

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5151

66th Legislature
2019 Regular Session

Passed by the Senate April 22, 2019
Yeas 48 Nays 0

President of the Senate

Passed by the House April 17, 2019
Yeas 98 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5151** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5151

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Local Government (originally sponsored by Senators Wilson, L., Becker, Honeyford, Zeiger, and Short)

READ FIRST TIME 01/25/19.

1 AN ACT Relating to requiring the growth management hearings board
2 to topically index the rulings, decisions, and orders it publishes;
3 amending RCW 43.21B.005; reenacting and amending RCW 36.70A.270; and
4 creating a new section.

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

6 **Sec. 1.** RCW 43.21B.005 and 2018 c 22 s 10 are each amended to
7 read as follows:

8 (1) There is created an environmental and land use hearings
9 office of the state of Washington. The environmental and land use
10 hearings office consists of the pollution control hearings board
11 created in RCW 43.21B.010, the shorelines hearings board created in
12 RCW 90.58.170, and the growth management hearings board created in
13 RCW 36.70A.250. The governor shall designate one of the members of
14 the pollution control hearings board or growth management hearings
15 board to be the director of the environmental and land use hearings
16 office during the term of the governor. Membership, powers,
17 functions, and duties of the pollution control hearings board, the
18 shorelines hearings board, and the growth management hearings board
19 shall be as provided by law.

20 (2) The director of the environmental and land use hearings
21 office may appoint one or more administrative appeals judges in cases

1 before the environmental boards and, with the consent of the chair of
2 the growth management hearings board, one or more hearing examiners
3 in cases before the land use board comprising the office. The
4 administrative appeals judges shall possess the powers and duties
5 conferred by the administrative procedure act, chapter 34.05 RCW,
6 have a demonstrated knowledge of environmental law, and shall be
7 admitted to the practice of law in the state of Washington. The
8 hearing examiners possess the powers and duties provided for in RCW
9 36.70A.270.

10 (3) Administrative appeals judges are not subject to chapter
11 41.06 RCW. The administrative appeals judges appointed under
12 subsection (2) of this section are subject to discipline and
13 termination, for cause, by the director of the environmental and land
14 use hearings office. Upon written request by the person so
15 disciplined or terminated, the director of the environmental and land
16 use hearings office shall state the reasons for such action in
17 writing. The person affected has a right of review by the superior
18 court of Thurston county on petition for reinstatement or other
19 remedy filed within thirty days of receipt of such written reasons.

20 (4) The director of the environmental and land use hearings
21 office may appoint, discharge, and fix the compensation of such
22 administrative or clerical staff as may be necessary.

23 (5) The director of the environmental and land use hearings
24 office may also contract for required services.

25 (6) The director of the environmental and land use hearings
26 office must ensure that timely and accurate growth management
27 hearings board rulings, decisions, and orders are made available to
28 the public through searchable databases accessible through the
29 environmental and land use hearings office web sites. To ensure
30 uniformity and usability of searchable databases and web sites, the
31 director must coordinate with the growth management hearings board,
32 the department of commerce, and other interested stakeholders to
33 develop and maintain a rational system of categorizing growth
34 management hearings board rulings, decisions, and orders. The
35 environmental and land use hearings office web sites must allow a
36 user to search growth management hearings board decisions and orders
37 by topic, party, and geographic location or by natural language. All
38 rulings, decisions, and orders issued before January 1, 2019, must be
39 published by June 30, 2021.

1 **Sec. 2.** RCW 36.70A.270 and 2010 c 211 s 6 and 2010 c 210 s 16
2 are each reenacted and amended to read as follows:

3 The growth management hearings board shall be governed by the
4 following rules on conduct and procedure:

5 (1) Any board member may be removed for inefficiency,
6 malfeasance, and misfeasance in office, under specific written
7 charges filed by the governor. The governor shall transmit such
8 written charges to the member accused and the chief justice of the
9 supreme court. The chief justice shall thereupon designate a tribunal
10 composed of three judges of the superior court to hear and adjudicate
11 the charges. Removal of any member of the board by the tribunal shall
12 disqualify such member for reappointment.

