

HOUSE BILL REPORT

HB 2442

As Reported by House Committee On:
Local Government & Housing

Title: An act relating to restructuring three growth management hearings boards into one board.

Brief Description: Restructuring three growth management hearings boards into one board.

Sponsors: Representatives Simpson, Hinkle, White, Kenney, Lias, Springer, Warnick, Roberts, Upthegrove, Williams, Hunt, Hudgins, Eddy, Darneille, Nelson, Chase, Sullivan, Kagi, Sells, Goodman and Jacks; by request of Growth Management Hearings Board.

Brief History:

Committee Activity:

Local Government & Housing: 1/11/10, 1/18/10 [DPS].

Brief Summary of Substitute Bill

- Consolidates the powers, duties, and functions of the three regional Growth Management Hearings Boards into a single Growth Management Hearings Board.
- Reduces the total number of Growth Management Hearings Board members from nine to seven.
- Specifies that petitions for review before the consolidated Growth Management Hearings Board must be heard and decided by a regional panel of three board members.
- Specifies provisions for the adjudicative and operational functioning of the consolidated Growth Management Hearings Board.
- Makes technical changes.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia, Springer, Upthegrove, White and Williams.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Angel, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Short.

Staff: Ethan Moreno (786-7386).

Background:

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The GMA establishes three regional Growth Management Hearings Boards (Boards or Regional Boards) with defined geographic jurisdictions: (1) an Eastern Washington Board; (2) a Central Puget Sound Board; and (3) a Western Washington Board. Each Board consists of three gubernatorial appointee members who are qualified by experience or training and who also meet residency requirements. At least one member of each Board must be admitted to practice law in Washington, and at least one member of each Board must have been a city or county elected official. No more than two members of a Board may be from the same political party. Board members serve six-year terms.

Boards have limited jurisdiction and may only hear and determine petitions alleging:

- that a state agency or planning jurisdiction is noncompliant with the GMA, specific provisions of the Shoreline Management Act, or certain mandates of the State Environmental Policy Act relating to qualifying plans, regulations, or amendments; or
- that the 20-year planning population projections adopted by the Office of Financial Management should be adjusted.

Boards must make findings of fact and prepare a written decision in each decided case. Findings of fact and decisions become effective upon being signed by two or more Board members and upon being filed at the applicable Board office. Final decisions of the Boards may be appealed to the superior court. If all parties agree, the superior court may directly review a petition filed with a Board.

Boards are governed by other statutory requirements for conduct and procedure. For example, a majority of a Board constitutes a quorum for making decisions, adopting rules, and conducting other official business. Additionally, Boards are required to jointly develop and adopt rules of practice and procedure. Boards must also meet jointly at least annually to share information that promotes the goals and purposes of the GMA. Although provisions allowing for the part-time operation of each Board are specified in statute, the three Regional Boards operate on a full-time basis.

In response to budget reductions enacted in Washington's 2009-2011 operating budget, the Boards consolidated their administrative functions and closed their Eastern Washington and Central Puget Sound regional offices in Yakima and Seattle, respectively. The office of the

Western Washington Board in Olympia effectively serves as the administrative office of all three Boards. Associated staff reductions also occurred, and one Board member position is vacant.

Summary of Substitute Bill:

Consolidation and Member Provisions.

The three regional Growth Management Hearings Boards are abolished and consolidated into a single Growth Management Hearings Board (consolidated board). The consolidated board must consist of seven members qualified by experience or training in land use law or planning, and who have experience in the practical application of these matters. The members must be appointed by the Governor to six-year terms, with six members from three specified regions of the state: two members each from (1) the Central Puget Sound area, (2) Eastern Washington, and (3) Western Washington. A seventh member must be appointed as an at-large member. At least three members of the consolidated board, one from each region, must be admitted to practice law in the state. Additionally, at least three members of the consolidated board, one from each region, must have been a county or city elected official. After the expiration of the terms of the Board members who serve prior to the consolidation, no more than four members of the consolidated board may be members of the same major political party. No more than two members at the time of their appointment or during their term may reside in the same county.

The members of the three Regional Boards who serve prior to the consolidation will complete their staggered current terms, with the reduction from nine members to seven occurring through attrition, voluntary resignation, or retirement.

Hearing and Adjudication Practices.

