

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6214

Chapter 211, Laws of 2010

61st Legislature
2010 Regular Session

GROWTH MANAGEMENT HEARINGS BOARDS--RESTRUCTURING

EFFECTIVE DATE: 07/01/10

Passed by the Senate March 8, 2010
YEAS 43 NAYS 4

BRAD OWEN

President of the Senate

Passed by the House March 2, 2010
YEAS 68 NAYS 28

FRANK CHOPP

Speaker of the House of Representatives

Approved March 25, 2010, 3:49 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6214** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 26, 2010

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6214

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Government Operations & Elections (originally sponsored by Senators Haugen, Morton, Swecker, Shin, McCaslin, Ranker, Rockefeller, Fairley, Pridemore, Kline, Parlette, Jacobsen, Schoesler, Sheldon, McDermott, and Fraser; by request of Growth Management Hearings Board)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to restructuring three growth management hearings
2 boards into one board; amending RCW 36.70A.130, 36.70A.172, 36.70A.250,
3 36.70A.260, 36.70A.270, 36.70A.280, 36.70A.290, 36.70A.295, 36.70A.302,
4 36.70A.310, 36.70A.3201, 36.70A.345, 90.58.190, 34.05.518, and
5 34.12.020; reenacting and amending RCW 36.70A.110; creating a new
6 section; and providing an effective date.

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

8 **Sec. 1.** RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are
9 each reenacted and amended to read as follows:

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

1 characterized by urban growth, or is a designated new fully contained
2 community as defined by RCW 36.70A.350.

3 (2) Based upon the growth management population projection made for
4 the county by the office of financial management, the county and each
5 city within the county shall include areas and densities sufficient to
6 permit the urban growth that is projected to occur in the county or
7 city for the succeeding twenty-year period, except for those urban
8 growth areas contained totally within a national historical reserve.
9 As part of this planning process, each city within the county must
10 include areas sufficient to accommodate the broad range of needs and
11 uses that will accompany the projected urban growth including, as
12 appropriate, medical, governmental, institutional, commercial, service,
13 retail, and other nonresidential uses.

14 Each urban growth area shall permit urban densities and shall
15 include greenbelt and open space areas. In the case of urban growth
16 areas contained totally within a national historical reserve, the city
17 may restrict densities, intensities, and forms of urban growth as
18 determined to be necessary and appropriate to protect the physical,
19 cultural, or historic integrity of the reserve. An urban growth area
20 determination may include a reasonable land market supply factor and
21 shall permit a range of urban densities and uses. In determining this
22 market factor, cities and counties may consider local circumstances.
23 Cities and counties have discretion in their comprehensive plans to
24 make many choices about accommodating growth.

25 Within one year of July 1, 1990, each county that as of June 1,
26 1991, was required or chose to plan under RCW 36.70A.040, shall begin
27 consulting with each city located within its boundaries and each city
28 shall propose the location of an urban growth area. Within sixty days
29 of the date the county legislative authority of a county adopts its
30 resolution of intention or of certification by the office of financial
31 management, all other counties that are required or choose to plan
32 under RCW 36.70A.040 shall begin this consultation with each city
33 located within its boundaries. The county shall attempt to reach
34 agreement with each city on the location of an urban growth area within
35 which the city is located. If such an agreement is not reached with
36 each city located within the urban growth area, the county shall
37 justify in writing why it so designated the area an urban growth area.
38 A city may object formally with the department over the designation of

1 the urban growth area within which it is located. Where appropriate,
2 the department shall attempt to resolve the conflicts, including the
3 use of mediation services.

4 (3) Urban growth should be located first in areas already
5 characterized by urban growth that have adequate existing public
6 facility and service capacities to serve such development, second in
7 areas already characterized by urban growth that will be served
8 adequately by a combination of both existing public facilities and
9 services and any additional needed public facilities and services that
10 are provided by either public or private sources, and third in the
11 remaining portions of the urban growth areas. Urban growth may also be
12 located in designated new fully contained communities as defined by RCW
13 36.70A.350.

14 (4) In general, cities are the units of local government most
15 appropriate to provide urban governmental services. In general, it is
16 not appropriate that urban governmental services be extended to or
17 expanded in rural areas except in those limited circumstances shown to
18 be necessary to protect basic public health and safety and the
19 environment and when such services are financially supportable at rural
20 densities and do not permit urban development.

