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## Environment & Energy Committee

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### HB 2802

**Brief Description:** Aligning the administration of the growth management hearings board with other boards within the environmental land use and hearings office by modifying requirements pertaining to growth management hearings board membership and the duties and responsibilities of members, streamlining procedures in cases before the growth management hearings board, and allowing the use of administrative appeals judges in growth management hearings board proceedings.

**Sponsors:** Representatives Fitzgibbon and Lekanoff; by request of Office of the Governor.

#### Brief Summary of Bill

- Changes the size of the Growth Management Hearings Board (GMHB) from seven members to five.
- Requires that three of the members of the GMHB will be full-time members of the GMHB and must be attorneys.
- Requires that the remaining two members of the GMHB must be former city or county elected officials, appointed on a rotating, case-by-case basis by the director of the Environmental Land Use Hearings Office to hear cases before the GMHB.

**Hearing Date:** 2/4/20

**Staff:** Robert Hatfield (786-7117).

#### **Background:**

##### Environmental and Land Use Hearings Office.

The Environmental and Land Use Hearings Office (ELUHO) is the administrative agency that administers the Growth Management Hearings Board (GMHB), the Pollution Control Hearings Board, and the Shoreline Hearings Board.

##### Growth Management Hearings Board.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The GMHB was created pursuant to the Growth Management Act (GMA) and has the authority to hear petitions alleging noncompliance with the requirements of the GMA. The GMHB consists of seven members qualified by experience or training in matters pertaining to land-use law or land-use planning and who have practical experience in those areas. All GMHB members are appointed by the Governor. Members are appointed for six-year terms. Decisions of the GMHB may be appealed to Superior Court.

### **Summary of Bill:**

#### Growth Management Hearings Board - Membership.

The size of the Growth Management Hearings Board (GMHB) is changed from seven members to five. Three members, all of whom must be admitted to practice law in Washington, are appointed by the Governor, one from the central Puget Sound region, one from eastern Washington, and one from western Washington. These three members shall operate on a full-time basis and receive an annual salary.

The remaining two members must have been city or county elected officials, qualified by experience or training in matters related to land-use planning. The Environmental and Land Use Hearings Office (ELUHO) must maintain a list of qualified former elected officials provided by the statewide association representing cities and the statewide association representing counties, from which representatives of the associations may be selected as needed to hear cases before the GMHB. For each case before the GMHB, the Director of the ELUHO shall select one member representing each association respectively to hear the case. When selecting representatives to hear cases, the Director shall avoid actual or perceived conflicts of interest, while endeavoring to maintain regional representation.

The two former elected official members will operate on a part-time basis, receive compensation on the basis of \$150 for each day spent in performance of their duties, and receive reimbursement for travel and subsistence expenses incurred in the discharge of their duties. Compensation for any individual member may not exceed \$10,000 per year.

By July 1, 2020, the Governor must appoint members to the GMHB. Initial appointments must be staggered to expire on June 30, 2022, June 30, 2024, and June 30, 2026. Thereafter, each full-time member of the GMHB shall be appointed for a term of six years and until their successors are appointed. The terms of the current members of the GMHB expire upon the Governor's appointment of new members and no later than June 30, 2020. Current members are eligible to be re-appointed, or being selected as a part-time member, as appropriate.

#### GMHB - Operations.

With certain exceptions, each petition before the GMHB must be presided over by a full-time attorney member of the GMHB from the region where the appeal originates.

The GMHB may adopt rules to set forth alternative processes to simplify and expedite judicial procedures and proceedings.

All cases before the GMHB must be heard by three full-time board members and two part-time board members. A decision must be agreed to by at least three members of the GMHB to be

final. No case before the GMHB, on settlement extension, or on appeal as of July 1, 2020, may be decided by less than three members of the GMHB.

A decision of the GMHB becomes effective upon being signed by three or more members of the GMHB.

The GMHB must biannually elect one of its full-time attorney members to be the GMHB chair. The duties and responsibilities of the chair include making case assignments to members in accordance with the GMHB's rules and procedures and managing GMHB meetings.

ELUHO - Director.

The Governor must appoint a Director of the ELUHO.

The Director of the ELUHO may appoint administrative law judges in cases before the Shoreline Hearings Board, the Pollution Control Hearings Board, and the GMHB. An administrative law judge appointed to hear cases before the GMHB must have a demonstrated knowledge of land-use law and must be admitted to practice law in Washington.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2020.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.