13 (2) Each board member shall receive reimbursement for travel
14 expenses incurred in the discharge of his or her duties in accordance
15 with RCW 43.03.050 and 43.03.060. Each member shall receive an annual
16 salary to be determined by the governor pursuant to RCW 43.03.040.
17 The principal office of the board shall be located in Olympia.

18 (3) Each board member shall not: (a) Be a candidate for or hold
19 any other public office or trust; (b) engage in any occupation or
20 business interfering with or inconsistent with his or her duty as a
21 board member; and (c) for a period of one year after the termination
22 of his or her board membership, act in a representative capacity
23 before the board on any matter.

24 (4) A majority of the board shall constitute a quorum for
25 adopting rules necessary for the conduct of its powers and duties or
26 transacting other official business, and may act even though one
27 position of the board is vacant. One or more members may hold
28 hearings and take testimony to be reported for action by the board
29 when authorized by rule or order of the board. The board shall
30 perform all the powers and duties specified in this chapter or as
31 otherwise provided by law.

32 (5) The board may use one or more hearing examiners to assist the
33 board in its hearing function, to make conclusions of law and
34 findings of fact and, if requested by the board, to make
35 recommendations to the board for decisions in cases before the board.
36 Such hearing examiners must have demonstrated knowledge of land use
37 planning and law. The board shall specify in its rules of practice
38 and procedure, as required by subsection (7) of this section, the
39 procedure and criteria to be employed for designating hearing
40 examiners as a presiding officer. Hearing examiners used by the board

1 shall meet the requirements of subsection (3) of this section. The
2 findings and conclusions of the hearing examiner shall not become
3 final until they have been formally approved by the board. This
4 authorization to use hearing examiners does not waive the requirement
5 of RCW 36.70A.300 that final orders be issued within one hundred
6 eighty days of board receipt of a petition.

7 (6) The board shall make findings of fact and prepare a written
8 decision in each case decided by it, and such findings and decision
9 shall be effective upon being signed by two or more members of the
10 regional panel deciding the particular case and upon being filed at
11 the board's principal office, and shall be open for public inspection
12 at all reasonable times.

13 (7) All proceedings before the board, any of its members, or a
14 hearing examiner appointed by the board shall be conducted in
15 accordance with such administrative rules of practice and procedure
16 as the board prescribes. The board shall develop and adopt rules of
17 practice and procedure, including rules regarding expeditious and
18 summary disposition of appeals and the assignment of cases to
19 regional panels. The board shall publish such rules (~~and decisions~~)
20 it renders and arrange for the reasonable distribution of the rules
21 (~~and decisions~~). Except as it conflicts with specific provisions of
22 this chapter, the administrative procedure act, chapter 34.05 RCW,
23 and specifically including the provisions of RCW 34.05.455 governing
24 ex parte communications, shall govern the practice and procedure of
25 the board.

26 (8) The board must ensure all rulings, decisions, and orders are
27 available to the public through the environmental and land use
28 hearings office's web sites as described in RCW 43.21B.005. To ensure
29 uniformity and usability of searchable databases and web sites, the
30 board shall coordinate with the environmental and land use hearings
31 office, the department of commerce, and other interested stakeholders
32 to develop and maintain a rational system of categorizing its
33 decisions and orders.

34 (9) A board member or hearing examiner is subject to
35 disqualification under chapter 34.05 RCW. The rules of practice of
36 the board shall establish procedures by which a party to a hearing
37 conducted before the board may file with the board a motion to
38 disqualify, with supporting affidavit, against a board member or
39 hearing examiner assigned to preside at the hearing.

1 (~~(9)~~) (10) All members of the board shall meet on at least an
2 annual basis with the objective of sharing information that promotes
3 the goals and purposes of this chapter.

4 (~~(10)~~) (11) The board shall annually elect one of its members
5 to be the board administrative officer. The duties and
6 responsibilities of the administrative officer include handling day-
7 to-day administrative, budget, and personnel matters on behalf of the
8 board, together with making case assignments to board members in
9 accordance with the board's rules of procedure in order to achieve a
10 fair and balanced workload among all board members. The
11 administrative officer of the board may carry a reduced caseload to
12 allow time for performing the administrative work functions.

13 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
14 this act, referencing this act by bill or chapter number, is not
15 provided by June 30, 2019, in the omnibus appropriations act, this
16 act is null and void.

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