

SSB 6214 - H COMM AMD

By Committee on Local Government & Housing

ADOPTED 03/02/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are
4 each reenacted and amended to read as follows:

5 (1) Each county that is required or chooses to plan under RCW
6 36.70A.040 shall designate an urban growth area or areas within which
7 urban growth shall be encouraged and outside of which growth can occur
8 only if it is not urban in nature. Each city that is located in such
9 a county shall be included within an urban growth area. An urban
10 growth area may include more than a single city. An urban growth area
11 may include territory that is located outside of a city only if such
12 territory already is characterized by urban growth whether or not the
13 urban growth area includes a city, or is adjacent to territory already
14 characterized by urban growth, or is a designated new fully contained
15 community as defined by RCW 36.70A.350.

16 (2) Based upon the growth management population projection made for
17 the county by the office of financial management, the county and each
18 city within the county shall include areas and densities sufficient to
19 permit the urban growth that is projected to occur in the county or
20 city for the succeeding twenty-year period, except for those urban
21 growth areas contained totally within a national historical reserve.
22 As part of this planning process, each city within the county must
23 include areas sufficient to accommodate the broad range of needs and
24 uses that will accompany the projected urban growth including, as
25 appropriate, medical, governmental, institutional, commercial, service,
26 retail, and other nonresidential uses.

27 Each urban growth area shall permit urban densities and shall
28 include greenbelt and open space areas. In the case of urban growth
29 areas contained totally within a national historical reserve, the city
30 may restrict densities, intensities, and forms of urban growth as

1 determined to be necessary and appropriate to protect the physical,
2 cultural, or historic integrity of the reserve. An urban growth area
3 determination may include a reasonable land market supply factor and
4 shall permit a range of urban densities and uses. In determining this
5 market factor, cities and counties may consider local circumstances.
6 Cities and counties have discretion in their comprehensive plans to
7 make many choices about accommodating growth.

8 Within one year of July 1, 1990, each county that as of June 1,
9 1991, was required or chose to plan under RCW 36.70A.040, shall begin
10 consulting with each city located within its boundaries and each city
11 shall propose the location of an urban growth area. Within sixty days
12 of the date the county legislative authority of a county adopts its
13 resolution of intention or of certification by the office of financial
14 management, all other counties that are required or choose to plan
15 under RCW 36.70A.040 shall begin this consultation with each city
16 located within its boundaries. The county shall attempt to reach
17 agreement with each city on the location of an urban growth area within
18 which the city is located. If such an agreement is not reached with
19 each city located within the urban growth area, the county shall
20 justify in writing why it so designated the area an urban growth area.
21 A city may object formally with the department over the designation of
22 the urban growth area within which it is located. Where appropriate,
23 the department shall attempt to resolve the conflicts, including the
24 use of mediation services.

25 (3) Urban growth should be located first in areas already
26 characterized by urban growth that have adequate existing public
27 facility and service capacities to serve such development, second in
28 areas already characterized by urban growth that will be served
29 adequately by a combination of both existing public facilities and
30 services and any additional needed public facilities and services that
31 are provided by either public or private sources, and third in the
32 remaining portions of the urban growth areas. Urban growth may also be
33 located in designated new fully contained communities as defined by RCW
34 36.70A.350.

35 (4) In general, cities are the units of local government most
36 appropriate to provide urban governmental services. In general, it is
37 not appropriate that urban governmental services be extended to or
38 expanded in rural areas except in those limited circumstances shown to

1 be necessary to protect basic public health and safety and the
2 environment and when such services are financially supportable at rural
3 densities and do not permit urban development.

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

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

21 (7) An urban growth area designated in accordance with this section
22 may include within its boundaries urban service areas or potential
23 annexation areas designated for specific cities or towns within the
24 county.

25 (8)(a) Except as provided in (b) of this subsection, the expansion
26 of an urban growth area is prohibited into the one hundred year
27 floodplain of any river or river segment that: (i) Is located west of
28 the crest of the Cascade mountains; and (ii) has a mean annual flow of
29 one thousand or more cubic feet per second as determined by the
30 department of ecology.

31 (b) Subsection (8)(a) of this section does not apply to:

32 (i) Urban growth areas that are fully contained within a floodplain
33 and lack adjacent buildable areas outside the floodplain;

34 (ii) Urban growth areas where expansions are precluded outside
35 floodplains because:

36 (A) Urban governmental services cannot be physically provided to
37 serve areas outside the floodplain; or

1 (B) Expansions outside the floodplain would require a river or
2 estuary crossing to access the expansion; or

3 (iii) Urban growth area expansions where:

4 (A) Public facilities already exist within the floodplain and the
5 expansion of an existing public facility is only possible on the land
6 to be included in the urban growth area and located within the
7 floodplain; or

8 (B) Urban development already exists within a floodplain as of July
9 26, 2009, and is adjacent to, but outside of, the urban growth area,
10 and the expansion of the urban growth area is necessary to include such
11 urban development within the urban growth area; or

12 (C) The land is owned by a jurisdiction planning under this chapter
13 or the rights to the development of the land have been permanently
14 extinguished, and the following criteria are met:

15 (I) The permissible use of the land is limited to one of the
16 following: Outdoor recreation; environmentally beneficial projects,
17 including but not limited to habitat enhancement or environmental
18 restoration; storm water facilities; flood control facilities; or
19 underground conveyances; and

20 (II) The development and use of such facilities or projects will
21 not decrease flood storage, increase storm water runoff, discharge
22 pollutants to fresh or salt waters during normal operations or floods,
23 or increase hazards to people and property.

24 (c) For the purposes of this subsection (8), "one hundred year
25 floodplain" means the same as "special flood hazard area" as set forth
26 in WAC 173-158-040 as it exists on July 26, 2009.

27 **Sec. 2.** RCW 36.70A.130 and 2009 c 479 s 23 are each amended to
28 read as follows:

29 (1)(a) Each comprehensive land use plan and development regulations
30 shall be subject to continuing review and evaluation by the county or
31 city that adopted them. Except as otherwise provided, a county or city
32 shall take legislative action to review and, if needed, revise its
33 comprehensive land use plan and development regulations to ensure the
34 plan and regulations comply with the requirements of this chapter
35 according to the time periods specified in subsection (4) of this
36 section.

