

---

SENATE BILL 5518

---

State of Washington

54th Legislature

1995 Regular Session

By Senators Heavey and Roach

Read first time 01/25/95. Referred to Committee on Government Operations.

1 AN ACT Relating to abolishing the growth management hearings  
2 boards; amending RCW 36.70A.110, 36.70A.210, 36.70A.280, 36.70A.300,  
3 36.70A.310, and 36.70A.320; reenacting and amending RCW 36.70A.290;  
4 creating a new section; and repealing RCW 36.70A.250, 36.70A.260, and  
5 36.70A.270.

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

7 NEW SECTION. **Sec. 1.** The authority of the three growth management  
8 hearings boards to receive and consider petitions pursuant to RCW  
9 36.70A.280 shall terminate as of the effective date of this act and the  
10 boards shall be terminated on June 30, 1996. Any matters pending  
11 before any of the three boards on June 30, 1996, shall be transferred  
12 to the superior court for the county in which the matter arises. If  
13 the matter involves more than one county, the matter shall be  
14 transferred to the superior court of the county to which the parties  
15 stipulate, or if there is no stipulation between the parties by June  
16 30, 1996, to Thurston county superior court.

17 **Sec. 2.** RCW 36.70A.110 and 1994 c 249 s 27 are each amended to  
18 read as follows:

1 (1) Each county that is required or chooses to plan under RCW  
2 36.70A.040 shall designate an urban growth area or areas within which  
3 urban growth shall be encouraged and outside of which growth can occur  
4 only if it is not urban in nature. Each city that is located in such  
5 a county shall be included within an urban growth area. An urban  
6 growth area may include more than a single city. An urban growth area  
7 may include territory that is located outside of a city only if such  
8 territory already is characterized by urban growth or is adjacent to  
9 territory already characterized by urban growth.

10 (2) Based upon the population growth management planning population  
11 projection made for the county by the office of financial management,  
12 the urban growth areas in the county shall include areas and densities  
13 sufficient to permit the urban growth that is projected to occur in the  
14 county for the succeeding twenty-year period. Each urban growth area  
15 shall permit urban densities and shall include greenbelt and open space  
16 areas. Within one year of July 1, 1990, each county that as of June 1,  
17 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
18 consulting with each city located within its boundaries and each city  
19 shall propose the location of an urban growth area. Within sixty days  
20 of the date the county legislative authority of a county adopts its  
21 resolution of intention or of certification by the office of financial  
22 management, all other counties that are required or choose to plan  
23 under RCW 36.70A.040 shall begin this consultation with each city  
24 located within its boundaries. The county shall attempt to reach  
25 agreement with each city on the location of an urban growth area within  
26 which the city is located. If such an agreement is not reached with  
27 each city located within the urban growth area, the county shall  
28 justify in writing why it so designated the area an urban growth area.  
29 A city may object formally with the department over the designation of  
30 the urban growth area within which it is located. Where appropriate,  
31 the department shall attempt to resolve the conflicts, including the  
32 use of mediation services.

33 (3) Urban growth should be located first in areas already  
34 characterized by urban growth that have existing public facility and  
35 service capacities to serve such development, and second in areas  
36 already characterized by urban growth that will be served by a  
37 combination of both existing public facilities and services and any  
38 additional needed public facilities and services that are provided by  
39 either public or private sources. Further, it is appropriate that

1 urban government services be provided by cities, and urban government  
2 services should not be provided in rural areas.

3 (4) On or before October 1, 1993, each county that was initially  
4 required to plan under RCW 36.70A.040(1) shall adopt development  
5 regulations designating interim urban growth areas under this chapter.  
6 Within three years and three months of the date the county legislative  
7 authority of a county adopts its resolution of intention or of  
8 certification by the office of financial management, all other counties  
9 that are required or choose to plan under RCW 36.70A.040 shall adopt  
10 development regulations designating interim urban growth areas under  
11 this chapter. Adoption of the interim urban growth areas may only  
12 occur after public notice; public hearing; and compliance with the  
13 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
14 Such action may be appealed (~~to the appropriate growth management~~  
15 ~~hearings board~~) as provided under RCW 36.70A.280. Final urban growth  
16 areas shall be adopted at the time of comprehensive plan adoption under  
17 this chapter.

