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HOUSE BILL 2709

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State of Washington                      52nd Legislature                      1992 Regular Session

By Representatives Braddock, Beck, Peery and Heavey

Read first time 01/24/92. Referred to Committee on Housing.

1            AN ACT Relating to affordable housing appeals; amending RCW  
2 36.70A.250 and 36.70A.280; and adding new sections to chapter 36.70A  
3 RCW.

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

5            **Sec. 1.** RCW 36.70A.250 and 1991 sp.s. c 32 s 5 are each amended to  
6 read as follows:

7            (1) There are hereby created three growth planning hearings boards  
8 for the state of Washington. The boards shall be established as  
9 follows:

10            (a) An Eastern Washington board with jurisdictional boundaries  
11 including all counties that are required to or choose to plan under RCW  
12 36.70A.040 and are located east of the crest of the Cascade mountains;

13            (b) A Central Puget Sound board with jurisdictional boundaries  
14 including King, Pierce, Snohomish, and Kitsap counties; and

1 (c) A Western Washington board with jurisdictional boundaries  
2 including all counties that are required or choose to plan under RCW  
3 36.70A.040 and are located west of the crest of the Cascade mountains  
4 and are not included in the Central Puget Sound board jurisdictional  
5 boundaries. Skamania county, should it be required or choose to plan  
6 under RCW 36.70A.040, may elect to be included within the  
7 jurisdictional boundaries of either the Western or Eastern board.

8 (2) Except as provided in subsection (3) of this section, each  
9 board shall only hear matters pertaining to the cities and counties  
10 located within its jurisdictional boundaries.

11 (3) Each board shall also hear affordable housing appeals filed  
12 under section 3 of this act, in any city or county within its  
13 jurisdictional boundaries or beyond its jurisdictional boundaries but  
14 within its potential geographic boundaries.

15 **Sec. 2.** RCW 36.70A.280 and 1991 sp.s. c 32 s 9 are each amended to  
16 read as follows:

17 (1) A growth planning hearings board shall hear and determine only  
18 those petitions alleging either: (a) That a state agency, county, or  
19 city is not in compliance with the requirements of this chapter, or  
20 chapter 43.21C RCW as it relates to plans, regulations, and amendments  
21 thereto, adopted under RCW 36.70A.040; (~~(b)~~) (b) that the twenty-year  
22 growth management planning population projections adopted by the office  
23 of financial management pursuant to RCW 43.62.035 should be adjusted;  
24 or (c) that a county or city has denied or placed excessive  
25 requirements on an application for the development of affordable  
26 housing, as defined in section 3 of this act.

27 (2) Except as provided in section 3 of this act, a petition may be  
28 filed only by the state, a county or city that plans under this  
29 chapter, a person who has either appeared before the county or city

1 regarding the matter on which a review is being requested or is  
2 certified by the governor within sixty days of filing the request with  
3 the board, or a person qualified pursuant to RCW 34.05.530.

4 (3) For purposes of this section "person" means any individual,  
5 partnership, corporation, association, governmental subdivision or unit  
6 thereof, or public or private organization or entity of any character.

7 (4) When considering a possible adjustment to a growth management  
8 planning population projection prepared by the office of financial  
9 management, a board shall consider the implications of any such  
10 adjustment to the population forecast for the entire state.

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

14 If adjusted by a board, a county growth management planning  
15 population projection shall only be used for the planning purposes set  
16 forth in this chapter and shall be known as a "board adjusted  
17 population projection". None of these changes shall affect the  
18 official state and county population forecasts prepared by the office  
19 of financial management, which shall continue to be used for state  
20 budget and planning purposes.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW  
22 to read as follows:

23 (1) Whenever an application for any permit or approval relating to  
24 affordable housing filed under the provisions of chapters 35.63,  
25 35A.63, 36.70, and 58.17 RCW is denied, or is granted with such  
26 conditions and requirements as to make the building or operation of the  
27 housing infeasible, the applicant shall have the right to petition the  
28 appropriate growth planning hearings board for review of the decision.

1           (2) The petition shall be made within twenty days after the date of  
2 the city or county's notice of final decision by filing with the growth  
3 planning hearings board a statement of the prior proceedings and the  
4 reasons upon which the petition is based. The growth planning hearings  
5 board shall immediately notify the city or county that a petition for  
6 review has been filed. The city or county shall, within ten days of  
7 the receipt of the growth planning hearings board's notification,  
8 transmit a copy of its decision and the reasons to the growth planning  
9 hearings board.