1 (b) Except as otherwise provided, a county or city not planning
2 under RCW 36.70A.040 shall take action to review and, if needed, revise
3 its policies and development regulations regarding critical areas and
4 natural resource lands adopted according to this chapter to ensure
5 these policies and regulations comply with the requirements of this
6 chapter according to the time periods specified in subsection (4) of
7 this section. Legislative action means the adoption of a resolution or
8 ordinance following notice and a public hearing indicating at a
9 minimum, a finding that a review and evaluation has occurred and
10 identifying the revisions made, or that a revision was not needed and
11 the reasons therefor.

12 (c) The review and evaluation required by this subsection may be
13 combined with the review required by subsection (3) of this section.
14 The review and evaluation required by this subsection shall include,
15 but is not limited to, consideration of critical area ordinances and,
16 if planning under RCW 36.70A.040, an analysis of the population
17 allocated to a city or county from the most recent ten-year population
18 forecast by the office of financial management.

19 (d) Any amendment of or revision to a comprehensive land use plan
20 shall conform to this chapter. Any amendment of or revision to
21 development regulations shall be consistent with and implement the
22 comprehensive plan.

23 (2)(a) Each county and city shall establish and broadly disseminate
24 to the public a public participation program consistent with RCW
25 36.70A.035 and 36.70A.140 that identifies procedures and schedules
26 whereby updates, proposed amendments, or revisions of the comprehensive
27 plan are considered by the governing body of the county or city no more
28 frequently than once every year. "Updates" means to review and revise,
29 if needed, according to subsection (1) of this section, and the time
30 periods specified in subsection (4) of this section or in accordance
31 with the provisions of subsections (5) and (8) of this section.
32 Amendments may be considered more frequently than once per year under
33 the following circumstances:

34 (i) The initial adoption of a subarea plan that does not modify the
35 comprehensive plan policies and designations applicable to the subarea;

36 (ii) The adoption or amendment of a shoreline master program under
37 the procedures set forth in chapter 90.58 RCW;

1 (iii) The amendment of the capital facilities element of a
2 comprehensive plan that occurs concurrently with the adoption or
3 amendment of a county or city budget;

4 (iv) Until June 30, 2006, the designation of recreational lands
5 under RCW 36.70A.1701. A county amending its comprehensive plan
6 pursuant to this subsection (2)(a)(iv) may not do so more frequently
7 than every eighteen months; and

8 (v) The adoption of comprehensive plan amendments necessary to
9 enact a planned action under RCW 43.21C.031(2), provided that
10 amendments are considered in accordance with the public participation
11 program established by the county or city under this subsection (2)(a)
12 and all persons who have requested notice of a comprehensive plan
13 update are given notice of the amendments and an opportunity to
14 comment.

15 (b) Except as otherwise provided in (a) of this subsection, all
16 proposals shall be considered by the governing body concurrently so the
17 cumulative effect of the various proposals can be ascertained.
18 However, after appropriate public participation a county or city may
19 adopt amendments or revisions to its comprehensive plan that conform
20 with this chapter whenever an emergency exists or to resolve an appeal
21 of a comprehensive plan filed with ((a)) the growth management hearings
22 board or with the court.

23 (3)(a) Each county that designates urban growth areas under RCW
24 36.70A.110 shall review, at least every ten years, its designated urban
25 growth area or areas, and the densities permitted within both the
26 incorporated and unincorporated portions of each urban growth area. In
27 conjunction with this review by the county, each city located within an
28 urban growth area shall review the densities permitted within its
29 boundaries, and the extent to which the urban growth occurring within
30 the county has located within each city and the unincorporated portions
31 of the urban growth areas.

32 (b) The county comprehensive plan designating urban growth areas,
33 and the densities permitted in the urban growth areas by the
34 comprehensive plans of the county and each city located within the
35 urban growth areas, shall be revised to accommodate the urban growth
36 projected to occur in the county for the succeeding twenty-year period.
37 The review required by this subsection may be combined with the review
38 and evaluation required by RCW 36.70A.215.

1 (4) The department shall establish a schedule for counties and
2 cities to take action to review and, if needed, revise their
3 comprehensive plans and development regulations to ensure the plan and
4 regulations comply with the requirements of this chapter. Except as
5 provided in subsections (5) and (8) of this section, the schedule
6 established by the department shall provide for the reviews and
7 evaluations to be completed as follows:

8 (a) On or before December 1, 2004, and every seven years
9 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
10 Snohomish, Thurston, and Whatcom counties and the cities within those
11 counties;

12 (b) On or before December 1, 2005, and every seven years
13 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
14 Skamania counties and the cities within those counties;

15 (c) On or before December 1, 2006, and every seven years
16 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
17 Yakima counties and the cities within those counties; and

18 (d) On or before December 1, 2007, and every seven years
19 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,
20 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
21 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
22 within those counties.

23 (5)(a) Nothing in this section precludes a county or city from
24 conducting the review and evaluation required by this section before
25 the time limits established in subsection (4) of this section.
26 Counties and cities may begin this process early and may be eligible
27 for grants from the department, subject to available funding, if they
28 elect to do so.

29 (b) A county that is subject to a schedule established by the
30 department under subsection (4)(b) through (d) of this section and
31 meets the following criteria may comply with the requirements of this
32 section at any time within the thirty-six months following the date
33 established in the applicable schedule: The county has a population of
34 less than fifty thousand and has had its population increase by no more
35 than seventeen percent in the ten years preceding the date established
36 in the applicable schedule as of that date.

37 (c) A city that is subject to a schedule established by the
38 department under subsection (4)(b) through (d) of this section and

1 meets the following criteria may comply with the requirements of this
2 section at any time within the thirty-six months following the date
3 established in the applicable schedule: The city has a population of
4 no more than five thousand and has had its population increase by the
5 greater of either no more than one hundred persons or no more than
6 seventeen percent in the ten years preceding the date established in
7 the applicable schedule as of that date.

8 (d) State agencies are encouraged to provide technical assistance
9 to the counties and cities in the review of critical area ordinances,
10 comprehensive plans, and development regulations.

11 (6) A county or city subject to the time periods in subsection
12 (4)(a) of this section that, pursuant to an ordinance adopted by the
13 county or city establishing a schedule for periodic review of its
14 comprehensive plan and development regulations, has conducted a review
15 and evaluation of its comprehensive plan and development regulations
16 and, on or after January 1, 2001, has taken action in response to that
17 review and evaluation shall be deemed to have conducted the first
18 review required by subsection (4)(a) of this section. Subsequent
19 review and evaluation by the county or city of its comprehensive plan
20 and development regulations shall be conducted in accordance with the
21 time periods established under subsection (4)(a) of this section.