18 (5) Each county shall include designations of urban growth areas in  
19 its comprehensive plan.

20 **Sec. 3.** RCW 36.70A.210 and 1994 c 249 s 28 are each amended to  
21 read as follows:

22 (1) The legislature recognizes that counties are regional  
23 governments within their boundaries, and cities are primary providers  
24 of urban governmental services within urban growth areas. For the  
25 purposes of this section, a "county-wide planning policy" is a written  
26 policy statement or statements used solely for establishing a county-  
27 wide framework from which county and city comprehensive plans are  
28 developed and adopted pursuant to this chapter. This framework shall  
29 ensure that city and county comprehensive plans are consistent as  
30 required in RCW 36.70A.100. Nothing in this section shall be construed  
31 to alter the land-use powers of cities.

32 (2) The legislative authority of a county that plans under RCW  
33 36.70A.040 shall adopt a county-wide planning policy in cooperation  
34 with the cities located in whole or in part within the county as  
35 follows:

36 (a) No later than sixty calendar days from July 16, 1991, the  
37 legislative authority of each county that as of June 1, 1991, was  
38 required or chose to plan under RCW 36.70A.040 shall convene a meeting

1 with representatives of each city located within the county for the  
2 purpose of establishing a collaborative process that will provide a  
3 framework for the adoption of a county-wide planning policy. In other  
4 counties that are required or choose to plan under RCW 36.70A.040, this  
5 meeting shall be convened no later than sixty days after the date the  
6 county adopts its resolution of intention or was certified by the  
7 office of financial management.

8 (b) The process and framework for adoption of a county-wide  
9 planning policy specified in (a) of this subsection shall determine the  
10 manner in which the county and the cities agree to all procedures and  
11 provisions including but not limited to desired planning policies,  
12 deadlines, ratification of final agreements and demonstration thereof,  
13 and financing, if any, of all activities associated therewith.

14 (c) If a county fails for any reason to convene a meeting with  
15 representatives of cities as required in (a) of this subsection, the  
16 governor may immediately impose any appropriate sanction or sanctions  
17 on the county from those specified under RCW 36.70A.340.

18 (d) If there is no agreement by October 1, 1991, in a county that  
19 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,  
20 or if there is no agreement within one hundred twenty days of the date  
21 the county adopted its resolution of intention or was certified by the  
22 office of financial management in any other county that is required or  
23 chooses to plan under RCW 36.70A.040, the governor shall first inquire  
24 of the jurisdictions as to the reason or reasons for failure to reach  
25 an agreement. If the governor deems it appropriate, the governor may  
26 immediately request the assistance of the department of community,  
27 trade, and economic development to mediate any disputes that preclude  
28 agreement. If mediation is unsuccessful in resolving all disputes that  
29 will lead to agreement, the governor may impose appropriate sanctions  
30 from those specified under RCW 36.70A.340 on the county, city, or  
31 cities for failure to reach an agreement as provided in this section.  
32 The governor shall specify the reason or reasons for the imposition of  
33 any sanction.

34 (e) No later than July 1, 1992, the legislative authority of each  
35 county that was required or chose to plan under RCW 36.70A.040 as of  
36 June 1, 1991, or no later than fourteen months after the date the  
37 county adopted its resolution of intention or was certified by the  
38 office of financial management the county legislative authority of any  
39 other county that is required or chooses to plan under RCW 36.70A.040,

1 shall adopt a county-wide planning policy according to the process  
2 provided under this section and that is consistent with the agreement  
3 pursuant to (b) of this subsection, and after holding a public hearing  
4 or hearings on the proposed county-wide planning policy.

5 (3) A county-wide planning policy shall at a minimum, address the  
6 following:

7 (a) Policies to implement RCW 36.70A.110;

8 (b) Policies for promotion of contiguous and orderly development  
9 and provision of urban services to such development;

10 (c) Policies for siting public capital facilities of a county-wide  
11 or state-wide nature;

12 (d) Policies for county-wide transportation facilities and  
13 strategies;

14 (e) Policies that consider the need for affordable housing, such as  
15 housing for all economic segments of the population and parameters for  
16 its distribution;

17 (f) Policies for joint county and city planning within urban growth  
18 areas;

19 (g) Policies for county-wide economic development and employment;  
20 and

21 (h) An analysis of the fiscal impact.

