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**SUBSTITUTE SENATE BILL 5151**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Local Government (originally sponsored by Senators Wilson, L., Becker, Honeyford, Zeiger, and Short)

READ FIRST TIME 01/25/19.

1 AN ACT Relating to requiring the growth management hearings board  
2 to topically index the rulings, decisions, and orders it publishes;  
3 and reenacting and amending RCW 36.70A.270.

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

5 **Sec. 1.** RCW 36.70A.270 and 2010 c 211 s 6 and 2010 c 210 s 16  
6 are each reenacted and amended to read as follows:

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

9 (1) Any board member may be removed for inefficiency,  
10 malfeasance, and misfeasance in office, under specific written  
11 charges filed by the governor. The governor shall transmit such  
12 written charges to the member accused and the chief justice of the  
13 supreme court. The chief justice shall thereupon designate a tribunal  
14 composed of three judges of the superior court to hear and adjudicate  
15 the charges. Removal of any member of the board by the tribunal shall  
16 disqualify such member for reappointment.

17 (2) Each board member shall receive reimbursement for travel  
18 expenses incurred in the discharge of his or her duties in accordance  
19 with RCW 43.03.050 and 43.03.060. Each member shall receive an annual  
20 salary to be determined by the governor pursuant to RCW 43.03.040.  
21 The principal office of the board shall be located in Olympia.

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

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

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

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

36 (7) All proceedings before the board, any of its members, or a  
37 hearing examiner appointed by the board shall be conducted in  
38 accordance with such administrative rules of practice and procedure  
39 as the board prescribes. The board shall develop and adopt rules of  
40 practice and procedure, including rules regarding expeditious and

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

9 (8) The board must publish all decisions and orders on a  
10 searchable database made available on the board's web site. To ensure  
11 uniformity and usability of the searchable database, the board must,  
12 in coordination with department of commerce and other interested  
13 stakeholders, develop a rational system of categorizing its decisions  
14 and orders. The board's web site must allow a user to search  
15 decisions and orders by topic, party, and geographic location or by  
16 natural language.

17 All rulings, decisions, and orders issued before January 1, 2019,  
18 must be published by June 30, 2020.

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

25 ~~((9))~~ (10) All members of the board shall meet on at least an  
26 annual basis with the objective of sharing information that promotes  
27 the goals and purposes of this chapter.

28 ~~((10))~~ (11) The board shall annually elect one of its members  
29 to be the board administrative officer. The duties and  
30 responsibilities of the administrative officer include handling day-  
31 to-day administrative, budget, and personnel matters on behalf of the  
32 board, together with making case assignments to board members in  
33 accordance with the board's rules of procedure in order to achieve a  
34 fair and balanced workload among all board members. The  
35 administrative officer of the board may carry a reduced caseload to  
36 allow time for performing the administrative work functions.

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