21 (5) On or before October 1, 1993, each county that was initially
22 required to plan under RCW 36.70A.040(1) shall adopt development
23 regulations designating interim urban growth areas under this chapter.
24 Within three years and three months of the date the county legislative
25 authority of a county adopts its resolution of intention or of
26 certification by the office of financial management, all other counties
27 that are required or choose to plan under RCW 36.70A.040 shall adopt
28 development regulations designating interim urban growth areas under
29 this chapter. Adoption of the interim urban growth areas may only
30 occur after public notice; public hearing; and compliance with the
31 state environmental policy act, chapter 43.21C RCW, and under this
32 section. Such action may be appealed to the ((appropriate)) growth
33 management hearings board under RCW 36.70A.280. Final urban growth
34 areas shall be adopted at the time of comprehensive plan adoption under
35 this chapter.

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

1 (7) An urban growth area designated in accordance with this section
2 may include within its boundaries urban service areas or potential
3 annexation areas designated for specific cities or towns within the
4 county.

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

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

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

14 (ii) Urban growth areas where expansions are precluded outside
15 floodplains because:

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

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

20 (iii) Urban growth area expansions where:

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

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

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

32 (I) The permissible use of the land is limited to one of the
33 following: Outdoor recreation; environmentally beneficial projects,
34 including but not limited to habitat enhancement or environmental
35 restoration; storm water facilities; flood control facilities; or
36 underground conveyances; and

37 (II) The development and use of such facilities or projects will

1 not decrease flood storage, increase storm water runoff, discharge
2 pollutants to fresh or salt waters during normal operations or floods,
3 or increase hazards to people and property.

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

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

9 (1)(a) Each comprehensive land use plan and development regulations
10 shall be subject to continuing review and evaluation by the county or
11 city that adopted them. Except as otherwise provided, a county or city
12 shall take legislative action to review and, if needed, revise its
13 comprehensive land use plan and development regulations to ensure the
14 plan and regulations comply with the requirements of this chapter
15 according to the time periods specified in subsection (4) of this
16 section.

17 (b) Except as otherwise provided, a county or city not planning
18 under RCW 36.70A.040 shall take action to review and, if needed, revise
19 its policies and development regulations regarding critical areas and
20 natural resource lands adopted according to this chapter to ensure
21 these policies and regulations comply with the requirements of this
22 chapter according to the time periods specified in subsection (4) of
23 this section. Legislative action means the adoption of a resolution or
24 ordinance following notice and a public hearing indicating at a
25 minimum, a finding that a review and evaluation has occurred and
26 identifying the revisions made, or that a revision was not needed and
27 the reasons therefor.

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

35 (d) Any amendment of or revision to a comprehensive land use plan
36 shall conform to this chapter. Any amendment of or revision to

1 development regulations shall be consistent with and implement the
2 comprehensive plan.

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

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

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

18 (iii) The amendment of the capital facilities element of a
19 comprehensive plan that occurs concurrently with the adoption or
20 amendment of a county or city budget;

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

25 (v) The adoption of comprehensive plan amendments necessary to
26 enact a planned action under RCW 43.21C.031(2), provided that
27 amendments are considered in accordance with the public participation
28 program established by the county or city under this subsection (2)(a)
29 and all persons who have requested notice of a comprehensive plan
30 update are given notice of the amendments and an opportunity to
31 comment.

32 (b) Except as otherwise provided in (a) of this subsection, all
33 proposals shall be considered by the governing body concurrently so the
34 cumulative effect of the various proposals can be ascertained.
35 However, after appropriate public participation a county or city may
36 adopt amendments or revisions to its comprehensive plan that conform
37 with this chapter whenever an emergency exists or to resolve an appeal

1 of a comprehensive plan filed with ((a)) the growth management hearings
2 board or with the court.

3 (3)(a) Each county that designates urban growth areas under RCW
4 36.70A.110 shall review, at least every ten years, its designated urban
5 growth area or areas, and the densities permitted within both the
6 incorporated and unincorporated portions of each urban growth area. In
7 conjunction with this review by the county, each city located within an
8 urban growth area shall review the densities permitted within its
9 boundaries, and the extent to which the urban growth occurring within
10 the county has located within each city and the unincorporated portions
11 of the urban growth areas.

