
HOUSE BILL 1473

State of Washington

57th Legislature

2001 Regular Session

By Representatives Mulliken, McMorris, Mielke and Boldt

Read first time 01/26/2001. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to eliminating the authority of the growth
2 management hearings boards to invalidate local plans and
3 regulations; amending RCW 36.70A.140, 36.70A.300, 36.70A.320, and
4 36.70A.330; creating a new section; repealing RCW 36.70A.302,
5 36.70A.305, and 36.70A.335; providing an effective date; and
6 declaring an emergency.

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

8 **Sec. 1.** RCW 36.70A.140 and 1995 c 347 s 107 are each amended to
9 read as follows:

10 Each county and city that is required or chooses to plan under
11 RCW 36.70A.040 shall establish and broadly disseminate to the
12 public a public participation program identifying procedures
13 providing for early and continuous public participation in the
14 development and amendment of comprehensive land use plans and
15 development regulations implementing such plans. The procedures
16 shall provide for broad dissemination of proposals and
17 alternatives, opportunity for written comments, public meetings
18 after effective notice, provision for open discussion,

1 communication programs, information services, and consideration of
2 and response to public comments. (~~In enacting legislation in
3 response to the board's decision pursuant to RCW 36.70A.300
4 declaring part or all of a comprehensive plan or development
5 regulation invalid, the county or city shall provide for public
6 participation that is appropriate and effective under the
7 circumstances presented by the board's order.~~) Errors in exact
8 compliance with the established program and procedures shall not
9 render the comprehensive land use plan or development regulations
10 invalid if the spirit of the program and procedures is observed.

11 **Sec. 2.** RCW 36.70A.300 and 1997 c 429 s 14 are each amended to
12 read as follows:

13 (1) The board shall issue a final order that shall be based
14 exclusively on whether or not a state agency, county, or city is
15 in compliance with the requirements of this chapter, chapter 90.58
16 RCW as it relates to adoption or amendment of shoreline master
17 programs, or chapter 43.21C RCW as it relates to adoption of
18 plans, development regulations, and amendments thereto, under RCW
19 36.70A.040 or chapter 90.58 RCW.

20 (2)(a) Except as provided in (b) of this subsection, the final
21 order shall be issued within one hundred eighty days of receipt of
22 the petition for review, or, if multiple petitions are filed,
23 within one hundred eighty days of receipt of the last petition
24 that is consolidated.

25 (b) The board may extend the period of time for issuing a
26 decision to enable the parties to settle the dispute if additional
27 time is necessary to achieve a settlement, and (i) an extension is
28 requested by all parties, or (ii) an extension is requested by the
29 petitioner and respondent and the board determines that a
30 negotiated settlement between the remaining parties could resolve
31 significant issues in dispute. The request must be filed with the
32 board not later than seven days before the date scheduled for the
33 hearing on the merits of the petition. The board may authorize one
34 or more extensions for up to ninety days each, subject to the
35 requirements of this section.

36 (3) In the final order, the board shall either:

37 (a) Find that the state agency, county, or city is in

1 compliance with the requirements of this chapter, chapter 90.58
2 RCW as it relates to the adoption or amendment of shoreline master
3 programs, or chapter 43.21C RCW as it relates to adoption of
4 plans, development regulations, and amendments thereto, under RCW
5 36.70A.040 or chapter 90.58 RCW; or

6 (b) Find that the state agency, county, or city is not in
7 compliance with the requirements of this chapter, chapter 90.58
8 RCW as it relates to the adoption or amendment of shoreline master
9 programs, or chapter 43.21C RCW as it relates to adoption of
10 plans, development regulations, and amendments thereto, under RCW
11 36.70A.040 or chapter 90.58 RCW, in which case the board shall
12 remand the matter to the affected state agency, county, or city.
13 The board shall specify a reasonable time not in excess of one
14 hundred eighty days, or such longer period as determined by the
15 board in cases of unusual scope or complexity, within which the
16 state agency, county, or city shall comply with the requirements
17 of this chapter. The board may require periodic reports to the
18 board on the progress the jurisdiction is making towards
19 compliance.

20 (4) (~~Unless the board makes a determination of invalidity as~~
21 ~~provided in RCW 36.70A.302,~~) A finding of noncompliance and an
22 order of remand shall not affect the validity of comprehensive
23 plans and development regulations during the period of remand.