22 (7) The requirements imposed on counties and cities under this
23 section shall be considered "requirements of this chapter" under the
24 terms of RCW 36.70A.040(1). Only those counties and cities: (a)
25 Complying with the schedules in this section; (b) demonstrating
26 substantial progress towards compliance with the schedules in this
27 section for development regulations that protect critical areas; or (c)
28 complying with the extension provisions of subsection (5)(b) or (c) of
29 this section may receive grants, loans, pledges, or financial
30 guarantees under chapter 43.155 or 70.146 RCW. A county or city that
31 is fewer than twelve months out of compliance with the schedules in
32 this section for development regulations that protect critical areas is
33 making substantial progress towards compliance. Only those counties
34 and cities in compliance with the schedules in this section may receive
35 preference for grants or loans subject to the provisions of RCW
36 43.17.250.

37 (8) Except as provided in subsection (5)(b) and (c) of this
38 section:

1 (a) Counties and cities required to satisfy the requirements of
2 this section according to the schedule established by subsection (4)(b)
3 through (d) of this section may comply with the requirements of this
4 section for development regulations that protect critical areas one
5 year after the dates established in subsection (4)(b) through (d) of
6 this section;

7 (b) Counties and cities complying with the requirements of this
8 section one year after the dates established in subsection (4)(b)
9 through (d) of this section for development regulations that protect
10 critical areas shall be deemed in compliance with the requirements of
11 this section; and

12 (c) This subsection (8) applies only to the counties and cities
13 specified in subsection (4)(b) through (d) of this section, and only to
14 the requirements of this section for development regulations that
15 protect critical areas that must be satisfied by December 1, 2005,
16 December 1, 2006, and December 1, 2007.

17 (9) Notwithstanding subsection (8) of this section and the
18 substantial progress provisions of subsections (7) and (10) of this
19 section, only those counties and cities complying with the schedule in
20 subsection (4) of this section, or the extension provisions of
21 subsection (5)(b) or (c) of this section, may receive preferences for
22 grants, loans, pledges, or financial guarantees under chapter 43.155 or
23 70.146 RCW.

24 (10) Until December 1, 2005, and notwithstanding subsection (7) of
25 this section, a county or city subject to the time periods in
26 subsection (4)(a) of this section demonstrating substantial progress
27 towards compliance with the schedules in this section for its
28 comprehensive land use plan and development regulations may receive
29 grants, loans, pledges, or financial guarantees under chapter 43.155 or
30 70.146 RCW. A county or city that is fewer than twelve months out of
31 compliance with the schedules in this section for its comprehensive
32 land use plan and development regulations is deemed to be making
33 substantial progress towards compliance.

34 **Sec. 3.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to
35 read as follows:

36 (1) In designating and protecting critical areas under this
37 chapter, counties and cities shall include the best available science

1 in developing policies and development regulations to protect the
2 functions and values of critical areas. In addition, counties and
3 cities shall give special consideration to conservation or protection
4 measures necessary to preserve or enhance anadromous fisheries.

5 (2) If it determines that advice from scientific or other experts
6 is necessary or will be of substantial assistance in reaching its
7 decision, ((a)) the growth management hearings board may retain
8 scientific or other expert advice to assist in reviewing a petition
9 under RCW 36.70A.290 that involves critical areas.

10 **Sec. 4.** RCW 36.70A.250 and 1994 c 249 s 29 are each amended to
11 read as follows:

12 ~~((1) There are hereby created three growth management hearings~~
13 ~~boards for the state of Washington. The boards shall be established as~~
14 ~~follows:~~

15 ~~(a) An Eastern Washington board with jurisdictional boundaries~~
16 ~~including all counties that are required to or choose to plan under RCW~~
17 ~~36.70A.040 and are located east of the crest of the Cascade mountains;~~

18 ~~(b) A Central Puget Sound board with jurisdictional boundaries~~
19 ~~including King, Pierce, Snohomish, and Kitsap counties; and~~

20 ~~(c) A Western Washington board with jurisdictional boundaries~~
21 ~~including all counties that are required or choose to plan under RCW~~
22 ~~36.70A.040 and are located west of the crest of the Cascade mountains~~
23 ~~and are not included in the Central Puget Sound board jurisdictional~~
24 ~~boundaries. Skamania county, should it be required or choose to plan~~
25 ~~under RCW 36.70A.040, may elect to be included within the~~
26 ~~jurisdictional boundaries of either the Western or Eastern board.~~

27 ~~(2) Each board shall only hear matters pertaining to the cities and~~
28 ~~counties located within its jurisdictional boundaries.)~~ (1) A growth

29 management hearings board for the state of Washington is created. The
30 board shall consist of seven members qualified by experience or
31 training in matters pertaining to land use law or land use planning and
32 who have experience in the practical application of those matters. All
33 seven board members shall be appointed by the governor, two each
34 residing respectively in the Central Puget Sound, Eastern Washington,
35 and Western Washington regions, plus one board member residing within
36 the state of Washington. At least three members of the board shall be
37 admitted to practice law in this state, one each residing respectively

1 in the Central Puget Sound, Eastern Washington, and Western Washington
2 regions. At least three members of the board shall have been a city or
3 county elected official, one each residing respectively in the Central
4 Puget Sound, Eastern Washington, and Western Washington regions. After
5 expiration of the terms of board members on the previously existing
6 three growth management hearings boards, no more than four members of
7 the seven-member board may be members of the same major political
8 party. No more than two members at the time of their appointment or
9 during their term may reside in the same county.

10 (2) Each member of the board shall be appointed for a term of six
11 years. A vacancy shall be filled by appointment by the governor for
12 the unexpired portion of the term in which the vacancy occurs. Members
13 of the previously existing three growth management hearings boards
14 appointed before the effective date of this section shall complete
15 their staggered, six-year terms as members of the growth management
16 hearings board created under subsection (1) of this section. The
17 reduction from nine board members on the previously existing three
18 growth management hearings boards to seven total members on the growth
19 management hearings board shall be made through attrition, voluntary
20 resignation, or retirement.

