
HOUSE BILL 1197

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Taylor and McCune

Read first time 01/14/11. Referred to Committee on Local Government.

1 AN ACT Relating to the growth management hearings board; amending
2 RCW 36.70A.250, 36.70A.260, and 36.70A.280; and reenacting and amending
3 RCW 36.70A.270.

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

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

7 (1) A growth management hearings board for the state of Washington
8 is created. The board shall consist of seven members (~~qualified by~~
9 ~~experience or training in matters pertaining to land use law or land~~
10 ~~use planning and who have experience in the practical application of~~
11 ~~those matters. All seven board members shall be appointed by the~~
12 ~~governor, two each residing respectively in the central Puget Sound,~~
13 ~~eastern Washington, and western Washington regions, plus one board~~
14 ~~member residing within the state of Washington. At least three members~~
15 ~~of the board shall be admitted to practice law in this state, one each~~
16 ~~residing respectively in the central Puget Sound, eastern Washington,~~
17 ~~and western Washington regions. At least three members of the board~~
18 ~~shall have been a city or county elected official, one each residing~~
19 ~~respectively in the central Puget Sound, eastern Washington, and~~

1 ~~western Washington regions. After expiration of the terms of board~~
2 ~~members on the previously existing three growth management hearings~~
3 ~~boards, no more than four members of the seven-member board may be~~
4 ~~members of the same major political party. No more than two members at~~
5 ~~the time of their appointment or during their term may reside in the~~
6 ~~same county)) representing specified areas. The members shall hold~~
7 ~~seats for the represented areas as follows:~~

8 (a) Seat 1: Whatcom, Skagit, San Juan, Island, and Snohomish
9 counties;

10 (b) Seat 2: King, Pierce, Thurston, Kitsap, and Mason counties;

11 (c) Seat 3: Clallam, Jefferson, Grays Harbor, Pacific, Lewis,
12 Wahkiakum, Cowlitz, and Clark counties;

13 (d) Seat 4: Okanogan, Chelan, Douglas, Adams, and Grant counties;

14 (e) Seat 5: Kittitas, Yakima, Benton, Klickitat, and Skamania
15 counties;

16 (f) Seat 6: Franklin, Walla Walla, Columbia, Garfield, Whitman,
17 and Asotin counties; and

18 (g) Seat 7: Ferry, Stevens, Pend Oreille, Lincoln, and Spokane
19 counties.

20 (2) Board members shall be appointed by the county commissioners
21 within the jurisdictional boundary of the seat they represent. The
22 county commissioners of the counties to be represented by the board
23 member shall convene in a joint public meeting to select the board
24 member. The appointment shall occur through a majority vote of the
25 county commissioners. Each county individually must have the quorum
26 required to pass an ordinance in the county in order for the
27 appointment vote to be official. Proxy voting is not allowed.

28 ~~((+2))~~ (3) Each member of the board shall be appointed for a term
29 of six years and may not serve more than two terms. A vacancy shall be
30 filled ((by appointment by the governor for the unexpired portion of
31 the term in which the vacancy occurs. Members of the previously
32 existing three growth management hearings boards appointed before July
33 1, 2010, shall complete their staggered, six-year terms as members of
34 the growth management hearings board created under subsection (1) of
35 this section. The reduction from nine board members on the previously
36 existing three growth management hearings boards to seven total members
37 on the growth management hearings board shall be made through

1 attrition, voluntary resignation, or retirement)) in accordance with
2 subsection (2) of this section.

3 **Sec. 2.** RCW 36.70A.260 and 2010 c 211 s 5 are each amended to read
4 as follows:

5 (1) Each petition for review that is filed with the growth
6 management hearings board shall be heard and decided by the full board
7 or a regional panel of growth management hearings board members.
8 Regional panels shall be constituted as follows:

9 ~~((a) Central Puget Sound region. A three member central Puget~~
10 ~~Sound panel shall be selected to hear matters pertaining to cities and~~
11 ~~counties located within the region comprised of King, Pierce,~~
12 ~~Snohomish, and Kitsap counties.~~

13 ~~(b) Eastern Washington region. A three member eastern Washington~~
14 ~~panel shall be selected to hear matters pertaining to cities and~~
15 ~~counties that are required or choose to plan under RCW 36.70A.040 and~~
16 ~~are located east of the crest of the Cascade mountains.~~

17 ~~(c) Western Washington region. A three member western 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, are~~
20 ~~located west of the crest of the Cascade mountains, and are not~~
21 ~~included in the central Puget Sound region. Skamania county, if it is~~
22 ~~required or chooses to plan under RCW 36.70A.040, may elect to be~~
23 ~~included within either the western Washington region or the eastern~~
24 ~~Washington region.~~

25 ~~(2)(a) Each regional panel selected to hear and decide cases shall~~
26 ~~consist of three board members, at least a majority of whom shall~~
27 ~~reside within the region in which the case arose, unless such)) Three~~
28 ~~members of the growth management hearings board with one member being~~
29 ~~from the county where the matter in question occurred and one member~~
30 ~~being from a county located on the same side of the state where the~~
31 ~~matter occurred as determined by the crest of the Cascade mountain~~
32 ~~range. The presiding officer shall be from the district where the~~
33 ~~matter in question occurred unless there is a disqualification, then it~~
34 ~~shall be a member from a district abutting the district where the~~
35 ~~matter in question occurred.~~

36 (2) If members cannot sit on a particular case because of recusal
37 or disqualification, or unless the board administrative officer

1 determines that there is an emergency including, but not limited to,
2 the unavailability of a board member due to illness, absence, vacancy,
3 or significant workload imbalance(~~(. The presiding officer of each~~
4 ~~case shall reside within the region in which the case arose, unless the~~
5 ~~board administrative officer determines that there is an emergency.~~