12 (b) The county comprehensive plan designating urban growth areas,
13 and the densities permitted in the urban growth areas by the
14 comprehensive plans of the county and each city located within the
15 urban growth areas, shall be revised to accommodate the urban growth
16 projected to occur in the county for the succeeding twenty-year period.
17 The review required by this subsection may be combined with the review
18 and evaluation required by RCW 36.70A.215.

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

26 (a) On or before December 1, 2004, and every seven years
27 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
28 Snohomish, Thurston, and Whatcom counties and the cities within those
29 counties;

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

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

36 (d) On or before December 1, 2007, and every seven years
37 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,

1 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
2 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
3 within those counties.

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

10 (b) A county that is subject to a schedule established by the
11 department under subsection (4)(b) through (d) of this section and
12 meets the following criteria may comply with the requirements of this
13 section at any time within the thirty-six months following the date
14 established in the applicable schedule: The county has a population of
15 less than fifty thousand and has had its population increase by no more
16 than seventeen percent in the ten years preceding the date established
17 in the applicable schedule as of that date.

18 (c) A city that is subject to a schedule established by the
19 department under subsection (4)(b) through (d) of this section and
20 meets the following criteria may comply with the requirements of this
21 section at any time within the thirty-six months following the date
22 established in the applicable schedule: The city has a population of
23 no more than five thousand and has had its population increase by the
24 greater of either no more than one hundred persons or no more than
25 seventeen percent in the ten years preceding the date established in
26 the applicable schedule as of that date.

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

30 (6) A county or city subject to the time periods in subsection
31 (4)(a) of this section that, pursuant to an ordinance adopted by the
32 county or city establishing a schedule for periodic review of its
33 comprehensive plan and development regulations, has conducted a review
34 and evaluation of its comprehensive plan and development regulations
35 and, on or after January 1, 2001, has taken action in response to that
36 review and evaluation shall be deemed to have conducted the first
37 review required by subsection (4)(a) of this section. Subsequent

1 review and evaluation by the county or city of its comprehensive plan
2 and development regulations shall be conducted in accordance with the
3 time periods established under subsection (4)(a) of this section.

4 (7) The requirements imposed on counties and cities under this
5 section shall be considered "requirements of this chapter" under the
6 terms of RCW 36.70A.040(1). Only those counties and cities: (a)
7 Complying with the schedules in this section; (b) demonstrating
8 substantial progress towards compliance with the schedules in this
9 section for development regulations that protect critical areas; or (c)
10 complying with the extension provisions of subsection (5)(b) or (c) of
11 this section may receive grants, loans, pledges, or financial
12 guarantees under chapter 43.155 or 70.146 RCW. A county or city that
13 is fewer than twelve months out of compliance with the schedules in
14 this section for development regulations that protect critical areas is
15 making substantial progress towards compliance. Only those counties
16 and cities in compliance with the schedules in this section may receive
17 preference for grants or loans subject to the provisions of RCW
18 43.17.250.

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

21 (a) Counties and cities required to satisfy the requirements of
22 this section according to the schedule established by subsection (4)(b)
23 through (d) of this section may comply with the requirements of this
24 section for development regulations that protect critical areas one
25 year after the dates established in subsection (4)(b) through (d) of
26 this section;

27 (b) Counties and cities complying with the requirements of this
28 section one year after the dates established in subsection (4)(b)
29 through (d) of this section for development regulations that protect
30 critical areas shall be deemed in compliance with the requirements of
31 this section; and

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

37 (9) Notwithstanding subsection (8) of this section and the
38 substantial progress provisions of subsections (7) and (10) of this

1 section, only those counties and cities complying with the schedule in
2 subsection (4) of this section, or the extension provisions of
3 subsection (5)(b) or (c) of this section, may receive preferences for
4 grants, loans, pledges, or financial guarantees under chapter 43.155 or
5 70.146 RCW.

6 (10) Until December 1, 2005, and notwithstanding subsection (7) of
7 this section, a county or city subject to the time periods in
8 subsection (4)(a) of this section demonstrating substantial progress
9 towards compliance with the schedules in this section for its
10 comprehensive land use plan and development regulations may receive
11 grants, loans, pledges, or financial guarantees under chapter 43.155 or
12 70.146 RCW. A county or city that is fewer than twelve months out of
13 compliance with the schedules in this section for its comprehensive
14 land use plan and development regulations is deemed to be making
15 substantial progress towards compliance.

