

HOUSE BILL REPORT

HB 1926

As Reported By House Committee On:
Local Government

Title: An act relating to appeals of growth management hearings board decisions.

Brief Description: Changing provisions relating to appeals of growth management hearings boards' decisions.

Sponsors: Representatives G. Chandler, Romero and Mulliken.

Brief History:

Committee Activity:

Local Government: 2/24/99, 3/1/99 [DPS].

Brief Summary of Substitute Bill

- Authorizes counties and cities to request defense assistance and/or reimbursement costs for court appeals of Growth Management Act plans and regulations when a Growth Management Hearings Board has found compliance.
- Requires counties and cities to demonstrate substantial financial need before requesting assistance or reimbursement.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Edwards; Ericksen; Fisher and Fortunato.

Staff: Caroleen Dineen (786-7156).

Background:

The Growth Management Act (GMA) requires certain counties and cities to plan according to statutory requirements and provides a mechanism for other counties to choose to plan under the GMA.

The GMA requires all counties and cities in the state to designate and protect critical areas and to designate natural resource lands. The GMA imposes additional requirements on counties and cities planning under RCW 36.70A.040 (GMA jurisdictions), including:

- identification and protection of critical areas;
- identification and conservation of agricultural, forest, and mineral resource lands;
- adoption of county-wide planning policies;
- designation of urban growth areas;
- adoption of comprehensive plans with specified required and optional elements; and
- adoption of development regulations implementing the comprehensive plans.

Generally, a GMA jurisdiction is required to adopt a comprehensive plan and implementing development regulations consistent with GMA requirements within four years of the date the GMA jurisdiction became required or chose to plan under RCW 36.70A.040. By September 1, 2002, and every five years thereafter, GMA jurisdictions must review their comprehensive plans and development regulations for consistency with GMA requirements and to revise their plans and regulations if necessary.

GMA comprehensive plans and development regulations are presumed valid upon adoption. These plans and regulations, however, may be appealed to one of three regional Growth Management Hearings Boards (Boards) with authority to determine whether a local government's action was in compliance with the GMA. The party filing a petition for review with the Board has the burden to prove that a local government's action was clearly erroneous. The Boards' decisions may be appealed to superior courts.

Summary of Substitute Bill:

If a Board determines a local government's action subject to a petition for review is in compliance with the GMA, a county or city demonstrating substantial financial need may request assistance with the defense of any subsequent court appeals of the Board's decision. "Substantial financial need" is defined as a severe financial hardship jeopardizing the funding of other essential services or programs. For any or all subsequent appeal proceedings, a qualifying county or city may request that the state attorney general:

- defend the county or city at no cost to the county or city;
- assist in the county's or city's defense at no cost to the county or city; or
- reimburse the county or city for the defense costs of any or all appeal proceedings at the billing rate for an attorney general.

The county or city may request defense assistance or financial reimbursement only for the portion(s) of the appeal related to a Board's finding of compliance.

The attorney general must respond to a request for assistance within 30 days of receiving the request. A null and void provision is included.

Substitute Bill Compared to Original Bill: The substitute bill limits the assistance to counties and cities demonstrating substantial financial need. The substitute bill also adds the requirement for the attorney general to respond to a request within 30 days of receipt.

Appropriation: None.

Fiscal Note: Requested on February 23, 1999.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed. A null and void provision is included.

Testimony For: (Original bill) (In support) Because the GMA is a state law, local governments whose plans are being appealed are really defending the state in court. The state should bear the costs of these appeals if the Board has found a local government in compliance. This bill creates a real partnership between state and local governments by enabling the attorney general to provide defense assistance.

Columbia County had to spend more than \$100,000 to defend regulations found to be in compliance with the GMA and considered not defending a later GMA appeal because of the cost. Columbia County unsuccessfully requested assistance with the appeal from both the Department of Community, Trade and Economic Development and the attorney general's office. Other counties have incurred significant costs to defend their GMA plans and regulations.

This bill may not create a significant state fiscal impact, because it applies only to court appeals and since larger jurisdictions may not request assistance. The county sales tax equalization account may be a source of funding for this assistance.

(In support with concerns) (Original bill) Some cities are not accepting mandated density levels, and the Boards are considering appeals of cities' actions regarding density. A city not accepting required density should not benefit from this type of assistance.

Testimony Against: None.

Testified: Representative Chandler, prime sponsor; Kim Lyonnois, Columbia County; and Paul Parker, Washington State Association of Counties.

(In support with concerns): Jodi Walker, Building Industry Association of Washington.