

# FINAL BILL REPORT

## SSB 6637

---

### PARTIAL VETO

C 325 L 96

Synopsis as Enacted

**Brief Description:** Limiting growth management hearings board discretion.

**Sponsors:** Senate Committee on Government Operations (originally sponsored by Senators Haugen, Sheldon, Winsley, Hale, Wood and Long).

**Senate Committee on Government Operations**

**House Committee on Government Operations**

**Background:** The Growth Management Act (GMA) established three regional growth management hearings boards to review compliance with statutory deadlines, and the sufficiency of plans and development regulations adopted by cities and counties pursuant to the act. There is concern that clarification is needed with regard to: (a) the standards of conduct for board members; (b) the requirements for standing to petition the boards; (c) the consequences and procedures when a board invalidates a county or city regulation or plan; (d) the extent of deference the boards must give to local government decisions; and (e) the burden and standard of proof on petitioners.

**Summary:** The procedures and standards for the three GMA hearings boards are amended. Boards are required to publish and distribute their decisions. It is made clear that the boards are governed by the Administrative Procedure Act (APA) and that board members are subject to disqualification under the standards of the APA. Unless they are certified by the Governor or are an aggrieved party under the APA, it is clarified that persons must have participated orally or in writing before a city or county on a matter in order to have standing to petition the board on that matter. The definition of "person" for purposes of standing is expanded to include state agencies.

The provisions regarding the board's authority to invalidate parts of comprehensive plans or development regulations are modified. While the standard for invalidation remains the same, the process is divided into two steps. First, the board may make a determination of invalidity at the time it enters a final order. An order effectuating the invalidity may be entered no sooner than 90 days after the determination. The 90-day period may be extended if the board finds that the county or city is making substantial progress toward remedying the defective part or parts of their comprehensive plan or development regulations.

If a board enters an order effectuating a determination of invalidity, the consequence is that the jurisdiction may not subsequently approve any division of land within the area affected by the invalidation unless that division conforms to a corrected plan or development regulation which would not be declared invalid.

If a determination of invalidity or order effectuating a determination of invalidity is appealed to superior court, the court must conduct an independent review and expedite the hearing on the issue.

With regard to matters pending before a board, the presumption of validity not only includes comprehensive plans and development regulations, but is extended to designations and other actions required by the GMA. The boards may not substitute their judgment for that of a county or city regarding choices made within the broad range of discretion given to counties and cities under the act. The boards may not prioritize, balance, or rank the goals established by the GMA.

It is made clear that in matters brought before the hearing boards the burden of proof is on the petitioner, and that a petitioner must show that a state agency, county, or city erroneously interpreted the GMA or that the action of the state, county or city is not supported by evidence that is substantial when reviewed in light of the whole record.

**Partial Veto Summary:** The amendments modifying the authority of growth management hearings boards to invalidate parts of comprehensive plans and development regulations and modifying the consequences of an invalidation on the vesting of permit applications are vetoed. Language providing that a court conduct an "independent" review of appeals from boards is vetoed.

Vetoed are amendments extending the presumption of validity to "designations" and other actions required by the GMA; prohibiting boards from prioritizing, balancing or ranking GMA goals; and expressly prohibiting a board from substituting its judgment for that of a county or city regarding decisions within the discretion of the county or city.

Amendments addressing the burden and standards of proof are also vetoed.

**Votes on Final Passage:**

Senate	18	31	(Senate failed)
Senate	36	13	(Senate reconsidered)
House	66	30	(House amended)
Senate			(Senate refused to concur)
House	68	30	(House amended)
House	69	29	(House reconsidered)
Senate	41	8	(Senate concurred)

**Effective:** March 30, 1996