
Local Government Committee

HB 2282

Brief Description: Eliminating the growth management hearings board.

Sponsors: Representatives Angel, Haler, Rodne, Buys, McCune and Overstreet.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Eliminates the Growth Management Hearings Board.• Requires superior courts to review and hear petitions arising under the Growth Management Act and certain provisions of the Shoreline Management Act.
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Hearing Date: 1/18/12

Staff: Kelly Pfundheller (786-7289).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, fully plan under the GMA.

The GMA establishes a list of planning goals to be used exclusively for guiding the development and adoption of comprehensive plans and development regulations by planning jurisdictions. A principal compliance requirement is the adoption of internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Each comprehensive plan must include planning provisions for specific mandatory "elements" such as land use, housing, utilities, and transportation.

Each county planning under the major requirements of the GMA must designate urban growth areas within which urban growth must be encouraged and outside of which urban growth is

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prohibited. Planning jurisdictions must also adopt development regulations that control development or land use activities. Locally adopted, these development regulations must be consistent with, and implement the comprehensive plan of, the adopting jurisdiction.

Growth Management Hearings Board.

Comprehensive plans and development regulations are presumed valid upon adoption. However, issues relating to GMA plans and regulations may be appealed to the Growth Management Hearings Board (Board). The Board also hears appeals regarding related provisions of the Shoreline Management Act (SMA) and the State Environmental Policy Act (SEPA).

The Board, which is situated within the Environmental and Land use Hearings Office, is comprised of three panels for the purposes of hearing and deciding cases within the following regions: central Puget Sound; eastern Washington; and Western Washington. The Board consists of seven members qualified by experience or training in matters pertaining to land use law or land use planning. The Governor may reduce the Board to six members if warranted by caseload. All Board members are appointed for six-year terms, with two each residing in the geographic regions of the panels, three admitted to practice law, and at least three to have been a city or county elected official. Additionally, no more than four members of the Board may be from the same political party. The Board must develop, adopt, and comply with administrative rules of practice and procedure.

Any Board member may be removed from office for inefficiency, malfeasance or misfeasance, pursuant to procedures initiated by written charges being filed by the Governor.

Review of Petitions by the Growth Management Hearings Board.

The Board has limited jurisdiction and may only hear and determine petitions alleging that a state agency or local government planning under the GMA is noncompliant with the GMA, specific provisions of the SMA relating to the adoption of master programs, or certain mandates of the SEPA relating to qualifying plans, regulations, or amendments; or that the 20-year planning populations adopted by the Office of Financial Management should be adjusted.

Requests for review by the Board must be initiated through the filing of a petition that includes a detailed statement of the issues presented to the Board for resolution. A petition may be filed only by certain qualifying parties, which are listed in statute.

The Board may find compliance or remand for plans or regulations to be brought into compliance. The Board may also invalidate plans or regulations that substantially interfere with the goals and requirements of the GMA. Upon receipt of the Board's finding that a state agency or planning jurisdiction remains noncompliant after a period of remand, the Governor may impose financial penalties in the form of reducing or withholding appropriations or revenues to which the agency or local government is otherwise entitled.

Final decisions of the Board may be appealed to superior court. If all parties agree, the superior court may directly review a petition filed with the Board.

Summary of Bill:

Elimination of the Growth Management Hearings Board.

The Board is prohibited from accepting any new petitions after the effective date of the bill. The Board must issue a final order or order of dismissal without prejudice in all of its cases on or before June 30, 2012. The Board is required to apply certain statutory provisions in effect on January 1, 2012 when reviewing petitions.

The Board is abolished on July 1, 2012.

Review by Superior Courts.

Superior courts must hear and determine petitions alleging that a state agency or planning jurisdiction is noncompliant with the GMA or certain provisions of the SMA relating to the adoption of master programs. A petition may be filed only by the state, or local government planning under the GMA, or a person qualified pursuant to the standing requirements in the Administrative Procedures Act.

Timelines for filing petitions are established. With respect to reviewing petitions that were previously heard before the Board, a superior court is not permitted to review petitions that were remanded by the Board and not subsequently reviewed after remand.

If a court finds that a state agency or planning jurisdiction is noncompliant, the court must remand the matter for plans or regulations to be brought into compliance. A court also may invalidate plans or regulations. Upon receipt of a court's finding that a state agency or planning jurisdiction remains noncompliant after a period of remand, the Governor may impose financial penalties in the form of reducing or withholding appropriations or revenues to which the agency or local government is otherwise entitled.

Appropriation: None.

Fiscal Note: Requested on January 17, 2012.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 13, 14, and 16 relating to abolishing the Board and repealing statutory provisions governing the Board, which take effect July 1, 2012.