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

18 (1) In designating and protecting critical areas under this
19 chapter, counties and cities shall include the best available science
20 in developing policies and development regulations to protect the
21 functions and values of critical areas. In addition, counties and
22 cities shall give special consideration to conservation or protection
23 measures necessary to preserve or enhance anadromous fisheries.

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

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

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

34 ~~(a) An Eastern Washington board with jurisdictional boundaries~~
35 ~~including all counties that are required to or choose to plan under RCW~~
36 ~~36.70A.040 and are located east of the crest of the Cascade mountains;~~

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

3 ~~(c) A Western Washington board with jurisdictional boundaries~~
4 ~~including all counties that are required or choose to plan under RCW~~
5 ~~36.70A.040 and are located west of the crest of the Cascade mountains~~
6 ~~and are not included in the Central Puget Sound board jurisdictional~~
7 ~~boundaries. Skamania county, should it be required or choose to plan~~
8 ~~under RCW 36.70A.040, may elect to be included within the~~
9 ~~jurisdictional boundaries of either the Western or Eastern board.~~

10 ~~(2) Each board shall only hear matters pertaining to the cities and~~
11 ~~counties located within its jurisdictional boundaries.) (1) A growth~~
12 management hearings board for the state of Washington is created. The
13 board shall consist of seven members qualified by experience or
14 training in matters pertaining to land use law or land use planning and
15 who have experience in the practical application of those matters. All
16 seven board members shall be appointed by the governor, two each
17 residing respectively in the Central Puget Sound, Eastern Washington,
18 and Western Washington regions, plus one board member residing within
19 the state of Washington. At least three members of the board shall be
20 admitted to practice law in this state, one each residing respectively
21 in the Central Puget Sound, Eastern Washington, and Western Washington
22 regions. At least three members of the board shall have been a city or
23 county elected official, one each residing respectively in the Central
24 Puget Sound, Eastern Washington, and Western Washington regions. After
25 expiration of the terms of board members on the previously existing
26 three growth management hearings boards, no more than four members of
27 the seven-member board may be members of the same major political
28 party. No more than two members at the time of their appointment or
29 during their term may reside in the same county.

30 (2) Each member of the board shall be appointed for a term of six
31 years. A vacancy shall be filled by appointment by the governor for
32 the unexpired portion of the term in which the vacancy occurs. Members
33 of the previously existing three growth management hearings boards
34 appointed before the effective date of this section shall complete
35 their staggered, six-year terms as members of the growth management
36 hearings board created under subsection (1) of this section. The
37 reduction from nine board members on the previously existing three

1 growth management hearings boards to seven total members on the growth
2 management hearings board shall be made through attrition, voluntary
3 resignation, or retirement.

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

6 ~~((1) Each growth management hearings board shall consist of three~~
7 ~~members qualified by experience or training in matters pertaining to~~
8 ~~land use planning and residing within the jurisdictional boundaries of~~
9 ~~the applicable board. At least one member of each board must be~~
10 ~~admitted to practice law in this state and at least one member must~~
11 ~~have been a city or county elected official. Each board shall be~~
12 ~~appointed by the governor and not more than two members at the time of~~
13 ~~appointment or during their term shall be members of the same political~~
14 ~~party. No more than two members at the time of appointment or during~~
15 ~~their term shall reside in the same county.~~

16 ~~(2) Each member of a board shall be appointed for a term of six~~
17 ~~years. A vacancy shall be filled by appointment by the governor for~~
18 ~~the unexpired portion of the term in which the vacancy occurs. The~~
19 ~~terms of the first three members of a board shall be staggered so that~~
20 ~~one member is appointed to serve until July 1, 1994, one member until~~
21 ~~July 1, 1996, and one member until July 1, 1998.)) (1) Each petition~~
22 for review that is filed with the growth management hearings board
23 shall be heard and decided by a regional panel of growth management
24 hearings board members. Regional panels shall be constituted as
25 follows:

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

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

34 (c) Western Washington Region. A three-member Western Washington
35 panel shall be selected to hear matters pertaining to cities and
36 counties that are required or choose to plan under RCW 36.70A.040, are
37 located west of the crest of the Cascade mountains, and are not

1 included in the Central Puget Sound Region. Skamania county, if it is
2 required or chooses to plan under RCW 36.70A.040, may elect to be
3 included within either the Western Washington Region or the Eastern
4 Washington Region.

