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SENATE BILL 6493

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Hobbs, Fairley, Swecker, Pridemore, Shin, Hatfield, Rasmussen, and Kline

Read first time 01/17/08.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to appeals under the growth management act;  
2 amending RCW 36.70A.290; adding new sections to chapter 43.330 RCW; and  
3 adding a new section to chapter 36.70A RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 43.330 RCW  
6 to read as follows:

7            (1) The director shall develop, by rule, a program for the loan of  
8 city costs associated with the appeal of a critical areas ordinance  
9 under chapter 36.70A RCW. The one-time per appeal loan is for cities  
10 with a population under thirty thousand and is limited to an appeal  
11 from a decision of a growth management hearings board to a superior  
12 court. The program is also subject to the following limitations:

- 13            (a) The loan amount may not exceed one hundred thousand dollars;  
14            (b) The loan must be repaid within ten years and is subject to an  
15 interest rate of four percent; and  
16            (c) Loan repayment does not begin until the superior court renders  
17 its decision.

18            (2) The director shall report to the legislature in November 2013  
19 on the use of the loan program. The report must include (a) who uses

1 the program, (b) the amounts of the loan awarded, (c) the frequency of  
2 treble attorneys' fees under section 4 of this act, and (4) any other  
3 program information the director considers appropriate.

4 **Sec. 2.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to  
5 read as follows:

6 (1) All requests for review to a growth management hearings board  
7 shall be initiated by filing (a) a petition that includes a detailed  
8 statement of issues presented for resolution by the board, and (b) a  
9 two hundred dollar filing fee. The board shall render written  
10 decisions articulating the basis for its holdings. The board shall not  
11 issue advisory opinions on issues not presented to the board in the  
12 statement of issues, as modified by any prehearing order.

13 (2) All petitions relating to whether or not an adopted  
14 comprehensive plan, development regulation, or permanent amendment  
15 thereto, is in compliance with the goals and requirements of this  
16 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days  
17 after publication by the legislative bodies of the county or city.

18 (a) Except as provided in (c) of this subsection, the date of  
19 publication for a city shall be the date the city publishes the  
20 ordinance, or summary of the ordinance, adopting the comprehensive plan  
21 or development regulations, or amendment thereto, as is required to be  
22 published.

23 (b) Promptly after adoption, a county shall publish a notice that  
24 it has adopted the comprehensive plan or development regulations, or  
25 amendment thereto.

26 Except as provided in (c) of this subsection, for purposes of this  
27 section the date of publication for a county shall be the date the  
28 county publishes the notice that it has adopted the comprehensive plan  
29 or development regulations, or amendment thereto.

30 (c) For local governments planning under RCW 36.70A.040, promptly  
31 after approval or disapproval of a local government's shoreline master  
32 program or amendment thereto by the department of ecology as provided  
33 in RCW 90.58.090, the local government shall publish a notice that the  
34 shoreline master program or amendment thereto has been approved or  
35 disapproved by the department of ecology. For purposes of this  
36 section, the date of publication for the adoption or amendment of a

1 shoreline master program is the date the local government publishes  
2 notice that the shoreline master program or amendment thereto has been  
3 approved or disapproved by the department of ecology.

4 (3) Unless the board dismisses the petition as frivolous or finds  
5 that the person filing the petition lacks standing, or the parties have  
6 filed an agreement to have the case heard in superior court as provided  
7 in RCW 36.70A.295, the board shall, within ten days of receipt of the  
8 petition, set a time for hearing the matter.

9 (4) The board shall base its decision on the record developed by  
10 the city, county, or the state and supplemented with additional  
11 evidence if the board determines that such additional evidence would be  
12 necessary or of substantial assistance to the board in reaching its  
13 decision.

14 (5) The board, shall consolidate, when appropriate, all petitions  
15 involving the review of the same comprehensive plan or the same  
16 development regulation or regulations.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330 RCW  
18 to read as follows:

19 The growth management appeals legal assistance account is created  
20 in the custody of the state treasurer. All receipts from the fee  
21 imposed under RCW 36.70A.290 and the repayment of loans under section  
22 1 of this act must be deposited into the account. Expenditures from  
23 the account may be used only for the program under section 1 of this  
24 act. Only the director of community, trade, and economic development  
25 or the director's designee may authorize expenditures from the account.  
26 The account is subject to allotment procedures under chapter 43.88 RCW,  
27 but an appropriation is not required for expenditures.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW  
29 to read as follows:

30 (1) When a court declares that an appeal regarding a critical areas  
31 ordinance is frivolous and the city has followed all the requirements  
32 regarding public notices and meetings necessary for the development of  
33 that ordinance, the city may sue the complainant and receive up to  
34 three times its attorneys' fees.

35 (2) When a city receives attorneys' fees under subsection (1) of

1 this section, within thirty days the city must use the amount received  
2 that exceeds attorneys' fees for repaying any loan under section 1 of  
3 this act.

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