21 **Sec. 5.** RCW 36.70A.260 and 1994 c 249 s 30 are each amended to
22 read as follows:

23 ~~((1) Each growth management hearings board shall consist of three~~
24 ~~members qualified by experience or training in matters pertaining to~~
25 ~~land use planning and residing within the jurisdictional boundaries of~~
26 ~~the applicable board. At least one member of each board must be~~
27 ~~admitted to practice law in this state and at least one member must~~
28 ~~have been a city or county elected official. Each board shall be~~
29 ~~appointed by the governor and not more than two members at the time of~~
30 ~~appointment or during their term shall be members of the same political~~
31 ~~party. No more than two members at the time of appointment or during~~
32 ~~their term shall reside in the same county.~~

33 ~~(2) Each member of a board shall be appointed for a term of six~~
34 ~~years. A vacancy shall be filled by appointment by the governor for~~
35 ~~the unexpired portion of the term in which the vacancy occurs. The~~
36 ~~terms of the first three members of a board shall be staggered so that~~
37 ~~one member is appointed to serve until July 1, 1994, one member until~~

1 ~~July 1, 1996, and one member until July 1, 1998.)~~ (1) Each petition
2 for review that is filed with the growth management hearings board
3 shall be heard and decided by a regional panel of growth management
4 hearings board members. Regional panels shall be constituted as
5 follows:

6 (a) Central Puget Sound Region. A three-member Central Puget Sound
7 panel shall be selected to hear matters pertaining to cities and
8 counties located within the region comprised of King, Pierce,
9 Snohomish, and Kitsap counties.

10 (b) Eastern Washington Region. A three-member Eastern Washington
11 panel shall be selected to hear matters pertaining to cities and
12 counties that are required or choose to plan under RCW 36.70A.040 and
13 are located east of the crest of the Cascade mountains.

14 (c) Western Washington Region. A three-member Western Washington
15 panel shall be selected to hear matters pertaining to cities and
16 counties that are required or choose to plan under RCW 36.70A.040, are
17 located west of the crest of the Cascade mountains, and are not
18 included in the Central Puget Sound Region. Skamania county, if it is
19 required or chooses to plan under RCW 36.70A.040, may elect to be
20 included within either the Western Washington Region or the Eastern
21 Washington Region.

22 (2)(a) Each regional panel selected to hear and decide cases shall
23 consist of three board members, at least a majority of whom shall
24 reside within the region in which the case arose, unless such members
25 cannot sit on a particular case because of recusal or disqualification,
26 or unless the board administrative officer determines that there is an
27 emergency including, but not limited to, the unavailability of a board
28 member due to illness, absence, vacancy, or significant workload
29 imbalance. The presiding officer of each case shall reside within the
30 region in which the case arose, unless the board administrative officer
31 determines that there is an emergency.

32 (b) Except as provided otherwise in this subsection (2)(b), each
33 regional panel must: (i) Include one member admitted to practice law
34 in this state; (ii) include one member who has been a city or county
35 elected official; and (iii) reflect the political composition of the
36 board. The requirements of this subsection (2)(b) may be waived by the
37 board administrative officer due to member unavailability, significant
38 workload imbalances, or other reasons.

1 **Sec. 6.** RCW 36.70A.270 and 1997 c 429 s 11 are each amended to
2 read as follows:

3 ~~((Each))~~ The growth management hearings board shall be governed by
4 the following rules on conduct and procedure:

5 (1) Any board member may be removed for inefficiency, malfeasance,
6 and misfeasance in office, under specific written charges filed by the
7 governor. The governor shall transmit such written charges to the
8 member accused and the chief justice of the supreme court. The chief
9 justice shall thereupon designate a tribunal composed of three judges
10 of the superior court to hear and adjudicate the charges. Removal of
11 any member of ~~((a))~~ the board by the tribunal shall disqualify such
12 member for reappointment.

13 (2) Each board member shall receive reimbursement for travel
14 expenses incurred in the discharge of his or her duties in accordance
15 with RCW 43.03.050 and 43.03.060. ~~((If it is determined that the
16 review boards shall operate on a full-time basis,))~~ Each member shall
17 receive an annual salary to be determined by the governor pursuant to
18 RCW 43.03.040. ~~((If it is determined that a review board shall operate
19 on a part-time basis, each member shall receive compensation pursuant
20 to RCW 43.03.250, provided such amount shall not exceed the amount that
21 would be set if they were a full-time board member.))~~ The principal
22 office of ~~((each))~~ the board shall be located ~~((by the governor within
23 the jurisdictional boundaries of each board. The boards shall operate
24 on either a part-time or full-time basis, as determined by the
25 governor))~~ in Olympia.

26 (3) Each board member shall not: (a) Be a candidate for or hold
27 any other public office or trust; (b) engage in any occupation or
28 business interfering with or inconsistent with his or her duty as a
29 board member; and (c) for a period of one year after the termination of
30 his or her board membership, act in a representative capacity before
31 the board on any matter.

32 (4) A majority of ~~((each))~~ the board shall constitute a quorum for
33 ~~((making orders or decisions,))~~ adopting rules necessary for the
34 conduct of its powers and duties~~((,))~~ or transacting other official
35 business, and may act even though one position of the board is vacant.
36 One or more members may hold hearings and take testimony to be reported
37 for action by the board when authorized by rule or order of the board.

1 The board shall perform all the powers and duties specified in this
2 chapter or as otherwise provided by law.

3 (5) The board may appoint one or more hearing examiners to assist
4 the board in its hearing function, to make conclusions of law and
5 findings of fact and, if requested by the board, to make
6 recommendations to the board for decisions in cases before the board.
7 Such hearing examiners must have demonstrated knowledge of land use
8 planning and law. The board(~~(s)~~) shall specify in (~~(their joint)~~) its
9 rules of practice and procedure, as required by subsection (7) of this
10 section, the procedure and criteria to be employed for designating
11 hearing examiners as a presiding officer. Hearing examiners selected
12 by (~~(a)~~) the board shall meet the requirements of subsection (3) of
13 this section. The findings and conclusions of the hearing examiner
14 shall not become final until they have been formally approved by the
15 board. This authorization to use hearing examiners does not waive the
16 requirement of RCW 36.70A.300 that final orders be issued within one
17 hundred eighty days of board receipt of a petition.

18 (6) (~~Each~~) The board shall make findings of fact and prepare a
19 written decision in each case decided by it, and such findings and
20 decision shall be effective upon being signed by two or more members of
21 the (~~board~~) regional panel deciding the particular case and upon
22 being filed at the board's principal office, and shall be open for
23 public inspection at all reasonable times.

