

SENATE BILL REPORT

ESHB 2338

As Reported by Senate Committee On:
Ways & Means, April 22, 2009

Title: An act relating to the administration and operations of growth management hearings boards.

Brief Description: Concerning the administration and operations of growth management hearings boards.

Sponsors: House Committee on Ways & Means (originally sponsored by Representative Hunt).

Brief History: Passed House: 4/20/09, 79-19.

Committee Activity: Ways & Means: 4/22/09 [DPA, DNP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell, Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Honeyford and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Hewitt, Parlette and Pflug.

Staff: Maria Hovde (786-7710)

Background: Growth Management Act/Growth Management Hearings Boards. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. The GMA establishes three regional Growth Management Hearings Boards (GMHBs): an Eastern Washington board, a Central Puget Sound board, and a Western Washington board. Each GMHB consists of three full-time members qualified by experience or training who also meet residency requirements. Compositional provisions for GMHBs require at least one member to be admitted to practice law in Washington and at least one member to have been a city or county elected official.

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.

Additionally, no more than two members of a GMHB may be from the same political party. The GMHB members are appointed by the Governor to six-year terms.

The GMHBs have limited jurisdiction and may only hear and determine petitions alleging:

- that a state agency or planning jurisdiction is non-compliant 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.

The GMHBs 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 members and upon being filed at the applicable GMHB office. Final decisions of the GMHBs may be appealed to the superior court.

Joint Legislative Audit and Review Committee. The Joint Legislative Audit and Review Committee (JLARC) conducts performance audits, program evaluations, sunset reviews, and other analyses. Assignments to conduct studies are made by the Legislature and the JLARC. The JLARC's non-partisan staff auditors independently seek answers to audit questions and issue recommendations to improve performance. The JLARC is comprised of an equal number of House and Senate members, Democrats and Republicans.

Summary of Bill (Recommended Amendments): Administration and Operations of Growth Management Hearings Boards. The Office of Growth Management Hearings Boards (OGMHB) is created. The OGMHB consists of the three regional GMHBs established in the GMA. The administrative offices of each GMHB must only be located in the OGMHB. The office of the Western Washington GHMB is the initial location of the OGMHB. Provisions for the transfer of operations, assets, employees, and obligations from the three GMHBs to the OGMHB are specified.

If, due to vacancy, disqualification, illness, injury, workload imbalances, or budgetary constraints, only two members of a GMHB are available to render a decision on a case, the two remaining members may select a member from a different GMHB to substitute for the unavailable member and render a decision in the case. In selecting a substitute member, the GMHB must attempt to maintain the applicable requirements governing the composition of GMHBs. Requirements pertaining to findings of fact and decisions are modified to specify that such findings and decisions must, in addition to other requirements, be signed by two or more GMHB members who participated in deciding the matter.

Joint Legislative Audit and Review Committee. The Joint Legislative Audit and Review Committee (JLARC) must examine the administration and operations of the GMHBs or any successor agency, subject to the availability of amounts appropriated for this specific purpose. The examination must include an evaluation of:

- how to improve the effectiveness of the GMA dispute resolution system;
- the GMHBs organizational structure, workload, and work processes;
- potential benefits associated with establishing three-member regional panels;
- potential opportunities to co-locate or become part of the Environmental Hearings Office;

- technological opportunities to improve efficiency and decrease travel expenses; and
- the costs and benefits of complying with the GMA, including full costs to local governments of defending appeals and their success rate.

The JLARC is required to report its findings and recommendations to the Governor and the appropriate committees of the House and Senate by December 1, 2009.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): Makes changes to the JLARC examination to include an evaluation of the costs and benefits of complying with the GMA, including full costs to local governments of defending appeals and their success rate.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: PRO: This bill is a practical and balanced approach to maintaining the regional review and perspectives. It will also achieve savings by establishing one administrative office and consolidating staff.

Persons Testifying: PRO: April Putney, Futurewise; Josh Weiss, Washington State Association of Counties; Nina Carter, Western Washington Growth Management Hearings Board.