2)(a) The department's decision to approve, reject, or modify a
10 proposed master program or amendment adopted by a local government
11 planning under RCW 36.70A.040 shall be appealed to the growth
12 management hearings board with jurisdiction over the local government.
13 The appeal shall be initiated by filing a petition as provided in RCW
14 36.70A.250 through 36.70A.320.

15 (b) If the appeal to the growth management hearings board concerns
16 shorelines, the growth management hearings board shall review the
17 proposed master program or amendment for compliance with the
18 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
19 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it

1 relates to the adoption of master programs and amendments under chapter
2 90.58 RCW.

3 (c) If the appeal to the growth management hearings board concerns
4 a shoreline of state-wide significance, the board shall uphold the
5 decision by the department unless the board, by clear and convincing
6 evidence, determines that the decision of the department is
7 inconsistent with the requirements of this chapter or chapter 36.70A
8 RCW, the policy of RCW 90.58.020 and the applicable guidelines, or
9 chapter 43.21C RCW as it relates to the adoption of master programs and
10 amendments under chapter 90.58 RCW.

11 (d) The appellant has the burden of proof in all appeals to the
12 growth management hearings board under this subsection.

13 (e) Any party aggrieved by a final decision of a growth management
14 hearings board under this subsection may appeal the decision to
15 superior court as provided in RCW 36.70A.300.

16 (3)(a) The department's decision to approve, reject, or modify a
17 proposed master program or master program amendment by a local
18 government not planning under RCW 36.70A.040 shall be appealed to the
19 shorelines hearings board by filing a petition within thirty days of
20 the date of the department's written notice to the local government of
21 the department's decision to approve, reject, or modify a proposed
22 master program or master program amendment as provided in RCW
23 90.58.090(2).

24 (b) In an appeal relating to shorelines, the shorelines hearings
25 board shall review the proposed master program or master program
26 amendment (~~((and, after full consideration of the presentations of the~~
27 ~~local government and the department, shall determine the validity of~~
28 ~~the local government's master program or amendment in light of))~~ for
29 compliance with the requirements of this chapter, the policy of RCW
30 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
31 relates to the adoption of master programs and amendments under chapter
32 90.58 RCW.

33 (c) In an appeal relating to shorelines of state-wide significance,
34 the shorelines hearings board shall uphold the decision by the
35 department unless the board determines, by clear and convincing
36 evidence that the decision of the department is inconsistent with the
37 requirements of this chapter, the policy of RCW 90.58.020 and the
38 applicable guidelines, or chapter 43.21C RCW as it relates to the
39 adoption of master programs and amendments under chapter 90.58 RCW.

1 (d) Review by the shorelines hearings board shall be considered an
2 adjudicative proceeding under chapter 34.05 RCW, the Administrative
3 Procedure Act. The (~~aggrieved local government~~) appellant shall have
4 the burden of proof in all such reviews. The board shall fully
5 consider the presentations of the local government and the department
6 in making its determinations.

7 (e) Whenever possible, the review by the shorelines hearings board
8 shall be heard within the county where the land subject to the proposed
9 master program or master program amendment is primarily located. (~~The~~
10 ~~department and any local government~~) Any party aggrieved by a final
11 decision of the hearings board may appeal the decision to superior
12 court as provided in chapter 34.05 RCW.

13 (4) A master program amendment shall become effective after the
14 approval of the department or after the decision of the shorelines
15 hearings board to uphold the master program or master program
16 amendment, provided that the board may remand the master program or
17 master program adjustment to the local government or the department for
18 modification prior to the final adoption of the master program or
19 master program amendment.

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