

HOUSE BILL REPORT

SHB 2416

As Passed House:

February 7, 1996

Title: An act relating to growth management hearings boards.

Brief Description: Revising procedures for growth management hearings boards.

Sponsors: By House Committee on Government Operations (originally sponsored by Representatives Horn and Boldt).

Brief History:

Committee Activity:

Government Operations: 1/16/96, 1/19/96 [DPS].

Floor Activity:

Passed House: 2/7/96, 63-35.

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Hargrove; Honeyford; Mulliken; D. Schmidt and Van Luven.

Minority Report: Do not pass. Signed by 7 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Hymes; Scheuerman and Wolfe.

Staff: Steve Lundin (786-7127).

Background: The Growth Management Act (GMA) was enacted in 1990 and 1991. It establishes a few requirements for all counties and cities in the state and a larger number of requirements for counties and cities that plan under all GMA requirements. A number of deadlines are established by which counties and cities must take actions under the GMA.

Three separate Growth Management Hearings Boards (hearings boards) are established to hear appeals challenging the actions of state agencies, counties, and cities, to determine if their actions are in compliance with GMA requirements. The state is divided into three geographic areas and a separate hearings board is

established to hear appeals challenging the actions of counties and cities located within the geographic area associated with the particular hearings board. The three separate hearings boards are the Eastern Washington Board, the Western Washington Board, and the Central Puget Sound Board.

The jurisdiction of a hearings board is limited to hearing appeals over whether:

- Specific actions of a state agency, county, or city are in compliance with GMA requirements.
- The decision by the Department of Ecology approving or denying changes in the local shoreline master program of a county or city planning under all GMA requirements is in compliance with the requirements of the Shoreline Management Act. When a hearings board considers appeals from such a decision of the Department of Ecology, it considers the appeal under the provisions of the Shoreline Management Act, and not the GMA.
- State Environmental Policy Act (SEPA) considerations by a county or city over its actions under the GMA or the Shorelines Management Act are sufficient.
- The 20-year population range forecast that the Office of Financial Management (OFM) makes for each county planning under all GMA requirements should be adjusted.

A hearings board does not review and approve the entire comprehensive plan and development regulations of a county or city. Instead, a hearings board hears only appeals that were timely filed with it challenging whether the actions of a county or city are in compliance with GMA requirements. An appeal must include a detailed statement specifically identifying the issue or issues that are being appealed and must be filed with the appropriate hearings board within 60 days of the date the county or city publishes notice that it has taken the action that is being appealed.

A strong presumption of validity exists for actions taken by a county or city under the GMA. The comprehensive plan and development regulations of a county or city are "presumed valid upon adoption." A hearings board must find compliance unless it finds by a "preponderance of the evidence" that the state agency, county, or city "erroneously interpreted or applied" the GMA.

If a hearings board finds that a state agency, county, or city is not in compliance with a GMA requirement specified in the appeal petition, it must remand the matter and specify a reasonable time period not to exceed 180 days for the state agency, county, or city to comply with the specified GMA requirement. After the specified time has expired, the hearings board holds a hearing on whether the state agency, county, or city has met the specified GMA requirement.

If a county or city is found not to have met the specified GMA requirement, the hearings board may recommend that the Governor impose a sanction on the county or city. In response to this recommendation, the Governor, at his or her sole discretion, may impose a sanction on the county or city. Sanctions include

- temporarily rescinding the county's or city's authority to impose a real estate excise tax; and/or
- directing the State Treasurer to withhold one or more sources of money from the county or city, including motor vehicle tax receipts, sales and use tax receipts, and liquor profits and excise tax receipts.

Summary of Bill:

Jurisdiction of a hearings board to hear matters is narrowed, and the authority of a hearings board to issue orders to comply with GMA requirements is eliminated.

1. Jurisdiction.

The jurisdiction of a hearings board is limited to hear appeals on whether (1) a county or city has taken an action under the GMA by the time the action is required to have been taken; (2) a county or city has not addressed relevant issues associated with an action required to be taken under the GMA; (3) the comprehensive plan of a county or city is not consistent with a comprehensive plan of another county or city, as required by the GMA; or (4) the decision of the Department of Ecology on amendments to the shoreline master program of a county or city planning under the GMA is consistent with the Shorelines Management Act.

The authority is eliminated for a hearings board to hear appeals on (1) whether a state agency is in compliance with GMA requirements; (2) whether the 20-year population range forecasts that OFM prepares for each county should be adjusted; and (3) whether the actions of a county or city are in compliance with the requirements of the GMA, other than the requirement that comprehensive plans of counties and cities be consistent.

2. Authority of a hearings board.

A hearings board no longer may issue an order for a county, city, or state agency to comply with a specified GMA requirement, or SEPA considerations of such a requirement.

If a hearings board finds that a county or city planning under all GMA requirements has not addressed relevant issues associated with an action, it shall specify a

reasonable time not in excess of 180 days within which the county or city and person appealing the action shall attempt to resolve the dispute.

If a hearings board finds that the comprehensive plans of counties or cities are not consistent, as required by the GMA, it shall mediate between affected counties or cities.

The authority of a hearings board to recommend to the Governor to impose a sanction on a county or city for failing to be in compliance with GMA requirements is eliminated.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Hearings boards have substituted their opinions for the decisions of local elected officials. Local control is essential. Local officials work out compromises at home. If someone is upset, vote the elected officials out of office. Their decisions have resulted in moratoria. This is a step in the right direction.

Testimony Against: This will increase costs and delay decisions. Superior Court will be the only forum. Hearings boards are being gutted, which guts the GMA. Hearings boards are excellent and affordable referees. This will clog superior courts, which should concentrate on criminal cases. The quality of our life is key. In most cases, counties have worked out their problems.

Testified: Representative Horn, prime sponsor; Mike Ryherd, APA; Scott Merriman, Washington Environmental Council; Suzi Rao, Building Industry of Washington; Elizabeth Schrag, Sierra Club; and Jeff Parsons, People for Puget Sound.