5 (2)(a) Each regional panel selected to hear and decide cases shall
6 consist of three board members, at least a majority of whom shall
7 reside within the region in which the case arose, unless such members
8 cannot sit on a particular case because of recusal or disqualification,
9 or unless the board administrative officer determines that there is an
10 emergency including, but not limited to, the unavailability of a board
11 member due to illness, absence, vacancy, or significant workload
12 imbalance. The presiding officer of each case shall reside within the
13 region in which the case arose, unless the board administrative officer
14 determines that there is an emergency.

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

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

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

26 (1) Any board member may be removed for inefficiency, malfeasance,
27 and misfeasance in office, under specific written charges filed by the
28 governor. The governor shall transmit such written charges to the
29 member accused and the chief justice of the supreme court. The chief
30 justice shall thereupon designate a tribunal composed of three judges
31 of the superior court to hear and adjudicate the charges. Removal of
32 any member of ~~((a))~~ the board by the tribunal shall disqualify such
33 member for reappointment.

34 (2) Each board member shall receive reimbursement for travel
35 expenses incurred in the discharge of his or her duties in accordance
36 with RCW 43.03.050 and 43.03.060. ~~((If it is determined that the~~
37 ~~review boards shall operate on a full time basis,))~~ Each member shall

1 receive an annual salary to be determined by the governor pursuant to
2 RCW 43.03.040. (~~If it is determined that a review board shall operate~~
3 ~~on a part-time basis, each member shall receive compensation pursuant~~
4 ~~to RCW 43.03.250, provided such amount shall not exceed the amount that~~
5 ~~would be set if they were a full-time board member.)) The principal
6 office of (~~each~~) the board shall be located (~~by the governor within~~
7 ~~the jurisdictional boundaries of each board. The boards shall operate~~
8 ~~on either a part-time or full-time basis, as determined by the~~
9 ~~governor~~) in Olympia.~~

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

16 (4) A majority of (~~each~~) the board shall constitute a quorum for
17 (~~making orders or decisions,~~) adopting rules necessary for the
18 conduct of its powers and duties(~~(7)~~) or transacting other official
19 business, and may act even though one position of the board is vacant.
20 One or more members may hold hearings and take testimony to be reported
21 for action by the board when authorized by rule or order of the board.
22 The board shall perform all the powers and duties specified in this
23 chapter or as otherwise provided by law.

24 (5) The board may appoint one or more hearing examiners to assist
25 the board in its hearing function, to make conclusions of law and
26 findings of fact and, if requested by the board, to make
27 recommendations to the board for decisions in cases before the board.
28 Such hearing examiners must have demonstrated knowledge of land use
29 planning and law. The board(~~s~~) shall specify in (~~their joint~~) its
30 rules of practice and procedure, as required by subsection (7) of this
31 section, the procedure and criteria to be employed for designating
32 hearing examiners as a presiding officer. Hearing examiners selected
33 by (~~a~~) the board shall meet the requirements of subsection (3) of
34 this section. The findings and conclusions of the hearing examiner
35 shall not become final until they have been formally approved by the
36 board. This authorization to use hearing examiners does not waive the
37 requirement of RCW 36.70A.300 that final orders be issued within one
38 hundred eighty days of board receipt of a petition.

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

7 (7) All proceedings before the board, any of its members, or a
8 hearing examiner appointed by the board shall be conducted in
9 accordance with such administrative rules of practice and procedure as
10 the board~~((s jointly))~~ prescribes. ~~((All three))~~ The board~~((s))~~ shall
11 ~~((jointly meet to))~~ develop and adopt ~~((joint))~~ rules of practice and
12 procedure, including rules regarding expeditious and summary
13 disposition of appeals and the assignment of cases to regional panels.
14 The board~~((s))~~ shall publish such rules and decisions ~~((they))~~ it
15 renders and arrange for the reasonable distribution of the rules and
16 decisions. Except as it conflicts with specific provisions of this
17 chapter, the administrative procedure act, chapter 34.05 RCW, and
18 specifically including the provisions of RCW 34.05.455 governing ex
19 parte communications, shall govern the practice and procedure of the
20 board~~((s))~~.

