

SSB 5151 - H COMM AMD

By Committee on Environment & Energy

**NOT CONSIDERED 04/17/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 43.21B.005 and 2018 c 22 s 10 are each amended to  
4 read as follows:

5 (1) There is created an environmental and land use hearings  
6 office of the state of Washington. The environmental and land use  
7 hearings office consists of the pollution control hearings board  
8 created in RCW 43.21B.010, the shorelines hearings board created in  
9 RCW 90.58.170, and the growth management hearings board created in  
10 RCW 36.70A.250. The governor shall designate one of the members of  
11 the pollution control hearings board or growth management hearings  
12 board to be the director of the environmental and land use hearings  
13 office during the term of the governor. Membership, powers,  
14 functions, and duties of the pollution control hearings board, the  
15 shorelines hearings board, and the growth management hearings board  
16 shall be as provided by law.

17 (2) The director of the environmental and land use hearings  
18 office may appoint one or more administrative appeals judges in cases  
19 before the environmental boards and, with the consent of the chair of  
20 the growth management hearings board, one or more hearing examiners  
21 in cases before the land use board comprising the office. The  
22 administrative appeals judges shall possess the powers and duties  
23 conferred by the administrative procedure act, chapter 34.05 RCW,  
24 have a demonstrated knowledge of environmental law, and shall be  
25 admitted to the practice of law in the state of Washington. The  
26 hearing examiners possess the powers and duties provided for in RCW  
27 36.70A.270.

28 (3) Administrative appeals judges are not subject to chapter  
29 41.06 RCW. The administrative appeals judges appointed under  
30 subsection (2) of this section are subject to discipline and  
31 termination, for cause, by the director of the environmental and land  
32 use hearings office. Upon written request by the person so

1 disciplined or terminated, the director of the environmental and land  
2 use hearings office shall state the reasons for such action in  
3 writing. The person affected has a right of review by the superior  
4 court of Thurston county on petition for reinstatement or other  
5 remedy filed within thirty days of receipt of such written reasons.

6 (4) The director of the environmental and land use hearings  
7 office may appoint, discharge, and fix the compensation of such  
8 administrative or clerical staff as may be necessary.

9 (5) The director of the environmental and land use hearings  
10 office may also contract for required services.

11 (6) The director of the environmental and land use hearings  
12 office must ensure that timely and accurate growth management  
13 hearings board rulings, decisions, and orders are made available to  
14 the public through searchable databases accessible through the  
15 environmental and land use hearings office web sites. To ensure  
16 uniformity and usability of searchable databases and web sites, the  
17 director must coordinate with the growth management hearings board,  
18 the department of commerce, and other interested stakeholders to  
19 develop and maintain a rational system of categorizing growth  
20 management hearings board rulings, decisions, and orders. The  
21 environmental and land use hearings office web sites must allow a  
22 user to search growth management hearings board decisions and orders  
23 by topic, party, and geographic location or by natural language. All  
24 rulings, decisions, and orders issued before January 1, 2019, must be  
25 published by June 30, 2021.

26 **Sec. 2.** RCW 36.70A.270 and 2010 c 211 s 6 and 2010 c 210 s 16  
27 are each reenacted and amended to read as follows:

28 The growth management hearings board shall be governed by the  
29 following rules on conduct and procedure:

30 (1) Any board member may be removed for inefficiency,  
31 malfeasance, and misfeasance in office, under specific written  
32 charges filed by the governor. The governor shall transmit such  
33 written charges to the member accused and the chief justice of the  
34 supreme court. The chief justice shall thereupon designate a tribunal  
35 composed of three judges of the superior court to hear and adjudicate  
36 the charges. Removal of any member of the board by the tribunal shall  
37 disqualify such member for reappointment.

38 (2) Each board member shall receive reimbursement for travel  
39 expenses incurred in the discharge of his or her duties in accordance

1 with RCW 43.03.050 and 43.03.060. Each member shall receive an annual  
2 salary to be determined by the governor pursuant to RCW 43.03.040.  
3 The principal office of the board shall be located in Olympia.

4 (3) Each board member shall not: (a) Be a candidate for or hold  
5 any other public office or trust; (b) engage in any occupation or  
6 business interfering with or inconsistent with his or her duty as a  
7 board member; and (c) for a period of one year after the termination  
8 of his or her board membership, act in a representative capacity  
9 before the board on any matter.