10           (3) The petition shall be heard by the growth planning hearings  
11 board within twenty days after receipt of the applicant's statement.  
12 The growth planning hearings board shall provide a written final order,  
13 based upon a majority vote, stating its findings of fact, and its  
14 conclusions and recommendations, within thirty days after the  
15 termination of the hearing, unless the time has been extended by mutual  
16 agreement between the growth planning hearings board and the applicant.  
17 The growth planning hearings board's final order may be appealed in the  
18 state supreme court.

19           (4) The provisions of this section apply to any housing subsidized  
20 by the federal, state, or local government under a program designed to  
21 assist in the construction or rehabilitation of affordable housing that  
22 is built or operated by any organization eligible to receive assistance  
23 through the Washington housing trust fund created in chapter 43.185 RCW  
24 or any private developer.

25           (5) As used in this section and section 4 of this act, "affordable  
26 housing" means residential housing that is rented or owned by a person  
27 who qualifies as a very low-income, low-income, or moderate-income  
28 household and special needs population, as defined in applicable  
29 federal or state statutes, and whose monthly housing costs, including

1 utilities other than telephone, do not exceed thirty percent of the  
2 household's monthly income.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW  
4 to read as follows:

5 (1) In hearing a petition filed under section 3 of this act, the  
6 growth planning hearings board shall determine if: (a) In the case of  
7 the denial of an application, the decision of the city or county was  
8 reasonable and consistent with local needs, or (b) in the case of an  
9 application with conditions and requirements imposed, if those  
10 conditions and requirements make construction or operation of the  
11 affordable housing infeasible and if they are consistent with local  
12 needs.

13 (2) The standards for reviewing the petition shall include, but are  
14 not limited to:

15 (a) The consistency of the decision to deny or condition the permit  
16 with the city or county's comprehensive plan;

17 (b) The extent to which the city or county meets or plans to meet  
18 the goal of (i) twenty percent of all dwelling units in the city or  
19 county as affordable housing, and (ii) ten percent of all dwelling  
20 units in recognized neighborhoods as affordable housing;

21 (c) The consideration of the health and safety of existing  
22 residents;

23 (d) The extent to which the city or county applies local zoning  
24 ordinances and conditional use permits evenly on applications to  
25 develop subsidized and unsubsidized housing.

26 (3) If the growth planning hearings board finds, in the case of a  
27 denial, that the decision of the city or county was unreasonable and  
28 not consistent with local needs, it shall vacate the decision and shall  
29 issue a decision and final order approving the application. If the

1 growth planning hearings board finds, in the case of an approval with  
2 conditions and requirements imposed, that the decision of the city or  
3 county makes the building or operation of the affordable housing  
4 infeasible, and is not consistent with local needs, it shall issue a  
5 decision and final order, modifying or removing any condition or  
6 requirement so as to make the proposal feasible, and approving the  
7 application. The growth planning hearings board shall not issue any  
8 decision and final order that would permit the building or operation of  
9 the housing that does not meet applicable federal, state, and local  
10 building and site plan requirements.

11 (4) Decisions or conditions and requirements made or imposed by a  
12 city or county that are consistent with local needs shall not be  
13 vacated, modified, or removed by the growth planning hearings board  
14 even if the decision or conditions and requirements have the effect of  
15 denying or making the applicant's proposal infeasible.

16 (5) The applicant shall have the power to enforce the final order  
17 of the growth planning hearings board by an action brought in the  
18 superior court of the county where the proposed affordable housing  
19 development is located. The city or county shall carry out the  
20 decision and final order of the growth planning hearings board within  
21 thirty days of its entry and, upon failure to do so, the decision and  
22 final order of the growth planning hearings board shall be deemed to be  
23 the action of the city or county, unless the applicant consents to a  
24 different decision and final order by the city or county.

25 (6) The decision and final order of the growth planning hearings  
26 board shall be binding on the city or county, which shall immediately  
27 issue any and all necessary permits and approvals to allow the  
28 construction and operation of the affordable housing as approved by the  
29 growth planning hearings board.