22 (4) Federal agencies and Indian tribes may participate in and  
23 cooperate with the county-wide planning policy adoption process.  
24 Adopted county-wide planning policies shall be adhered to by state  
25 agencies.

26 (5) Failure to adopt a county-wide planning policy that meets the  
27 requirements of this section may result in the imposition of a sanction  
28 or sanctions on a county or city within the county, as specified in RCW  
29 36.70A.340. In imposing a sanction or sanctions, the governor shall  
30 specify the reasons for failure to adopt a county-wide planning policy  
31 in order that any imposed sanction or sanctions are fairly and  
32 equitably related to the failure to adopt a county-wide planning  
33 policy.

34 (6) Cities and the governor may appeal an adopted county-wide  
35 planning policy to the (~~growth management hearings board~~) superior  
36 court within sixty days of the adoption of the county-wide planning  
37 policy.

38 (7) Multicounty planning policies shall be adopted by two or more  
39 counties, each with a population of four hundred fifty thousand or

1 more, with contiguous urban areas and may be adopted by other counties,  
2 according to the process established under this section or other  
3 processes agreed to among the counties and cities within the affected  
4 counties throughout the multicounty region.

5 **Sec. 4.** RCW 36.70A.280 and 1994 c 249 s 31 are each amended to  
6 read as follows:

7 (1) ~~((A growth management hearings board))~~ In addition to and  
8 without any limitation on the jurisdiction otherwise granted, a  
9 superior court shall hear and determine ~~((only))~~ those petitions  
10 alleging either:

11 (a) That a state agency, county, or city is not in compliance with  
12 the requirements of this chapter, or chapter 43.21C RCW as it relates  
13 to plans, regulations, or amendments, adopted under RCW 36.70A.040; or

14 (b) That the twenty-year growth management planning population  
15 projections adopted by the office of financial management pursuant to  
16 RCW 43.62.035 should be adjusted.

17 (2) A petition may be filed only by the state, a county or city  
18 that plans under this chapter, a person who has either appeared before  
19 the county or city regarding the matter on which a review is being  
20 requested or is certified by the governor within sixty days of filing  
21 the request with the ~~((board))~~ court, or a person qualified pursuant to  
22 RCW 34.05.530.

23 (3) For purposes of this section "person" means any individual,  
24 partnership, corporation, association, governmental subdivision or unit  
25 thereof, or public or private organization or entity of any character.

26 (4) ~~((When considering a possible adjustment to a growth management~~  
27 ~~planning population projection prepared by the office of financial~~  
28 ~~management, a board shall consider the implications of any such~~  
29 ~~adjustment to the population forecast for the entire state.~~

30 The rationale for any adjustment that is adopted by a board must be  
31 documented and filed with the office of financial management within ten  
32 working days after adoption.)) If a county growth management planning  
33 population projection is adjusted by a ~~((board, a county growth~~  
34 ~~management planning population))~~ court, the adjusted projection shall  
35 only be used for the planning purposes set forth in this chapter and  
36 shall be known as a "~~((board))~~ court adjusted population projection".  
37 None of these changes shall affect the official state and county

1 population forecasts prepared by the office of financial management,  
2 which shall continue to be used for state budget and planning purposes.

3 **Sec. 5.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26 are  
4 each reenacted and amended to read as follows:

5 (1) All requests for review pursuant to RCW 36.70A.280 to ((a  
6 growth management hearings board)) superior court shall be initiated by  
7 filing a petition that includes a detailed statement of issues  
8 presented for resolution by the ((board)) court.

9 (2) All petitions relating to whether or not an adopted  
10 comprehensive plan, development regulation, or permanent amendment  
11 thereto, is in compliance with the goals and requirements of this  
12 chapter or chapter 43.21C RCW must be filed within sixty days after  
13 publication by the legislative bodies of the county or city. The date  
14 of publication for a city shall be the date the city publishes the  
15 ordinance, or summary of the ordinance, adopting the comprehensive plan  
16 or development regulations, or amendment thereto, as is required to be  
17 published. Promptly after adoption, a county shall publish a notice  
18 that it has adopted the comprehensive plan or development regulations,  
19 or amendment thereto. The date of publication for a county shall be  
20 the date the county publishes the notice that it has adopted the  
21 comprehensive plan or development regulations, or amendment thereto.

