

2 **SHB 2279 - H AMD 228 ADOPTED 2-12-96**

3 By Representatives Hargrove and Hymes

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 36.70A.300 and 1995 c 347 s 110 are each amended to
8 read as follows:

9 (1) The board shall issue a final order within one hundred eighty
10 days of receipt of the petition for review, or, when multiple petitions
11 are filed, within one hundred eighty days of receipt of the last
12 petition that is consolidated. Such a final order shall be based
13 exclusively on whether or not a state agency, county, or city is in
14 compliance with the requirements of this chapter, chapter 90.58 RCW as
15 it relates to adoption or amendment of shoreline master programs, or
16 chapter 43.21C RCW as it relates to plans, development regulations, and
17 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.
18 In the final order, the board shall either: (a) Find that the state
19 agency, county, or city is in compliance with the requirements of this
20 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
21 of shoreline master programs; or (b) find that the state agency,
22 county, or city is not in compliance with the requirements of this
23 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
24 of shoreline master programs, in which case the board shall remand the
25 matter to the affected state agency, county, or city and specify a
26 reasonable time not in excess of one hundred eighty days within which
27 the state agency, county, or city shall comply with the requirements of
28 this chapter.

29 (2) A finding of noncompliance and an order of remand shall not
30 affect the validity of comprehensive plans and development regulations
31 during the period of remand(~~(, unless the board's final order also:~~

32 ~~(a) Includes a determination, supported by findings of fact and~~
33 ~~conclusions of law, that the continued validity of the plan or~~
34 ~~regulation would substantially interfere with the fulfillment of the~~
35 ~~goals of this chapter; and~~

1 ~~(b) Specifies the particular part or parts of the plan or~~
2 ~~regulation that are determined to be invalid, and the reasons for their~~
3 ~~invalidity.~~

4 ~~(3) A determination of invalidity shall:~~

5 ~~(a) Be prospective in effect and shall not extinguish rights that~~
6 ~~vested under state or local law before the date of the board's order;~~
7 ~~and~~

8 ~~(b) Subject any development application that would otherwise vest~~
9 ~~after the date of the board's order to the local ordinance or~~
10 ~~resolution that both is enacted in response to the order of remand and~~
11 ~~determined by the board pursuant to RCW 36.70A.330 to comply with the~~
12 ~~requirements of this chapter.~~

13 ~~(4) If the ordinance that adopts a plan or development regulation~~
14 ~~under this chapter includes a savings clause intended to revive prior~~
15 ~~policies or regulations in the event the new plan or regulations are~~
16 ~~determined to be invalid, the board shall determine under subsection~~
17 ~~(2) of this section whether the prior policies or regulations are valid~~
18 ~~during the period of remand)). All development permits shall vest~~
19 ~~under such comprehensive plan or development regulations until new~~
20 ~~comprehensive plan or development regulations are adopted.~~

21 ~~((+5))~~ (3) Any party aggrieved by a final decision of the hearings
22 board may appeal the decision to superior court as provided in RCW
23 34.05.514 or 36.01.050 within thirty days of the final order of the
24 board.

25 **Sec. 2.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to
26 read as follows:

27 (1) After the time set for complying with the requirements of this
28 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time
29 upon the motion of a county or city (~~subject to a determination of~~
30 ~~invalidity under RCW 36.70A.300)), the board shall set a hearing for~~
31 the purpose of determining whether the state agency, county, or city is
32 in compliance with the requirements of this chapter.

33 (2) The board shall conduct a hearing and issue a finding of
34 compliance or noncompliance with the requirements of this chapter. A
35 person with standing to challenge the legislation enacted in response
36 to the board's final order may participate in the hearing along with
37 the petitioner and the state agency, city, or county. A hearing under
38 this subsection shall be given the highest priority of business to be

1 conducted by the board, and a finding shall be issued within forty-five
2 days of the filing of the motion under subsection (1) of this section
3 with the board.

4 (3) If the board finds that the state agency, county, or city is
5 not in compliance, the board shall transmit its finding to the
6 governor. The board may recommend to the governor that the sanctions
7 authorized by this chapter be imposed.

8 ~~((4) The board shall also reconsider its final order and decide:~~

9 ~~(a) If a determination of invalidity has been made, whether such a~~
10 ~~determination should be rescinded or modified under the standards in~~
11 ~~RCW 36.70A.300(2); or~~

12 ~~(b) If no determination of invalidity has been made, whether one~~
13 ~~now should be made under the standards in RCW 36.70A.300(2).~~

14 ~~The board shall schedule additional hearings as appropriate~~
15 ~~pursuant to subsections (1) and (2) of this section.)~~

16 NEW SECTION. **Sec. 3.** It is the intent of the legislature that the
17 authority given to growth management hearings boards in chapter 347,
18 Laws of 1995 to determine that a plan or regulation is invalid is null
19 and void. Any such determination of invalidity made at any time is
20 null, void, and of no effect. The legislature intends that this act
21 have retroactive application and apply to determinations made before,
22 on, and after the effective date of this act."

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24 By Representative Hargrove

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26 On page 1, line 1 of the title, after "decisions;" strike the
27 remainder of the title and insert "amending RCW 36.70A.300 and
28 36.70A.330; and creating a new section."

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