

HOUSE BILL REPORT

HB 2410

As Reported By House Committee On:

Government Operations

Title: An act relating to noncompliance with the growth management act.

Brief Description: Revising the sanctions imposed for noncompliance with the growth management act.

Sponsors: Representatives Honeyford, Scott, Goldsmith, Hymes, Costa and Thompson.

Brief History:

Committee Activity:

Government Operations: 1/24/96, 1/26/96 [DPS].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Rust, Ranking Minority Member; Scott; Conway; R. Fisher; Hargrove; Honeyford; Hymes; Mulliken; Scheuerman; D. Schmidt; Van Luven and Wolfe.

Staff: Steve Lundin (786-7127).

Background: The Growth Management Act (GMA) was enacted in 1990 and 1991 to establish 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.

1. Sanctions

Three separate Growth Management Hearings Boards are established to hear appeals challenging the actions of the state, counties, and cities to determine if their actions are in compliance with GMA requirements.

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," and a hearings board must find compliance unless it

finds by a "preponderance of the evidence" that the county or city "erroneously interpreted or applied" the GMA.

If a hearings board finds a county or city is not in compliance with a GMA requirement specified in the appeal petition, it must remand the matter to the county or city, and specify a reasonable time period not to exceed 180 days for the 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 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

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

In addition, the Governor on his or her own, without a recommendation from a hearings board, may impose the same sanctions on counties and cities for failing to take any of the following actions required under the GMA by the date the actions are required to have been taken: (1) adoption of a county-wide planning policy, (2) designating critical areas or natural resource lands, (3) protecting designated critical areas, (4) conserving natural resource lands; (4) designating urban growth areas, and (5) adopting comprehensive plans or development regulations.

2. Consequences of not adopting a comprehensive plan by the date the plan is required.

Several consequences arise if a county or city has not adopted its comprehensive plan by the date the plan is required to have been adopted.

After April 30, 1992, the authority of a county or city with a population of over 5,000 that plans under all GMA requirements to expend receipts from its local option real estate excise tax is limited to financing capital projects specified in the capital facilities element of its comprehensive plan.

Summary of Substitute Bill: Prior to imposing sanctions on a county or city, the Governor must hold a public hearing upon the merits of the specific proposal to impose sanctions. The hearing must be in the county or city subject to the sanctions.

The effect of the Governor imposing sanctions on a county or city for failing to comply with the requirements of the GMA is clarified. When certain moneys normally distributed to a county or city are "withheld" by these sanctions, the moneys are held in escrow for the county or city. When the authority of a county or city to impose a real estate excise tax is temporarily rescinded, the taxes collected during the temporary rescission are held in escrow for the county or city.

The authority of the Governor to impose sanctions on his or her own, without a recommendation by a hearings board, is restricted. Initially, the Governor may impose only the least punitive sanction. Additional sanctions may be imposed only after a finding of willful disregard of GMA requirements.

The restriction is modified on a county or city with a population of over 5,000 that plans under all GMA requirements expending receipts from its real estate excise tax only on capital projects specified in its comprehensive plan. This restriction applies when the county or city adopts the comprehensive plan and its capital facilities element in the plan is no longer subject to challenge before a hearings board, rather than applying after April 30, 1992.

Substitute Bill Compared to Original Bill: The public hearing requirement was altered to allow an assistant to hold the hearing and to require the hearing to be held in the county or city subject to the sanctions. The restriction on expenditure on real estate excise tax receipts was added.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: These are not substantial changes. We received a letter from the Department of Community, Trade and Economic Development informing us that some question exists on our ability to expend real estate excise tax receipts until our comprehensive plan is adopted.

Testimony Against: None.

Testified: Representative Honeyford, prime sponsor; Matt Ryan, Kitsap County; and Paul Parker, Washington State Association of Counties.