10 (4) A majority of the board shall constitute a quorum for  
11 adopting rules necessary for the conduct of its powers and duties or  
12 transacting other official business, and may act even though one  
13 position of the board is vacant. One or more members may hold  
14 hearings and take testimony to be reported for action by the board  
15 when authorized by rule or order of the board. The board shall  
16 perform all the powers and duties specified in this chapter or as  
17 otherwise provided by law.

18 (5) The board may use one or more hearing examiners to assist the  
19 board in its hearing function, to make conclusions of law and  
20 findings of fact and, if requested by the board, to make  
21 recommendations to the board for decisions in cases before the board.  
22 Such hearing examiners must have demonstrated knowledge of land use  
23 planning and law. The board shall specify in its rules of practice  
24 and procedure, as required by subsection (7) of this section, the  
25 procedure and criteria to be employed for designating hearing  
26 examiners as a presiding officer. Hearing examiners used by the board  
27 shall meet the requirements of subsection (3) of this section. The  
28 findings and conclusions of the hearing examiner shall not become  
29 final until they have been formally approved by the board. This  
30 authorization to use hearing examiners does not waive the requirement  
31 of RCW 36.70A.300 that final orders be issued within one hundred  
32 eighty days of board receipt of a petition.

33 (6) The board shall make findings of fact and prepare a written  
34 decision in each case decided by it, and such findings and decision  
35 shall be effective upon being signed by two or more members of the  
36 regional panel deciding the particular case and upon being filed at  
37 the board's principal office, and shall be open for public inspection  
38 at all reasonable times.

39 (7) All proceedings before the board, any of its members, or a  
40 hearing examiner appointed by the board shall be conducted in

1 accordance with such administrative rules of practice and procedure  
2 as the board prescribes. The board shall develop and adopt rules of  
3 practice and procedure, including rules regarding expeditious and  
4 summary disposition of appeals and the assignment of cases to  
5 regional panels. The board shall publish such rules (~~and decisions~~)  
6 it renders and arrange for the reasonable distribution of the rules  
7 (~~and decisions~~). Except as it conflicts with specific provisions of  
8 this chapter, the administrative procedure act, chapter 34.05 RCW,  
9 and specifically including the provisions of RCW 34.05.455 governing  
10 ex parte communications, shall govern the practice and procedure of  
11 the board.

12 (8) The board must ensure all rulings, decisions, and orders are  
13 available to the public through the environmental and land use  
14 hearings office's web sites as described in RCW 43.21B.005. To ensure  
15 uniformity and usability of searchable databases and web sites, the  
16 board shall coordinate with the environmental and land use hearings  
17 office, the department of commerce, and other interested stakeholders  
18 to develop and maintain a rational system of categorizing its  
19 decisions and orders.

20 (9) A board member or hearing examiner is subject to  
21 disqualification under chapter 34.05 RCW. The rules of practice of  
22 the board shall establish procedures by which a party to a hearing  
23 conducted before the board may file with the board a motion to  
24 disqualify, with supporting affidavit, against a board member or  
25 hearing examiner assigned to preside at the hearing.

26 ~~((9))~~ (10) All members of the board shall meet on at least an  
27 annual basis with the objective of sharing information that promotes  
28 the goals and purposes of this chapter.

29 ~~((10))~~ (11) The board shall annually elect one of its members  
30 to be the board administrative officer. The duties and  
31 responsibilities of the administrative officer include handling day-  
32 to-day administrative, budget, and personnel matters on behalf of the  
33 board, together with making case assignments to board members in  
34 accordance with the board's rules of procedure in order to achieve a  
35 fair and balanced workload among all board members. The  
36 administrative officer of the board may carry a reduced caseload to  
37 allow time for performing the administrative work functions."

38 Correct the title.

EFFECT: (1) Requires the director of the Environmental and Land Use Hearings Office (ELUHO) to ensure that timely and accurate Growth Management Hearings Board (Growth Board) rulings are made available to the public through searchable databases accessible through the ELUHO web sites.

(2) Requires the director of ELUHO to coordinate with the Growth Board, the Department of Commerce, and other interested stakeholders to develop and maintain a rational system of categorizing Growth Board rulings.

(3) Requires all rulings, decisions, and orders issued before January 1, 2019, to be published by June 30, 2021.

--- END ---