22 (3) Unless the ((board)) court dismisses the petition as frivolous  
23 or finds that the person filing the petition lacks standing, the  
24 ((board)) court shall, within ten days of receipt of the petition, set  
25 a time for hearing the matter.

26 (4) The ((board)) court shall base its decision on the record  
27 developed by the city, county, or the state and supplemented with  
28 additional evidence if the ((board)) court determines that such  
29 additional evidence would be necessary or of substantial assistance to  
30 the ((board)) court in reaching its decision.

31 (5) The ((board,)) court shall consolidate, when appropriate, all  
32 petitions involving the review of the same comprehensive plan or the  
33 same development regulation or regulations.

34 **Sec. 6.** RCW 36.70A.300 and 1991 sp.s. c 32 s 11 are each amended  
35 to read as follows:

36 (1) The ((board)) court shall issue a final order within one  
37 hundred eighty days of receipt of the petition for review, or, when

1 multiple petitions are filed, within one hundred eighty days of receipt  
2 of the last petition that is consolidated. Such a final order shall be  
3 based exclusively on whether or not a state agency, county, or city is  
4 in compliance with the requirements of this chapter, or chapter 43.21C  
5 RCW as it relates to plans, regulations, and amendments thereto,  
6 adopted under RCW 36.70A.040. In the final order, the (~~board~~) court  
7 shall either: (a) Find that the state agency, county, or city is in  
8 compliance with the requirements of this chapter; or (b) find that the  
9 state agency, county, or city is not in compliance with the  
10 requirements of this chapter, in which case the (~~board~~) court shall  
11 remand the matter to the affected state agency, county, or city and  
12 specify a reasonable time not in excess of one hundred eighty days  
13 within which the state agency, county, or city shall comply with the  
14 requirements of this chapter.

15 (2) Any (~~party aggrieved by a~~) final decision of (~~the hearings~~  
16 ~~board may appeal the decision to Thurston county superior court within~~  
17 ~~thirty days of the final order of the board~~) a court in a matter  
18 considered under RCW 36.70A.280 and 36.70A.290 may be appealed in the  
19 same manner and subject to the same rules as any other final order or  
20 judgment of a superior court.

21 **Sec. 7.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to  
22 read as follows:

23 A request for review by the state to (~~a growth management hearings~~  
24 ~~board~~) superior court may be made only by the governor, or with the  
25 governor's consent the head of an agency, or by the commissioner of  
26 public lands as relating to state trust lands, for the review of  
27 whether: (1) A county or city that is required or chooses to plan  
28 under RCW 36.70A.040 has failed to adopt a comprehensive plan or  
29 development regulations, or county-wide planning policies within the  
30 time limits established by this chapter; or (2) a county or city that  
31 is required or chooses to plan under this chapter has adopted a  
32 comprehensive plan, development regulations, or county-wide planning  
33 policies, that are not in compliance with the requirements of this  
34 chapter.

35 **Sec. 8.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended  
36 to read as follows:

1 Comprehensive plans and development regulations, and amendments  
2 thereto, adopted under this chapter are presumed valid upon adoption.  
3 In any petition under (~~this chapter, the board~~) RCW 36.70A.280, the  
4 court, after full consideration of the petition, shall determine  
5 whether there is compliance with the requirements of this chapter. In  
6 making its determination, the (~~board~~) court shall consider the  
7 criteria adopted by the department under RCW 36.70A.190(4). The  
8 (~~board~~) court shall find compliance unless it finds by a  
9 preponderance of the evidence that the state agency, county, or city  
10 erroneously interpreted or applied this chapter.

11 NEW SECTION. Sec. 9. The following acts or parts of acts are each  
12 repealed:

- 13 (1) RCW 36.70A.250 and 1994 c 249 s 29 & 1991 sp.s. c 32 s 5;  
14 (2) RCW 36.70A.260 and 1994 c 249 s 30 & 1991 sp.s. c 32 s 6; and  
15 (3) RCW 36.70A.270 and 1994 c 257 s 1 & 1991 sp.s. c 32 s 7.

--- END ---