
SENATE BILL 6574

State of Washington

66th Legislature

2020 Regular Session

By Senators Takko and Short; by request of Office of the Governor

1 AN ACT Relating to clarifying the respective administrative
2 powers, duties, and responsibilities of the growth management
3 hearings board and the environmental land use and hearings office;
4 and amending RCW 36.70A.250, 36.70A.252, 36.70A.260, 36.70A.270, and
5 43.21B.005.

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

7 **Sec. 1.** RCW 36.70A.250 and 2010 c 211 s 4 are each amended to
8 read as follows:

9 (1) ((A)) (a) There is hereby created within the environmental
10 and land use hearings office established by RCW 43.21B.005 a growth
11 management hearings board for the state of Washington ((is created)).
12 The board shall consist of seven members qualified by experience or
13 training in pertinent matters pertaining to land use law or land use
14 planning and who have experience in the practical application of
15 those matters. All seven board members shall be appointed by the
16 governor, two each residing respectively in the central Puget Sound,
17 eastern Washington, and western Washington regions, plus one board
18 member residing within the state of Washington. At least three
19 members of the board shall be admitted to practice law in this state,
20 one each residing respectively in the central Puget Sound, eastern
21 Washington, and western Washington regions. At least three members of

1 the board shall have been a city or county elected official, one each
2 residing respectively in the central Puget Sound, eastern Washington,
3 and western Washington regions. After expiration of the terms of
4 board members on the previously existing three growth management
5 hearings boards, no more than four members of the seven-member board
6 may be members of the same major political party. No more than two
7 members at the time of their appointment or during their term may
8 reside in the same county. Board members shall operate on a full-time
9 basis, shall receive an annual salary to be determined by the
10 governor pursuant to RCW 43.03.040, shall receive reimbursement for
11 travel expenses incurred in the discharge of their duties in
12 accordance with RCW 43.03.050 and 43.03.060, and shall be considered
13 employees of the state of Washington subject to chapter 42.52 RCW.

14 (2) Each member of the board shall be appointed for a term of six
15 years, and until their successors are appointed. A vacancy shall be
16 filled by appointment by the governor for the unexpired portion of
17 the term in which the vacancy occurs. ~~((Members of the previously~~
18 ~~existing three growth management hearings boards appointed before~~
19 ~~July 1, 2010, shall complete their staggered, six-year terms as~~
20 ~~members of the growth management hearings board created under~~
21 ~~subsection (1) of this section. The reduction from nine board members~~
22 ~~on the previously existing three growth management hearings boards to~~
23 ~~seven total members on the growth management hearings board shall be~~
24 ~~made through attrition, voluntary resignation, or retirement.))~~

25 **Sec. 2.** RCW 36.70A.252 and 2010 c 210 s 15 are each amended to
26 read as follows:

27 (1) On July 1, 2011, the growth management hearings board is
28 administratively consolidated into the environmental and land use
29 hearings office created in RCW 43.21B.005. The chair of the growth
30 management hearings board shall continue to exercise duties and
31 responsibilities pursuant to RCW 36.70A.270(11). The environmental
32 and land use hearings office shall be responsible for all other
33 administrative functions pertaining to the growth management hearings
34 board.

35 (2) Not later than July 1, 2012, the growth management hearings
36 board consists of seven members qualified by experience or training
37 in pertinent matters pertaining to land use law or land use planning,
38 except that the governor may reduce the board to six members if
39 warranted by the board's caseload. All board members must be

1 appointed by the governor, two each residing respectively in the
2 central Puget Sound, eastern Washington, and western Washington
3 regions and shall continue to meet the qualifications set out in RCW
4 (~~36.70A.260~~) 36.70A.250. The reduction from seven board members to
5 six board members must be made through attrition, voluntary
6 resignation, or retirement.

7 **Sec. 3.** RCW 36.70A.260 and 2010 c 211 s 5 are each amended to
8 read as follows:

9 (1) Each petition for review that is filed with the growth
10 management hearings board shall be heard and decided by a regional
11 panel of growth management hearings board members. Regional panels
12 shall be constituted as follows:

13 (a) Central Puget Sound region. A three-member central Puget
14 Sound panel shall be selected to hear matters pertaining to cities
15 and counties located within the region comprised of King, Pierce,
16 Snohomish, and Kitsap counties.

17 (b) Eastern Washington region. A three-member eastern Washington
18 panel shall be selected to hear matters pertaining to cities and
19 counties that are required or choose to plan under RCW 36.70A.040 and
20 are located east of the crest of the Cascade mountains.

21 (c) Western Washington region. A three-member western Washington
22 panel shall be selected to hear matters pertaining to cities and
23 counties that are required or choose to plan under RCW 36.70A.040,
24 are located west of the crest of the Cascade mountains, and are not
25 included in the central Puget Sound region. Skamania county, if it is
26 required or chooses to plan under RCW 36.70A.040, may elect to be
27 included within either the western Washington region or the eastern
28 Washington region.

29 (2)(a) Each regional panel selected to hear and decide cases
30 shall consist of three board members, at least a majority of whom
31 shall reside within the region in which the case arose, unless such
32 members cannot sit on a particular case because of recusal or
33 disqualification, or unless the board (~~administrative officer~~)
34 chair determines that there is an emergency including, but not
35 limited to, the unavailability of a board member due to illness,
36 absence, vacancy, or significant workload imbalance. The presiding
37 officer of each case shall reside within the region in which the case
38 arose, unless the board (~~administrative officer~~) chair determines
39 that there is an emergency.

