

# SENATE BILL REPORT

## SB 5282

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As Passed Senate, March 13, 2003

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

**Brief Description:** Eliminating growth management hearings boards.

**Sponsors:** Senators Hargrove, Mulliken, T. Sheldon, Doumit, Benton and Zarelli.

**Brief History:**

**Committee Activity:** Land Use & Planning: 1/30/03 [DP, DNP].

Ways & Means: 2/26/03, 3/10/03 [DP, DNP].

Passed Senate: 3/13/03, 29-20.

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### SENATE COMMITTEE ON LAND USE & PLANNING

**Majority Report:** Do pass.

Signed by Senators Mulliken, Chair; McCaslin, Morton and T. Sheldon.

**Minority Report:** Do not pass.

Signed by Senator Kline.

**Staff:** Jennifer Arnold (786-7471)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Doumit, Hale, Honeyford, Johnson, Parlette, Roach and Sheahan.

**Minority Report:** Do not pass.

Signed by Senators Brown, Fraser, Poulsen, Regala and B. Sheldon.

**Staff:** Chelsea Buchanan (786-7446)

**Background:** Growth management hearings boards were initially created in 1990 when the Growth Management Act (GMA) was enacted under RCW 36.70A. There are three regional growth management hearings boards in the state: Eastern Washington, Central Puget Sound, and Western Washington. The board members, qualified by experience or training in land use matters, are appointed by the Governor for a term of six years. Each board is comprised of three members, at least one of whom must be licensed to practice law in the state of Washington, and at least one of whom has been a city or county elected official.

The growth management hearings boards hear petitions on whether the development regulations and comprehensive plans of local governments are in compliance with the goals

and requirements of the GMA, and whether Office of Financial Management (OFM) population projections should be adjusted. The state, counties, cities, and aggrieved persons (that have participated in the local government's planning process or that are certified by the Governor) can petition the boards. All development regulations and comprehensive plans are presumed valid on adoption and a board can only find noncompliance if a petitioner can show the county or city was "clearly erroneous" in its interpretation or application of the GMA. All board decisions may be appealed to a superior court.

**Summary of Bill:** The growth management hearings boards are eliminated on the effective date of this legislation. After such date, all appeals of local government decisions relating to development regulations or comprehensive plans, as well as OFM population projection adjustments under the GMA, are heard by a superior court. The superior court must issue a final judgment as to whether the local government decision is in compliance or noncompliance with the goals and requirements of the GMA. All superior court final judgments may be appealed to a court of appeals or the Supreme Court in the same manner, provided for by law, of other superior court civil case decisions.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For (Land Use & Planning):** The growth management hearings boards' members are not elected officials, but appointed by the Governor. They prefer to have local government elected officials responsible for local government decisions and believe that the appeal process would be more efficient with the ability to appeal directly to superior court and not go through the growth management hearings boards.

**Testimony Against (Land Use & Planning):** The growth management hearings boards provide a more informal process, which is less costly than appealing to superior court. The boards provide a more accessible means of mediation than the court systems are cable of providing. Superior court judges lack the subject matter expertise that the boards have in these issues.

**Testified (Land Use & Planning):** PRO: Kris Tefft, BIAW; Jim Halstrom, WA Horticultural Assn.; Scott Merriman, Assn. of Counties; Dan Titterness, Jefferson County BOCC; Chris Cheney, Western WA Ag. Assn., Dairy Federation, Cattlemen's Assn.; Dan Wood, WA Farm Bureau; CON: Elizabeth McNagny, DSHS; Martha Harden, Superior Court Judges Assn.; Perry D. Huston, Kittitas County BOCC; Darcie Nielsen, San Juan County.

**Testimony For (Ways & Means):** The growth management hearings boards (GMHB) have gone beyond their original intent, which was to look at whether required processes in local planning were followed vs. the content of the plans. They interfere with planning rather than serve as mediators. The superior courts will look at whether the processes were followed, which will cut down on the number and length of cases, which should remove the fiscal impact to counties. Also the state saves money due to the GMHB being eliminated. Counties will save money due to fewer appeals and less planning work having to be redone. There are

some frivolous appeals under the GMHB. Local needs for law and justice, public health, and other essential facilities are made worse due to planning delays.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** PRO: Senator Jim Hargrove; Senator Joyce Mulliken; Glen Huntinford, Jefferson County.