
SENATE BILL 6462

State of Washington

53rd Legislature

1994 Regular Session

By Senators Haugen and McCaslin

Read first time 01/24/94. Referred to Committee on Government Operations.

1 AN ACT Relating to appeals of boundary review board decisions; and
2 amending RCW 36.93.160 and 36.70A.280.

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

4 **Sec. 1.** RCW 36.93.160 and 1988 c 202 s 40 are each amended to read
5 as follows:

6 (1) When the jurisdiction of the boundary review board has been
7 invoked, the board shall set the date, time, and place for a public
8 hearing on the proposal. The board shall give at least thirty days'
9 advance written notice of the date, time, and place of the hearing to
10 the governing body of each governmental unit having jurisdiction within
11 the boundaries of the territory proposed to be annexed, formed,
12 incorporated, disincorporated, dissolved, or consolidated, or within
13 the boundaries of a special district whose assets and facilities are
14 proposed to be assumed by a city or town, and to the governing body of
15 each city within three miles of the exterior boundaries of ((such)) the
16 area and to the proponent of ((such)) the change. Notice shall also be
17 given by publication in any newspaper of general circulation in the
18 area of the proposed boundary change at least three times, the last
19 publication of which shall be not less than five days prior to the date

1 set for the public hearing. Notice shall also be posted in ten public
2 places in the area affected for five days when the area is ten acres or
3 more. When the area affected is less than ten acres, five notices
4 shall be posted in five public places for five days. Notice as
5 provided in this subsection shall include any territory which the board
6 has determined to consider adding in accordance with RCW 36.93.150(2).

7 (2) A verbatim record shall be made of all testimony presented at
8 the hearing and upon request and payment of the reasonable costs
9 thereof, a copy of the transcript of ~~((such))~~ the testimony shall be
10 provided to any person or governmental unit.

11 (3) The chairman upon majority vote of the board or a panel may
12 direct the chief clerk of the boundary review board to issue subpoenas
13 to any public officer to testify, and to compel the production by him
14 of any records, books, documents, public records, or public papers.

15 (4) Within forty days after the conclusion of the final hearing on
16 the proposal, the board shall file its written decision, setting forth
17 the reasons therefor, with the board of county commissioners and the
18 clerk of each governmental unit directly affected. The written
19 decision shall indicate whether the proposed change is approved,
20 rejected, or modified and, if modified, the terms of ~~((such))~~ the
21 modification. The written decision need not include specific data on
22 every factor required to be considered by the board, but shall indicate
23 that all standards were given consideration. Dissenting members of the
24 board shall have the right to have their written dissents included as
25 part of the decision.

26 (5) Unanimous decisions of the hearing panel or a decision of a
27 majority of the members of the board shall constitute the decision of
28 the board and shall not be appealable to the whole board. Any other
29 decision shall be appealable to the entire board within ten days.
30 Appeals shall be on the record, which shall be furnished by the
31 appellant, but the board may, in its sole discretion, permit the
32 introduction of additional evidence and argument. Decisions shall be
33 final and conclusive unless within ~~((ten))~~ sixty days from the date of
34 ~~((said))~~ the action a governmental unit affected by the decision or any
35 person owning real property or residing in the area affected by the
36 decision files ~~((in the superior court a notice of appeal))~~ with the
37 growth planning hearings board for that jurisdiction a notice of
38 appeal. Appeals to the growth planning hearings board are limited to
39 determination of whether the decision is consistent with RCW 36.93.157.

1 The filing of ~~((such))~~ the notice of appeal within ~~((such))~~ the
2 time limit shall stay the effective date of the decision of the board
3 until such time as the appeal shall have been adjudicated or withdrawn.
4 ~~((On appeal the superior court shall not take any evidence other than~~
5 ~~that contained in the record of the hearing before the board.~~

6 ~~(6) The superior court may affirm the decision of the board or~~
7 ~~remand the case for further proceedings; or it may reverse the decision~~
8 ~~if any substantial rights may have been prejudiced because the~~
9 ~~administrative findings, inferences, conclusions, or decisions are:~~

10 ~~(a) In violation of constitutional provisions, or~~

11 ~~(b) In excess of the statutory authority or jurisdiction of the~~
12 ~~board, or~~

13 ~~(c) Made upon unlawful procedure, or~~

14 ~~(d) Affected by other error of law, or~~

15 ~~(e) Unsupported by material and substantial evidence in view of the~~
16 ~~entire record as submitted, or~~

17 ~~(f) Arbitrary or capricious.~~

18 ~~An aggrieved party may seek appellate review of any final judgment of~~
19 ~~the superior court in the manner provided by law as in other civil~~
20 ~~cases.))~~

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

23 (1) A growth planning hearings board shall hear and determine only
24 those petitions alleging either: (a) That a state agency, county, or
25 city is not in compliance with the requirements of this chapter, or
26 chapter 43.21C RCW as it relates to plans, regulations, and amendments
27 thereto, adopted under RCW 36.70A.040; ~~((or))~~ (b) that the twenty-year
28 growth management planning population projections adopted by the office
29 of financial management ~~((pursuant to))~~ under RCW 43.62.035 should be
30 adjusted; or (c) that a decision of a county boundary review board is
31 not consistent with the requirements of RCW 36.93.157.

32 (2) A petition may be filed only by the state, a county, or city
33 that plans under this chapter, a person who has either appeared before
34 the county or city regarding the matter on which a review is being
35 requested or is certified by the governor within sixty days of filing
36 the request with the board, or a person qualified ~~((pursuant to))~~ under
37 RCW 34.05.530.

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

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

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

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

--- END ---