24 (5) Any party aggrieved by a final decision of the hearings
25 board may appeal the decision to superior court as provided in RCW
26 34.05.514 or 36.01.050 within thirty days of the final order of
27 the board.

28 **Sec. 3.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to
29 read as follows:

30 (1) Except as provided in subsection (~~(5)~~) (4) of this
31 section, comprehensive plans and development regulations, and
32 amendments thereto, adopted under this chapter are presumed valid
33 upon adoption.

34 (2) (~~Except as otherwise provided in subsection (4) of this~~
35 ~~section,~~) The burden is on the petitioner to demonstrate that any
36 action taken by a state agency, county, or city under this chapter
37 is not in compliance with the requirements of this chapter.

1 (3) In any petition under this chapter, the board, after full
2 consideration of the petition, shall determine whether there is
3 compliance with the requirements of this chapter. In making its
4 determination, the board shall consider the criteria adopted by
5 the department under RCW 36.70A.190(4). The board shall find
6 compliance unless it determines that the action by the state
7 agency, county, or city is clearly erroneous in view of the entire
8 record before the board and in light of the goals and requirements
9 of this chapter.

10 (4) (~~(A county or city subject to a determination of invalidity~~
11 ~~made under RCW 36.70A.300 or 36.70A.302 has the burden of~~
12 ~~demonstrating that the ordinance or resolution it has enacted in~~
13 ~~response to the determination of invalidity will no longer~~
14 ~~substantially interfere with the fulfillment of the goals of this~~
15 ~~chapter under the standard in RCW 36.70A.302(1).~~

16 (5)) The shoreline element of a comprehensive plan and the
17 applicable development regulations adopted by a county or city
18 shall take effect as provided in chapter 90.58 RCW.

19 **Sec. 4.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to
20 read as follows:

21 (1) After the time set for complying with the requirements of
22 this chapter under RCW 36.70A.300(3)(b) has expired, (~~or at an~~
23 ~~earlier time upon the motion of a county or city subject to a~~
24 ~~determination of invalidity under RCW 36.70A.300,~~) the board
25 shall set a hearing for the purpose of determining whether the
26 state agency, county, or city is in compliance with the
27 requirements of this chapter.

28 (2) The board shall conduct a hearing and issue a finding of
29 compliance or noncompliance with the requirements of this chapter
30 and with any compliance schedule established by the board in its
31 final order. A person with standing to challenge the legislation
32 enacted in response to the board's final order may participate in
33 the hearing along with the petitioner and the state agency,
34 county, or city. A hearing under this subsection shall be given the
35 highest priority of business to be conducted by the board, and a
36 finding shall be issued within forty-five days of the filing of
37 the motion under subsection (1) of this section with the board.

1 The board shall issue any order necessary to make adjustments to
2 the compliance schedule and set additional hearings as provided in
3 subsection ~~((5))~~ (4) of this section.

4 (3) If the board after a compliance hearing finds that the
5 state agency, county, or city is not in compliance, the board
6 shall transmit its finding to the governor. The board may recommend
7 to the governor that the sanctions authorized by this chapter be
8 imposed. The board shall take into consideration the county's or
9 city's efforts to meet its compliance schedule in making the
10 decision to recommend sanctions to the governor.

11 ~~((4) ((In a compliance hearing upon petition of a party, the
12 board shall also reconsider its final order and decide, if no
13 determination of invalidity has been made, whether one now should
14 be made under RCW 36.70A.302.~~

15 ~~(5))~~ The board shall schedule additional hearings as
16 appropriate pursuant to subsections (1) and (2) of this section.

17 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
18 repealed:

19 (1) RCW 36.70A.302 (Determination of invalidity--Vesting of
20 development permits--Interim controls) and 1997 c 429 s 16;

21 (2) RCW 36.70A.305 (Expedited review) and 1996 c 325 s 4; and

22 (3) RCW 36.70A.335 (Order of invalidity issued before July 27,
23 1997) and 1997 c 429 s 22.

24 NEW SECTION. **Sec. 6.** This act applies to all petitions for
25 review filed with the growth management hearings boards on or
26 after July 1, 2001.

27 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of
29 the state government and its existing public institutions, and
30 takes effect July 1, 2001.

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