24 (7) All proceedings before the board, any of its members, or a
25 hearing examiner appointed by the board shall be conducted in
26 accordance with such administrative rules of practice and procedure as
27 the board(~~(s jointly)~~) prescribes. (~~All three~~) The board(~~(s)~~) shall
28 (~~(jointly meet to)~~) develop and adopt (~~(joint)~~) rules of practice and
29 procedure, including rules regarding expeditious and summary
30 disposition of appeals and the assignment of cases to regional panels.
31 The board(~~(s)~~) shall publish such rules and decisions (~~(they)~~) it
32 renders and arrange for the reasonable distribution of the rules and
33 decisions. Except as it conflicts with specific provisions of this
34 chapter, the administrative procedure act, chapter 34.05 RCW, and
35 specifically including the provisions of RCW 34.05.455 governing ex
36 parte communications, shall govern the practice and procedure of the
37 board(~~(s)~~).

1 (8) A board member or hearing examiner is subject to
2 disqualification under chapter 34.05 RCW. The (~~joint~~) rules of
3 practice of the board(~~s~~) shall establish procedures by which a party
4 to a hearing conducted before the board may file with the board a
5 motion to disqualify, with supporting affidavit, against a board member
6 or hearing examiner assigned to preside at the hearing.

7 (9) (~~The~~) All members of the board(~~s~~) shall meet (~~jointly~~) on
8 at least an annual basis with the objective of sharing information that
9 promotes the goals and purposes of this chapter.

10 (10) The board shall annually elect one of its members to be the
11 board administrative officer. The duties and responsibilities of the
12 administrative officer include handling day-to-day administrative,
13 budget, and personnel matters on behalf of the board, together with
14 making case assignments to board members in accordance with the board's
15 rules of procedure in order to achieve a fair and balanced workload
16 among all board members. The administrative officer of the board may
17 carry a reduced caseload to allow time for performing the
18 administrative work functions.

19 **Sec. 7.** RCW 36.70A.280 and 2008 c 289 s 5 are each amended to read
20 as follows:

21 (1) (~~A~~) The growth management hearings board shall hear and
22 determine only those petitions alleging either:

23 (a) That, except as provided otherwise by this subsection, a state
24 agency, county, or city planning under this chapter is not in
25 compliance with the requirements of this chapter, chapter 90.58 RCW as
26 it relates to the adoption of shoreline master programs or amendments
27 thereto, or chapter 43.21C RCW as it relates to plans, development
28 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
29 90.58 RCW. Nothing in this subsection authorizes (~~a~~) the board to
30 hear petitions alleging noncompliance with RCW 36.70A.5801; or

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

34 (2) A petition may be filed only by: (a) The state, or a county or
35 city that plans under this chapter; (b) a person who has participated
36 orally or in writing before the county or city regarding the matter on

1 which a review is being requested; (c) a person who is certified by the
2 governor within sixty days of filing the request with the board; or (d)
3 a person qualified pursuant to RCW 34.05.530.

4 (3) For purposes of this section "person" means any individual,
5 partnership, corporation, association, state agency, governmental
6 subdivision or unit thereof, or public or private organization or
7 entity of any character.

8 (4) To establish participation standing under subsection (2)(b) of
9 this section, a person must show that his or her participation before
10 the county or city was reasonably related to the person's issue as
11 presented to the board.

12 (5) When considering a possible adjustment to a growth management
13 planning population projection prepared by the office of financial
14 management, ((a)) the board shall consider the implications of any such
15 adjustment to the population forecast for the entire state.

16 The rationale for any adjustment that is adopted by ((a)) the board
17 must be documented and filed with the office of financial management
18 within ten working days after adoption.

19 If adjusted by ((a)) the board, a county growth management planning
20 population projection shall only be used for the planning purposes set
21 forth in this chapter and shall be known as ((a)) the "board adjusted
22 population projection." None of these changes shall affect the
23 official state and county population forecasts prepared by the office
24 of financial management, which shall continue to be used for state
25 budget and planning purposes.

26 **Sec. 8.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to
27 read as follows:

28 (1) All requests for review to ((a)) the growth management hearings
29 board shall be initiated by filing a petition that includes a detailed
30 statement of issues presented for resolution by the board. The board
31 shall render written decisions articulating the basis for its holdings.
32 The board shall not issue advisory opinions on issues not presented to
33 the board in the statement of issues, as modified by any prehearing
34 order.

35 (2) All petitions relating to whether or not an adopted
36 comprehensive plan, development regulation, or permanent amendment

1 thereto, is in compliance with the goals and requirements of this
2 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days
3 after publication by the legislative bodies of the county or city.

4 (a) Except as provided in (c) of this subsection, the date of
5 publication for a city shall be the date the city publishes the
6 ordinance, or summary of the ordinance, adopting the comprehensive plan
7 or development regulations, or amendment thereto, as is required to be
8 published.

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

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

16 (c) For local governments planning under RCW 36.70A.040, promptly
17 after approval or disapproval of a local government's shoreline master
18 program or amendment thereto by the department of ecology as provided
19 in RCW 90.58.090, the local government shall publish a notice that the
20 shoreline master program or amendment thereto has been approved or
21 disapproved by the department of ecology. For purposes of this
22 section, the date of publication for the adoption or amendment of a
23 shoreline master program is the date the local government publishes
24 notice that the shoreline master program or amendment thereto has been
25 approved or disapproved by the department of ecology.

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

31 (4) The board shall base its decision on the record developed by
32 the city, county, or the state and supplemented with additional
33 evidence if the board determines that such additional evidence would be
34 necessary or of substantial assistance to the board in reaching its
35 decision.

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

1 **Sec. 9.** RCW 36.70A.295 and 1997 c 429 s 13 are each amended to
2 read as follows:

3 (1) The superior court may directly review a petition for review
4 filed under RCW 36.70A.290 if all parties to the proceeding before the
5 board have agreed to direct review in the superior court. The
6 agreement of the parties shall be in writing and signed by all of the
7 parties to the proceeding or their designated representatives. The
8 agreement shall include the parties' agreement to proper venue as
9 provided in RCW 36.70A.300(5). The parties shall file their agreement
10 with the board within ten days after the date the petition is filed, or
11 if multiple petitions have been filed and the board has consolidated
12 the petitions pursuant to RCW 36.70A.300, within ten days after the
13 board serves its order of consolidation.

14 (2) Within ten days of receiving the timely and complete agreement
15 of the parties, the board shall file a certificate of agreement with
16 the designated superior court and shall serve the parties with copies
17 of the certificate. The superior court shall obtain exclusive
18 jurisdiction over a petition when it receives the certificate of
19 agreement. With the certificate of agreement the board shall also file
20 the petition for review, any orders entered by the board, all other
21 documents in the board's files regarding the action, and the written
22 agreement of the parties.

