

# SENATE BILL REPORT

## SHB 2416

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As of February 21, 1996

**Title:** An act relating to growth management hearings boards.

**Brief Description:** Revising procedures for growth management hearings boards.

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

**Brief History:**

**Committee Activity:** Government Operations: 2/23/96.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS

**Staff:** Rod McAulay (786-7754)

**Background:** The Growth Management Act (GMA) established three separate Growth Management Hearings Boards (hearings boards) to hear appeals challenging the actions of state agencies, counties, and cities, to determine if their actions are in compliance with GMA requirements.

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 planing 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.