1 (b) Except as provided otherwise in this subsection (2)(b), each
2 regional panel must: (i) Include one member admitted to practice law
3 in this state; (ii) include one member who has been a city or county
4 elected official; and (iii) reflect the political composition of the
5 board. The requirements of this subsection (2)(b) may be waived by
6 the board ((administrative officer)) chair due to member
7 unavailability, significant workload imbalances, or other reasons.

8 **Sec. 4.** RCW 36.70A.270 and 2019 c 452 s 2 are each amended to
9 read as follows:

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

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

20 (2) (~~Each board member shall receive reimbursement for travel~~
21 ~~expenses incurred in the discharge of his or her duties in accordance~~
22 ~~with RCW 43.03.050 and 43.03.060. Each member shall receive an annual~~
23 ~~salary to be determined by the governor pursuant to RCW 43.03.040.))
24 The principal office of the board shall be located in ((Olympia))
25 Thurston county, but it may hold hearings at any other place in the
26 state.~~

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

33 (4) A majority of the board shall constitute a quorum for
34 adopting rules necessary for the conduct of its powers and duties or
35 transacting other official business, and may act even though one
36 position of the board is vacant. One or more members may hold
37 hearings and take testimony to be reported for action by the board
38 when authorized by rule or order of the board. The board shall

1 perform all the powers and duties specified in this chapter or as
2 otherwise provided by law.

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

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

24 (7) All proceedings before the board, any of its members, or a
25 hearing examiner appointed by the board shall be conducted in
26 accordance with such administrative rules of practice and procedure
27 as the board prescribes. The board shall develop and adopt rules of
28 practice and procedure, including rules regarding expeditious and
29 summary disposition of appeals and the assignment of cases to
30 regional panels. The board shall publish such rules it renders and
31 arrange for the reasonable distribution of the rules. Except as it
32 conflicts with specific provisions of this chapter, the
33 administrative procedure act, chapter 34.05 RCW, and specifically
34 including the provisions of RCW 34.05.455 governing ex parte
35 communications, shall govern the practice and procedure of the board.

36 (8) The board must ensure all rulings, decisions, and orders are
37 available to the public through the environmental and land use
38 hearings office's web sites as described in RCW 43.21B.005. To ensure
39 uniformity and usability of searchable databases and web sites, the
40 board shall coordinate with the environmental and land use hearings

1 office, the department of commerce, and other interested stakeholders
2 to develop and maintain a rational system of categorizing its
3 decisions and orders.

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

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

13 (11) The board shall annually elect one of its members to be the
14 board ~~((administrative—officer))~~ chair. The duties and
15 responsibilities of the ~~((administrative—officer))~~ chair include
16 ~~((handling day-to-day administrative, budget, and personnel matters
17 on behalf of the board, together with))~~ making case assignments to
18 board members in accordance with the board's rules ~~((of procedure in
19 order to achieve a fair and balanced workload among all board
20 members. The administrative officer of the board may carry a reduced
21 caseload to allow time for performing the administrative work
22 functions))~~ and procedures, and managing board meetings.

23 **Sec. 5.** RCW 43.21B.005 and 2019 c 452 s 1 are each amended to
24 read as follows:

25 (1) There is created an environmental and land use hearings
26 office of the state of Washington. The environmental and land use
27 hearings office consists of the pollution control hearings board
28 created in RCW 43.21B.010, the shorelines hearings board created in
29 RCW 90.58.170, and the growth management hearings board created in
30 RCW 36.70A.250. The governor shall ~~((designate one of the members of
31 the pollution control hearings board or growth management hearings
32 board to be the))~~ appoint a director of the environmental and land
33 use hearings office during the term of the governor. Membership,
34 powers, functions, and duties of the pollution control hearings
35 board, the shorelines hearings board, and the growth management
36 hearings board shall be as provided by law.

37 (2) The director of the environmental and land use hearings
38 office may appoint one or more administrative appeals judges in cases
39 before the environmental boards and, ~~((with the consent of the chair~~

1 ~~of the growth management hearings board,~~) one or more hearing
2 examiners in cases before the land use board comprising the office.
3 The administrative appeals judges shall possess the powers and duties
4 conferred by the administrative procedure act, chapter 34.05 RCW,
5 have a demonstrated knowledge of environmental law, and shall be
6 admitted to the practice of law in the state of Washington. The
7 hearing examiners possess the powers and duties provided for in RCW
8 36.70A.270.

9 (3) Administrative appeals judges are not subject to chapter
10 41.06 RCW. The administrative appeals judges appointed under
11 subsection (2) of this section are subject to discipline and
12 termination, for cause, by the director of the environmental and land
13 use hearings office. Upon written request by the person so
14 disciplined or terminated, the director of the environmental and land
15 use hearings office shall state the reasons for such action in
16 writing. The person affected has a right of review by the superior
17 court of Thurston county on petition for reinstatement or other
18 remedy filed within thirty days of receipt of such written reasons.

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

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

24 (6) The director of the environmental and land use hearings
25 office must ensure that timely and accurate (~~growth management~~
26 ~~hearings~~) board rulings, decisions, and orders are made available to
27 the public through searchable databases accessible through the
28 environmental and land use hearings office web sites. To ensure
29 uniformity and usability of searchable databases and web sites, the
30 director must coordinate with the (~~growth management hearings~~
31 ~~board~~) relevant boards, the department of commerce, and other
32 interested stakeholders to develop and maintain a rational system of
33 categorizing (~~growth management hearings~~) board rulings, decisions,
34 and orders. The environmental and land use hearings office web sites
35 must allow a user to search growth management hearings board
36 decisions and orders by topic, party, and geographic location or by
37 natural language. All rulings, decisions, and orders issued before
38 January 1, 2019, must be published by June 30, 2021.

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