23 (3) For purposes of a petition that is subject to direct review,
24 the superior court's subject matter jurisdiction shall be equivalent to
25 that of the board. Consistent with the requirements of the superior
26 court civil rules, the superior court may consolidate a petition
27 subject to direct review under this section with a separate action
28 filed in the superior court.

29 (4)(a) Except as otherwise provided in (b) and (c) of this
30 subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which
31 specify the nature and extent of board review, shall apply to the
32 superior court's review.

33 (b) The superior court:

34 (i) Shall not have jurisdiction to directly review or modify an
35 office of financial management population projection;

36 (ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall
37 render its decision on the petition within one hundred eighty days of
38 receiving the certification of agreement; and

1 (iii) Shall give a compliance hearing under RCW 36.70A.330(2) the
2 highest priority of all civil matters before the court.

3 (c) An aggrieved party may secure appellate review of a final
4 judgment of the superior court under this section by the supreme court
5 or the court of appeals. The review shall be secured in the manner
6 provided by law for review of superior court decisions in other civil
7 cases.

8 (5) If, following a compliance hearing, the court finds that the
9 state agency, county, or city is not in compliance with the court's
10 prior order, the court may use its remedial and contempt powers to
11 enforce compliance.

12 (6) The superior court shall transmit a copy of its decision and
13 order on direct review to the board, the department, and the governor.
14 If the court has determined that a county or city is not in compliance
15 with the provisions of this chapter, the governor may impose sanctions
16 against the county or city in the same manner as if ((a)) the board had
17 recommended the imposition of sanctions as provided in RCW 36.70A.330.

18 (7) After the court has assumed jurisdiction over a petition for
19 review under this section, the superior court civil rules shall govern
20 a request for intervention and all other procedural matters not
21 specifically provided for in this section.

22 **Sec. 10.** RCW 36.70A.302 and 1997 c 429 s 16 are each amended to
23 read as follows:

24 (1) ((A)) The board may determine that part or all of a
25 comprehensive plan or development regulations are invalid if the board:

26 (a) Makes a finding of noncompliance and issues an order of remand
27 under RCW 36.70A.300;

28 (b) Includes in the final order a determination, supported by
29 findings of fact and conclusions of law, that the continued validity of
30 part or parts of the plan or regulation would substantially interfere
31 with the fulfillment of the goals of this chapter; and

32 (c) Specifies in the final order the particular part or parts of
33 the plan or regulation that are determined to be invalid, and the
34 reasons for their invalidity.

35 (2) A determination of invalidity is prospective in effect and does
36 not extinguish rights that vested under state or local law before
37 receipt of the board's order by the city or county. The determination

1 of invalidity does not apply to a completed development permit
2 application for a project that vested under state or local law before
3 receipt of the board's order by the county or city or to related
4 construction permits for that project.

5 (3)(a) Except as otherwise provided in subsection (2) of this
6 section and (b) of this subsection, a development permit application
7 not vested under state or local law before receipt of the board's order
8 by the county or city vests to the local ordinance or resolution that
9 is determined by the board not to substantially interfere with the
10 fulfillment of the goals of this chapter.

11 (b) Even though the application is not vested under state or local
12 law before receipt by the county or city of the board's order, a
13 determination of invalidity does not apply to a development permit
14 application for:

15 (i) A permit for construction by any owner, lessee, or contract
16 purchaser of a single-family residence for his or her own use or for
17 the use of his or her family on a lot existing before receipt by the
18 county or city of the board's order, except as otherwise specifically
19 provided in the board's order to protect the public health and safety;

20 (ii) A building permit and related construction permits for
21 remodeling, tenant improvements, or expansion of an existing structure
22 on a lot existing before receipt of the board's order by the county or
23 city; and

24 (iii) A boundary line adjustment or a division of land that does
25 not increase the number of buildable lots existing before receipt of
26 the board's order by the county or city.

27 (4) If the ordinance that adopts a plan or development regulation
28 under this chapter includes a savings clause intended to revive prior
29 policies or regulations in the event the new plan or regulations are
30 determined to be invalid, the board shall determine under subsection
31 (1) of this section whether the prior policies or regulations are valid
32 during the period of remand.

33 (5) A county or city subject to a determination of invalidity may
34 adopt interim controls and other measures to be in effect until it
35 adopts a comprehensive plan and development regulations that comply
36 with the requirements of this chapter. A development permit
37 application may vest under an interim control or measure upon

1 determination by the board that the interim controls and other measures
2 do not substantially interfere with the fulfillment of the goals of
3 this chapter.

4 (6) A county or city subject to a determination of invalidity may
5 file a motion requesting that the board clarify, modify, or rescind the
6 order. The board shall expeditiously schedule a hearing on the motion.
7 At the hearing on the motion, the parties may present information to
8 the board to clarify the part or parts of the comprehensive plan or
9 development regulations to which the final order applies. The board
10 shall issue any supplemental order based on the information provided at
11 the hearing not later than thirty days after the date of the hearing.

12 (7)(a) If a determination of invalidity has been made and the
13 county or city has enacted an ordinance or resolution amending the
14 invalidated part or parts of the plan or regulation or establishing
15 interim controls on development affected by the order of invalidity,
16 after a compliance hearing, the board shall modify or rescind the
17 determination of invalidity if it determines under the standard in
18 subsection (1) of this section that the plan or regulation, as amended
19 or made subject to such interim controls, will no longer substantially
20 interfere with the fulfillment of the goals of this chapter.

21 (b) If the board determines that part or parts of the plan or
22 regulation are no longer invalid as provided in this subsection, but
23 does not find that the plan or regulation is in compliance with all of
24 the requirements of this chapter, the board, in its order, may require
25 periodic reports to the board on the progress the jurisdiction is
26 making towards compliance.

27 **Sec. 11.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to
28 read as follows:

29 A request for review by the state to ((a)) the growth management
30 hearings board may be made only by the governor, or with the governor's
31 consent the head of an agency, or by the commissioner of public lands
32 as relating to state trust lands, for the review of whether: (1) A
33 county or city that is required or chooses to plan under RCW 36.70A.040
34 has failed to adopt a comprehensive plan or development regulations, or
35 county-wide planning policies within the time limits established by
36 this chapter; or (2) a county or city that is required or chooses to

1 plan under this chapter has adopted a comprehensive plan, development
2 regulations, or county-wide planning policies, that are not in
3 compliance with the requirements of this chapter.