Petitions for review that are filed with the consolidated board must be heard and decided by a regional three-member panel, with membership for the regional panels selected from among full membership of the consolidated board. With some exceptions, a majority of the regional panel members selected to hear and decide a case must reside within the region in which the case arose. Except in cases of emergency, the presiding officer in each case must reside within the region in which the case arose. Also, with some exceptions, each regional panel must:

- include one member admitted to practice law in Washington;
- include one member who has been a city or county elected official; and
- reflect the political composition of the consolidated board.

The regional panels are constituted as follows:

- A Central Puget Sound regional panel will be selected to hear and decide matters pertaining to the cities and counties in King, Pierce, Snohomish, and Kitsap Counties.
- An Eastern Washington region panel will be selected to hear and decide matters pertaining to the planning jurisdictions that are east of the crest of the Cascade Mountain Range.

- A Western Washington regional panel will be selected to hear and decide matters pertaining to the cities and counties that are west of the crest of the Cascade Mountain Range that are not included within the Central Puget Sound region.
- If Skamania County becomes a planning jurisdiction, it may elect to be included in the Western or Eastern Washington regional panel.

Administrative Matters.

The consolidated board must annually elect one of its members to be the administrative officer. The administrative officer is responsible for the administrative, budget, and personnel matters of the consolidated board. The administrative officer is also responsible for making member case assignments, subject to the consolidated board's rules of procedure, for the purpose of achieving a fair and balanced workload among all members.

The reports, files, records, et cetera of the three regional Growth Management Hearings Boards must be delivered to the consolidated board, the office of which must be in Olympia. Funds, credits, assets, and employees of the Regional Boards are transferred to the consolidated board. Tangible property of the Regional Boards must be made available to the consolidated board. Rules and pending business before the Regional Boards must be continued and acted upon by the consolidated board. The transfer of powers, duties, functions, and personnel of the Regional Boards to the consolidated board does not affect the validity of any act performed before July 1, 2010. All cases decided and all orders previously issued by the Regional Boards remain in full force and effect.

Technical Changes.

Numerous statutory references to multiple Boards are changed to reflect a single consolidated board. Provisions pertaining to the part-time operations of the Regional Boards are deleted.

Substitute Bill Compared to Original Bill:

The substitute bill specifies that members of the consolidated board must have experience in the practical application of land use law or land use planning. The substitute bill also specifies that regional panels must: (1) include one member admitted to practice law in Washington; (2) include one member who has been a city or county elected official; and (3) reflect the political composition of the consolidated board. The regional panel composition requirements may be waived by the administrative officer of the consolidated board due to member unavailability, significant workload imbalances, or other reasons.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect July 1, 2010.

Staff Summary of Public Testimony:

(In support) The bill is a unanimous proposal from the eight members of the three regional Growth Management Hearings Boards. The bill is not about amending the principles of the GMA, but it is about saving money, and it is one of the governor's proposals for streamlining government. The Yakima and Seattle regional offices were closed to implement budget reductions, but under this bill, hearings will be in the areas in which the case arose. Many stakeholders support this bill and Board members are willing to work with stakeholders on amendments.

The current Board resolution process is well established, faster than the courts, and open to the public. This bill is an attempt to continue the current dispute resolution process, but at a lower cost and with fewer members. It will allow three-member panels, with two from the region in which the case arose, to decide cases. Without this bill, it is possible that a decision in the Central Puget Sound Board, a Board that currently has two members, may be a tie. This bill will resolve this potential dilemma.

The bill could be improved through an amendment that modifies the qualifications to serve on the consolidated board. Members should have experience in the practice of land use law and experience as elected officials in a jurisdiction planning under the GMA. Two members of the consolidated board should be certified planners and should meet other requirements. The qualification requirements should be explored and legislative confirmation for members could be considered. The regional panel process is supported. This is a technical consolidation bill, but it may be a vehicle for making additional improvements, including improvements that are implemented immediately.

The regional panels should adhere to the same qualifications that apply to the full consolidated board. An amendment to address the application of regional decisions is being considered.

(Opposed) None.

Persons Testifying: Representative Simpson, prime sponsor; Nina Carter, Western Washington Growth Management Hearing Board; Ray Paoletta, Eastern Washington Growth Management Hearing Board; Dave Earling, Central Puget Sound Growth Management Hearing Board; Brian Enslow, Washington State Association of Counties; Jeanette McKague, Washington Realtors; Scott Greenberg, American Planning Association; and April Putney, Futurewise.

Persons Signed In To Testify But Not Testifying: None.