
HOUSE BILL 2671

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Takko and Fitzgibbon; by request of Department of Ecology

Read first time 01/24/12. Referred to Committee on Local Government.

1 AN ACT Relating to clarifying procedures for appealing department
2 of ecology final action on a local shoreline master program by ensuring
3 consistency with existing procedural provisions of the growth
4 management act, chapter 36.70A RCW, the administrative procedure act,
5 chapter 34.05 RCW, and the state environmental policy act, chapter
6 43.21C RCW; and amending RCW 90.58.190.

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

8 **Sec. 1.** RCW 90.58.190 and 2011 c 277 s 5 are each amended to read
9 as follows:

10 (1) The appeal of the department's decision to adopt a master
11 program or amendment by rule pursuant to RCW 90.58.070(2) or
12 90.58.090(5) is governed by RCW 34.05.510 through 34.05.598.

13 (2)(a) The department's final decision to approve or reject a
14 proposed master program or master program amendment by a local
15 government planning under RCW 36.70A.040 shall be appealed to the
16 growth management hearings board by filing a petition as provided in
17 RCW 36.70A.290.

18 (b) If the appeal to the growth management hearings board concerns
19 shorelines, the growth management hearings board shall review the

1 proposed master program or amendment solely for compliance with the
2 requirements of this chapter, the policy of RCW 90.58.020 and the
3 applicable guidelines, the internal consistency provisions of RCW
4 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
5 43.21C RCW as it relates to the adoption of master programs and
6 amendments under chapter 90.58 RCW.

7 (c) If the appeal to the growth management hearings board concerns
8 a shoreline of statewide significance, the board shall uphold the
9 decision by the department unless the board, by clear and convincing
10 evidence, determines that the decision of the department is
11 (~~inconsistent~~) noncompliant with the policy of RCW 90.58.020 (~~and~~)
12 or the applicable guidelines, or chapter 43.21C RCW as it relates to
13 the adoption of master programs and amendments under this chapter.

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

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

19 (3)(a) The department's final decision to approve or reject a
20 proposed master program or master program amendment by a local
21 government not planning under RCW 36.70A.040 shall be appealed to the
22 shorelines hearings board by filing a petition within thirty days of
23 the date that the department publishes notice of its final decision
24 under RCW 90.58.090(8).

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

33 (c) In an appeal relating to shorelines of statewide 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~~)
37 noncompliant with the policy of RCW 90.58.020 (~~and~~) or the applicable

1 guidelines, or chapter 43.21C RCW as it relates to the adoption of
2 master programs and amendments under this chapter.

3 (d) Review by the shorelines hearings board shall be considered an
4 adjudicative proceeding under chapter 34.05 RCW, the administrative
5 procedure act. The ((~~aggrieved local government~~)) appellant shall have
6 the burden of proof in all such reviews.

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~~)) 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 growth
15 management hearings board or shorelines hearings board to uphold the
16 master program or master program amendment, provided that either the
17 growth management hearings board or the shorelines hearings board may
18 remand the master program or master program ((~~adjustment~~)) amendment to
19 the local government or the department for modification prior to the
20 final adoption of the master program or master program amendment.

--- END ---