

**FINAL BILL REPORT**

**ESSB 6068**

**PARTIAL VETO**

**C 253 L 94**

**SYNOPSIS AS ENACTED**

**Brief Description:** Revising procedures for appeals involving boards within the environmental hearings office.

**SPONSORS:** Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Deccio, Spanel and Oke)

**SENATE COMMITTEE ON ECOLOGY & PARKS**

**HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS**

**BACKGROUND:**

Pollution Control Hearings Board. The Pollution Control Hearings Board is a three-member board that determines appeals of permit decisions, civil penalties, and other decisions by the Department of Ecology, Office of Marine Safety, local air pollution authorities and local health departments. Board members are appointed by the Governor to six year terms; at least one must be admitted to practice law; and no more than two may be of the same political party. Board decisions must be signed by two or more members.

A person bringing an appeal may elect an informal hearing procedure to determine the appeal, unless the respondent agency may override this election by a notice to the board that the formal hearing process be used. When a board determination is made using the informal procedure, a subsequent appeal before superior court is determined "de novo," meaning a new record is developed in the case and the court makes its own findings as to the facts.

Shorelines Hearings Board. The Shorelines Hearings Board determines appeals under the Shoreline Management Act, relating to local government decisions on shorelines permits, Department of Ecology shorelines rules, and Department of Ecology decisions to approve or deny local government shorelines programs. The board is comprised of six members: the three members of the Pollution Control Hearings Board, the Public Lands Commissioner, and a cities and a counties representative appointed by their respective associations. Shorelines Board decisions must be agreed to by at least four members. Judicial review of board decisions may be obtained in superior court under the state's Administrative Procedure Act.

Forest Practices Appeals Board. The Forest Practices Appeals Board is comprised of three members appointed by the Governor to six-year terms. At least one must be admitted to practice law, and no more than two may be of the same political party. The board determines appeals of decisions by the Department of Natural Resources on forest practices applications. An informal hearing of an appeal may be conducted if both parties consent to such procedure.

Environment Hearings Office. The Environmental Hearing Office consists of the above-named boards and the Hydraulics Appeals Board. During the 1970's, the average number of appeals filed with the office annually was 222. It has averaged 379 in the 1990's, and the office expects a total over 500 for 1993. It is suggested that measures to expedite smaller and routine cases, and other efficiency measures, will reduce the current delays in decisions of cases.

**SUMMARY:**

Shorelines Hearings Board. The Shorelines Board may decide the following types of appeals by a three-member panel of the board: single family residences and appurtenances, including docks or piers. At least one and not more than two members of the panel shall be members of the Pollution Control Hearings Board. Alternative processes to expedite appeals are to be developed by rule by the board, including mediation, submission of testimony by affidavit, and other forms.

The Shorelines Board shall have sole jurisdiction over an appeal under the State Environmental Policy Act relating to a matter that is also the subject of an appeal to the Shorelines Board. The two appeals shall be considered together.

Pollution Control Hearings Board. One member of the Pollution Control Hearings Board may decide appeals involving penalties of \$5,000 or less. The board shall develop alternatives to expedite small appeals. The authority to hear appeals through informal hearings is deleted.

Forest Practices Appeals Board. The authority of the Forest Practices Appeals Board to hear appeals through informal hearings is deleted.

The Environmental Hearings office shall study the consolidation of environmental hearings boards into a single board with jurisdiction over environmental and land use decisions. The Administrator for the Courts shall study expediting appeals from administrative hearings.

**VOTES ON FINAL PASSAGE:**

Senate	42	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	97	0
Senate	45	0

**EFFECTIVE:** June 9, 1994

**Partial Veto Summary:** The provisions directing the Environmental Hearings Office to review and make recommendations on consolidating several environmental adjudicatory boards into a single board are vetoed.