

Local Government Committee

BILL ANALYSIS HB 1926

TITLE OF THE BILL: Changing provisions relating to appeals of growth management hearings boards' decisions.

WHAT THIS BILL DOES: *Requires the state attorney general to either defend or reimburse local governments for defense costs related to appeals of Growth Management Hearings Boards decisions finding the local government in compliance with the Growth Management Act.*

SPONSORS: Representatives G. Chandler, Romero and Mulliken

HEARING DATE: Wednesday, February 24, 1999

FISCAL NOTE: Requested February 23, 1999.

ANALYSIS PREPARED BY: Caroleen Dineen (786-7156)

BACKGROUND:

The Growth Management Act (GMA) was enacted in 1990 and 1991 as Chapter 36.70A RCW. The GMA requires certain counties, and cities located in those counties, 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 the cities in those counties, that are required or choose to plan under RCW 36.70A.040 (GMA jurisdictions). The primary GMA planning requirements for GMA jurisdictions include:

- identification and protection of critical areas;
- identification and conservation of agricultural, forest, and mineral resource lands;
- adoption of a county-wide planning policy;
- designation of urban growth areas;

- adoption of a comprehensive plan with specified required and optional elements; and
- adoption of development regulations implementing the comprehensive plan.

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 Boards are each composed of three members appointed by the Governor. 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 pursuant to the Administrative Procedure Act, Chapter 34.05 RCW (APA).

SUMMARY:

If a Growth Management Hearings Board (Board) determines that a local government's action subject to a petition for review is in compliance with the Growth Management Act (GMA), the county or city may request assistance with the defense of any subsequent court appeals of the Board's decision. The county or city may request for any or all subsequent appeal proceedings 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.

A null and void provision is included.