

SENATE BILL REPORT

SB 5354

As Reported By Senate Committee On:
Land Use & Planning, January 30, 2003

Title: An act relating to the deference due cities and counties in growth management planning matters before hearings boards, and superior and appellate courts; amending RCW 36.70A.020, 36.70A.060, 36.70A.172, and 36.70A.320; and adding a new section to chapter 36.70A RCW.

Brief Description: Requiring deference to county and city decisions and decision processes in any appeals before the growth management hearings boards or superior and appellate courts, and establishing for the growth management hearings boards a standard of review for county and city decisions of arbitrary and capricious.

Sponsors: Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Mulliken, Hargrove, Horn and Stevens.

Brief History:

Committee Activity: Land Use & Planning: 1/30/03 [DP, DNP].

SENATE COMMITTEE ON LAND USE & PLANNING

Majority Report: Do pass.

Signed by Senators Mulliken, Chair; McCaslin, Morton and T. Sheldon.

Minority Report: Do not pass.

Signed by Senator Kline.

Staff: Tim Watterson (786-7441)

Background: Growth management hearings boards and courts review comprehensive plans and development regulations of counties and cities that plan under the Growth Management Act for compliance with statutory goals and requirements. Plans and regulations are presumed valid upon adoption; the burden is on the petitioner to the board to demonstrate that a plan or regulation is not in compliance. In 1997, the Legislature established a standard of review for the hearings boards that a board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of the statute.

Summary of Bill: Counties and cities are provided discretion to prioritize and balance the goals and requirements of the statute. Deference must be given to the local decision-making process over state agency studies, guidelines, model ordinances, materials, or planning guidance. A growth management hearings board shall find compliance with the statute unless it determines that the action by the state agency, county, or city is arbitrary and capricious in view of the entire record before the board and in light of the goals and requirements of the statute.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Growth Management Act (GMA) was intended as a "bottoms up" process, but boards do not grant deference to local government planning decisions properly adopted. Even GMA advocates feel boards are not respecting local decisionmaking. There is a lack of credibility in and a paralyzing effect of board decisions. Boards are creating new GMA goals. Appeals cost local governments too much in defending their actions. The bill will require deference to local decisions.

Testimony Against: Boards protect housing for children and the disabled. If a county and city are opposing parties before a board, which should receive deference?

Testified: PRO: Senator Haugen, sponsor; Chris Cheney, Western Washington Agriculture Association, Dairy Federation, Cattlemen's Association; Eric Johnson, Washington Public Ports Association; Dan Wood, Washington Farm Bureau; Darcie Nielsen, San Juan County; Kris Tefft, BIAW; Jim Halstrom, Washington Horticulture Association; Scott Merriman, Association of Counties; Dan Titterness, Jefferson County BOCC; Perry Huston, Kittitas County BOCC.