6 ~~(b) Except as provided otherwise in this subsection (2)(b), each~~
7 ~~regional panel must: (i) Include one member admitted to practice law~~
8 ~~in this state; (ii) include one member who has been a city or county~~
9 ~~elected official; and (iii) reflect the political composition of the~~
10 ~~board. The requirements of this subsection (2)(b) may be waived by the~~
11 ~~board administrative officer due to member unavailability, significant~~
12 ~~workload imbalances, or other reasons)), the next available board~~
13 ~~member must be chosen as follows in descending order: (a) A board~~
14 ~~member from a district whose boundaries abut that of the district where~~
15 ~~the matter in questioned occurred; (b) a board member from the same~~
16 ~~side of the state as determined by the Cascade mountain range; or (c)~~
17 ~~a board member chosen by the board administrative officer.~~

18 **Sec. 3.** RCW 36.70A.270 and 2010 c 211 s 6 and 2010 c 210 s 16 are
19 each reenacted and amended to read as follows:

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

22 (1) Any board member may be removed for inefficiency, malfeasance,
23 and misfeasance in office, under specific written charges filed by the
24 governor. The governor shall transmit such written charges to the
25 member accused and the chief justice of the supreme court. The chief
26 justice shall thereupon designate a tribunal composed of three judges
27 of the superior court to hear and adjudicate the charges. Removal of
28 any member of the board by the tribunal shall disqualify such member
29 for reappointment.

30 (2) Each board member shall receive reimbursement for travel
31 expenses incurred in the discharge of his or her duties in accordance
32 with RCW 43.03.050 and 43.03.060. Each member shall receive an annual
33 salary to be determined by the governor pursuant to RCW 43.03.040. The
34 principal office of the board shall be located in Olympia. Any
35 satellite offices of the board should be located within the
36 jurisdictional boundaries of the regions where the three growth

1 management hearings boards, in existence before July 1, 2010, were
2 located.

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

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

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

36 ~~((7))~~ (6) All proceedings before the board~~((7))~~ or any of its
37 members~~((7 or a hearing examiner appointed by the board))~~ shall be
38 conducted in accordance with such administrative rules of practice and

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

11 ~~((+8))~~ (7) A board member ~~((or hearing examiner))~~ is subject to
12 disqualification under chapter 34.05 RCW. The rules of practice of the
13 board shall establish procedures by which a party to a hearing
14 conducted before the board may file with the board a motion to
15 disqualify, with supporting affidavit, against a board member ~~((or
16 hearing examiner))~~ assigned to preside at the hearing.
17 Disqualification is to be determined by the board administrative
18 officer, not the board member being challenged. If the board
19 administrative officer is being challenged, the full board determines
20 the question of disqualification.

21 ~~((+9) All members of the board shall meet on at least an annual~~
22 ~~basis with the objective of sharing information that promotes the goals~~
23 ~~and purposes of this chapter.~~

24 ~~(+10))~~ (8) The board shall annually elect one of its members to be
25 the board administrative officer. The duties and responsibilities of
26 the administrative officer include handling day-to-day administrative,
27 budget, and personnel matters on behalf of the board, together with
28 making case assignments to board members in accordance with the board's
29 rules of procedure in order to achieve a fair and balanced workload
30 among all board members. The administrative officer of the board may
31 carry a reduced caseload to allow time for performing the
32 administrative work functions.

33 **Sec. 4.** RCW 36.70A.280 and 2010 c 211 s 7 are each amended to read
34 as follows:

35 (1) The growth management hearings board shall hear and determine
36 only those petitions alleging either:

1 (a) That, except as provided otherwise by this subsection, a state
2 agency, county, or city planning under this chapter is not in
3 compliance with the requirements of this chapter, chapter 90.58 RCW as
4 it relates to the adoption of shoreline master programs or amendments
5 thereto, or chapter 43.21C RCW as it relates to plans, development
6 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
7 90.58 RCW. Nothing in this subsection authorizes the board to hear
8 petitions alleging noncompliance with RCW 36.70A.5801; or

9 (b) That the twenty-year growth management planning population
10 projections adopted by the office of financial management pursuant to
11 RCW 43.62.035 should be adjusted.

12 (2) A petition may be filed only by: (a) The state, or a county or
13 city that plans under this chapter; (b) ~~((a person who has participated
14 orally or in writing before the county or city regarding the matter on
15 which a review is being requested))~~ any person who owns property within
16 the jurisdiction of the county or city that is the subject of the
17 matter on which a review is being requested and is impacted by the
18 ordinance, regulation, or policy in question; (c) a person who is
19 certified by the governor within sixty days of filing the request with
20 the board; or (d) a person qualified pursuant to RCW 34.05.530.

21 (3) For purposes of this section "person" means any individual,
22 partnership, corporation, association, state agency, governmental
23 subdivision or unit thereof, or public or private organization or
24 entity of any character.

25 ~~(4) ((To establish participation standing under subsection (2)(b)
26 of this section, a person must show that his or her participation
27 before the county or city was reasonably related to the person's issue
28 as presented to the board.~~

29 ~~(5))~~ When considering a possible adjustment to a growth management
30 planning population projection prepared by the office of financial
31 management, the board shall consider the implications of any such
32 adjustment to the population forecast for the entire state.

33 The rationale for any adjustment that is adopted by the board must
34 be documented and filed with the office of financial management within
35 ten working days after adoption.

36 If adjusted by the board, a county growth management planning
37 population projection shall only be used for the planning purposes set
38 forth in this chapter and shall be known as the "board adjusted

1 population projection." None of these changes shall affect the
2 official state and county population forecasts prepared by the office
3 of financial management, which shall continue to be used for state
4 budget and planning purposes.

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