4 **Sec. 12.** RCW 36.70A.3201 and 1997 c 429 s 2 are each amended to
5 read as follows:

6 ~~((In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws
7 of 1997,))~~ The legislature intends that the board(~~s apply~~) applies a
8 more deferential standard of review to actions of counties and cities
9 than the preponderance of the evidence standard provided for under
10 existing law. In recognition of the broad range of discretion that may
11 be exercised by counties and cities consistent with the requirements of
12 this chapter, the legislature intends for the board(~~s~~) to grant
13 deference to counties and cities in how they plan for growth,
14 consistent with the requirements and goals of this chapter. Local
15 comprehensive plans and development regulations require counties and
16 cities to balance priorities and options for action in full
17 consideration of local circumstances. The legislature finds that while
18 this chapter requires local planning to take place within a framework
19 of state goals and requirements, the ultimate burden and responsibility
20 for planning, harmonizing the planning goals of this chapter, and
21 implementing a county's or city's future rests with that community.

22 **Sec. 13.** RCW 36.70A.345 and 1994 c 249 s 33 are each amended to
23 read as follows:

24 The governor may impose a sanction or sanctions specified under RCW
25 36.70A.340 on: (1) A county or city that fails to designate critical
26 areas, agricultural lands, forest lands, or mineral resource lands
27 under RCW 36.70A.170 by the date such action was required to have been
28 taken; (2) a county or city that fails to adopt development regulations
29 under RCW 36.70A.060 protecting critical areas or conserving
30 agricultural lands, forest lands, or mineral resource lands by the date
31 such action was required to have been taken; (3) a county that fails to
32 designate urban growth areas under RCW 36.70A.110 by the date such
33 action was required to have been taken; and (4) a county or city that
34 fails to adopt its comprehensive plan or development regulations when
35 such actions are required to be taken.

1 Imposition of a sanction or sanctions under this section shall be
2 preceded by written findings by the governor, that either the county or
3 city is not proceeding in good faith to meet the requirements of the
4 act; or that the county or city has unreasonably delayed taking the
5 required action. The governor shall consult with and communicate his
6 or her findings to the ((appropriate)) growth management hearings board
7 prior to imposing the sanction or sanctions. For those counties or
8 cities that are not required to plan or have not opted in, the governor
9 in imposing sanctions shall consider the size of the jurisdiction
10 relative to the requirements of this chapter and the degree of
11 technical and financial assistance provided.

12 **Sec. 14.** RCW 90.58.190 and 2003 c 321 s 4 are each amended to read
13 as follows:

14 (1) The appeal of the department's decision to adopt a master
15 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is
16 governed by RCW 34.05.510 through 34.05.598.

17 (2)(a) The department's decision to approve, reject, or modify a
18 proposed master program or amendment adopted by a local government
19 planning under RCW 36.70A.040 shall be appealed to the growth
20 management hearings board ((with jurisdiction over the local
21 government)). The appeal shall be initiated by filing a petition as
22 provided in RCW 36.70A.250 through 36.70A.320.

23 (b) If the appeal to the growth management hearings board concerns
24 shorelines, the growth management hearings board shall review the
25 proposed master program or amendment solely for compliance with the
26 requirements of this chapter, the policy of RCW 90.58.020 and the
27 applicable guidelines, the internal consistency provisions of RCW
28 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
29 43.21C RCW as it relates to the adoption of master programs and
30 amendments under chapter 90.58 RCW.

31 (c) If the appeal to the growth management hearings board concerns
32 a shoreline of statewide significance, the board shall uphold the
33 decision by the department unless the board, by clear and convincing
34 evidence, determines that the decision of the department is
35 inconsistent with the policy of RCW 90.58.020 and the applicable
36 guidelines.

1 (d) The appellant has the burden of proof in all appeals to the
2 growth management hearings board under this subsection.

3 (e) Any party aggrieved by a final decision of ((a)) the growth
4 management hearings board under this subsection may appeal the decision
5 to superior court as provided in RCW 36.70A.300.

6 (3)(a) The department's decision to approve, reject, or modify a
7 proposed master program or master program amendment by a local
8 government not planning under RCW 36.70A.040 shall be appealed to the
9 shorelines hearings board by filing a petition within thirty days of
10 the date of the department's written notice to the local government of
11 the department's decision to approve, reject, or modify a proposed
12 master program or master program amendment as provided in RCW
13 90.58.090(2).

14 (b) In an appeal relating to shorelines, the shorelines hearings
15 board shall review the proposed master program or master program
16 amendment and, after full consideration of the presentations of the
17 local government and the department, shall determine the validity of
18 the local government's master program or amendment in light of the
19 policy of RCW 90.58.020 and the applicable guidelines.

20 (c) In an appeal relating to shorelines of statewide significance,
21 the shorelines hearings board shall uphold the decision by the
22 department unless the board determines, by clear and convincing
23 evidence that the decision of the department is inconsistent with the
24 policy of RCW 90.58.020 and the applicable guidelines.

25 (d) Review by the shorelines hearings board shall be considered an
26 adjudicative proceeding under chapter 34.05 RCW, the Administrative
27 Procedure Act. The aggrieved local government shall have the burden of
28 proof in all such reviews.

29 (e) Whenever possible, the review by the shorelines hearings board
30 shall be heard within the county where the land subject to the proposed
31 master program or master program amendment is primarily located. The
32 department and any local government aggrieved by a final decision of
33 the hearings board may appeal the decision to superior court as
34 provided in chapter 34.05 RCW.

35 (4) A master program amendment shall become effective after the
36 approval of the department or after the decision of the shorelines
37 hearings board to uphold the master program or master program
38 amendment, provided that the board may remand the master program or

1 master program adjustment to the local government or the department for
2 modification prior to the final adoption of the master program or
3 master program amendment.

4 **Sec. 15.** RCW 34.05.518 and 2003 c 393 s 16 are each amended to
5 read as follows:

6 (1) The final decision of an administrative agency in an
7 adjudicative proceeding under this chapter may, except as otherwise
8 provided in chapter 43.21L RCW, be directly reviewed by the court of
9 appeals either (a) upon certification by the superior court pursuant to
10 this section or (b) if the final decision is from an environmental
11 board as defined in subsection (3) of this section, upon acceptance by
12 the court of appeals after a certificate of appealability has been
13 filed by the environmental board that rendered the final decision.

14 (2) For direct review upon certification by the superior court, an
15 application for direct review must be filed with the superior court
16 within thirty days of the filing of the petition for review in superior
17 court. The superior court may certify a case for direct review only if
18 the judicial review is limited to the record of the agency proceeding
19 and the court finds that:

20 (a) Fundamental and urgent issues affecting the future
21 administrative process or the public interest are involved which
22 require a prompt determination;

23 (b) Delay in obtaining a final and prompt determination of such
24 issues would be detrimental to any party or the public interest;

25 (c) An appeal to the court of appeals would be likely regardless of
26 the determination in superior court; and

27 (d) The appellate court's determination in the proceeding would
28 have significant precedential value.

29 Procedures for certification shall be established by court rule.

30 (3)(a) For the purposes of direct review of final decisions of
31 environmental boards, environmental boards include those boards
32 identified in RCW 43.21B.005 and the growth management hearings
33 board(~~s~~) as identified in RCW 36.70A.250.

34 (b) An environmental board may issue a certificate of appealability
35 if it finds that delay in obtaining a final and prompt determination of
36 the issues would be detrimental to any party or the public interest and
37 either:

1 (i) Fundamental and urgent statewide or regional issues are raised;
2 or

3 (ii) The proceeding is likely to have significant precedential
4 value.

5 (4) The environmental board shall state in the certificate of
6 appealability which criteria it applied, explain how that criteria was
7 met, and file with the certificate a copy of the final decision.

8 (5) For an appellate court to accept direct review of a final
9 decision of an environmental board, it shall consider the same criteria
10 outlined in subsection (3) of this section, except as otherwise
11 provided in chapter 43.21L RCW.

12 (6) The procedures for direct review of final decisions of
13 environmental boards include:

14 (a) Within thirty days after filing the petition for review with
15 the superior court, a party may file an application for direct review
16 with the superior court and serve the appropriate environmental board
17 and all parties of record. The application shall request the
18 environmental board to file a certificate of appealability.

19 (b) If an issue on review is the jurisdiction of the environmental
20 board, the board may file an application for direct review on that
21 issue.

22 (c) The environmental board shall have thirty days to grant or deny
23 the request for a certificate of appealability and its decision shall
24 be filed with the superior court and served on all parties of record.

25 (d) If a certificate of appealability is issued, the parties shall
26 have fifteen days from the date of service to file a notice of
27 discretionary review in the superior court, and the notice shall
28 include a copy of the certificate of appealability and a copy of the
29 final decision.

30 (e) If the appellate court accepts review, the certificate of
31 appealability shall be transmitted to the court of appeals as part of
32 the certified record.

33 (f) If a certificate of appealability is denied, review shall be by
34 the superior court. The superior court's decision may be appealed to
35 the court of appeals.

36 **Sec. 16.** RCW 34.12.020 and 2002 c 354 s 226 are each amended to
37 read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Office" means the office of administrative hearings.

4 (2) "Administrative law judge" means any person appointed by the
5 chief administrative law judge to conduct or preside over hearings as
6 provided in this chapter.

7 (3) "Hearing" means an adjudicative proceeding within the meaning
8 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413
9 through 34.05.476.

10 (4) "State agency" means any state board, commission, department,
11 or officer authorized by law to make rules or to conduct adjudicative
12 proceedings, except those in the legislative or judicial branches, the
13 growth management hearings board(~~s~~), the utilities and transportation
14 commission, the pollution control hearings board, the shorelines
15 hearings board, the forest practices appeals board, the environmental
16 hearings office, the board of industrial insurance appeals, the
17 Washington personnel resources board, the public employment relations
18 commission, and the board of tax appeals.

19 NEW SECTION. **Sec. 17.** (1) The three growth management hearings
20 boards are abolished and their powers, duties, and functions are
21 transferred to the growth management hearings board.

22 (2) All reports, documents, surveys, books, records, files, papers,
23 or written material in the possession of the three growth management
24 hearings boards must be delivered to the custody of the growth
25 management hearings board. All office furnishings, office equipment,
26 motor vehicles, and other tangible property in the possession of the
27 three growth management hearings boards must be made available to the
28 growth management hearings board.

29 (3) All funds, credits, or other assets held by the three growth
30 management hearings boards must, on the effective date of this section,
31 be transferred to the growth management hearings board. Any
32 appropriations made to the three growth management hearings boards
33 must, on the effective date of this section, be transferred and
34 credited to the growth management hearings board. If any question
35 arises as to the transfer of any personnel, funds, books, documents,
36 records, papers, files, equipment, or other tangible property used or
37 held in the exercise of the powers and the performance of the duties

1 and functions transferred, the director of financial management shall
2 make a determination as to the proper allocation and certify the same
3 to the state agencies concerned.

4 (4) All employees of the three growth management hearings boards
5 are transferred to the growth management hearings board. All employees
6 classified under chapter 41.06 RCW, the state civil service law, are
7 assigned to the growth management hearings board to perform their usual
8 duties upon the same terms as formerly, without any loss of rights,
9 subject to any action that may be appropriate thereafter in accordance
10 with the laws and rules governing state civil service.

11 (5) This section may not be construed to alter any existing
12 collective bargaining unit or the provisions of any existing collective
13 bargaining agreement until the agreement has expired or until the
14 bargaining unit has been modified by action of the public employment
15 relations commission as provided by law.

16 (6) All rules and pending business before the three growth
17 management hearings boards must be continued and acted upon by the
18 growth management hearings board. All existing contracts and
19 obligations remain in full force and must be performed by the growth
20 management hearings board.

21 (7) The transfer of the powers, duties, functions, and personnel of
22 the three growth management hearings boards to the growth management
23 hearings board does not affect the validity of any act performed before
24 the effective date of this section.

25 (8) All cases decided and all orders previously issued by the three
26 growth management hearings boards remain in full force and effect and
27 are not affected by this act.

28 NEW SECTION. **Sec. 18.** This act takes effect July 1, 2010."

29 Correct the title.

EFFECT: (1) Specifies that members of the Growth Management
Hearings Board (Board) must have experience in the practical
application of land use law or land use planning.

(2) Deletes a provision that permits Board members to have

experience in city or county planning rather than having been a city or county elected official.

(3) Deletes a provision that permits Board members serving on regional panels to have experience in city or county planning rather than having been a city or county elected official.

--- END ---