21 (8) A board member or hearing examiner is subject to
22 disqualification under chapter 34.05 RCW. The ~~((joint))~~ rules of
23 practice of the board~~((s))~~ shall establish procedures by which a party
24 to a hearing conducted before the board may file with the board a
25 motion to disqualify, with supporting affidavit, against a board member
26 or hearing examiner assigned to preside at the hearing.

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

30 (10) The board shall annually elect one of its members to be the
31 board administrative officer. The duties and responsibilities of the
32 administrative officer include handling day-to-day administrative,
33 budget, and personnel matters on behalf of the board, together with
34 making case assignments to board members in accordance with the board's
35 rules of procedure in order to achieve a fair and balanced workload
36 among all board members. The administrative officer of the board may
37 carry a reduced caseload to allow time for performing the
38 administrative work functions.

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

3 (1) ((A)) The growth management hearings board shall hear and
4 determine only those petitions alleging either:

5 (a) That, except as provided otherwise by this subsection, a state
6 agency, county, or city planning under this chapter is not in
7 compliance with the requirements of this chapter, chapter 90.58 RCW as
8 it relates to the adoption of shoreline master programs or amendments
9 thereto, or chapter 43.21C RCW as it relates to plans, development
10 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
11 90.58 RCW. Nothing in this subsection authorizes ((a)) the board to
12 hear petitions alleging noncompliance with RCW 36.70A.5801; or

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

16 (2) A petition may be filed only by: (a) The state, or a county or
17 city that plans under this chapter; (b) a person who has participated
18 orally or in writing before the county or city regarding the matter on
19 which a review is being requested; (c) a person who is certified by the
20 governor within sixty days of filing the request with the board; or (d)
21 a person qualified pursuant to RCW 34.05.530.

22 (3) For purposes of this section "person" means any individual,
23 partnership, corporation, association, state agency, governmental
24 subdivision or unit thereof, or public or private organization or
25 entity of any character.

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

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

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

37 If adjusted by ((a)) the board, a county growth management planning
38 population projection shall only be used for the planning purposes set

1 forth in this chapter and shall be known as ((a)) the "board adjusted
2 population projection." None of these changes shall affect the
3 official state and county population forecasts prepared by the office
4 of financial management, which shall continue to be used for state
5 budget and planning purposes.

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

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

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

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

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

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

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

1 section, the date of publication for the adoption or amendment of a
2 shoreline master program is the date the local government publishes
3 notice that the shoreline master program or amendment thereto has been
4 approved or disapproved by the department of ecology.

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

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

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

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

20 (1) The superior court may directly review a petition for review
21 filed under RCW 36.70A.290 if all parties to the proceeding before the
22 board have agreed to direct review in the superior court. The
23 agreement of the parties shall be in writing and signed by all of the
24 parties to the proceeding or their designated representatives. The
25 agreement shall include the parties' agreement to proper venue as
26 provided in RCW 36.70A.300(5). The parties shall file their agreement
27 with the board within ten days after the date the petition is filed, or
28 if multiple petitions have been filed and the board has consolidated
29 the petitions pursuant to RCW 36.70A.300, within ten days after the
30 board serves its order of consolidation.

31 (2) Within ten days of receiving the timely and complete agreement
32 of the parties, the board shall file a certificate of agreement with
33 the designated superior court and shall serve the parties with copies
34 of the certificate. The superior court shall obtain exclusive
35 jurisdiction over a petition when it receives the certificate of
36 agreement. With the certificate of agreement the board shall also file

1 the petition for review, any orders entered by the board, all other
2 documents in the board's files regarding the action, and the written
3 agreement of the parties.

4 (3) For purposes of a petition that is subject to direct review,
5 the superior court's subject matter jurisdiction shall be equivalent to
6 that of the board. Consistent with the requirements of the superior
7 court civil rules, the superior court may consolidate a petition
8 subject to direct review under this section with a separate action
9 filed in the superior court.

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

14 (b) The superior court:

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

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

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

22 (c) An aggrieved party may secure appellate review of a final
23 judgment of the superior court under this section by the supreme court
24 or the court of appeals. The review shall be secured in the manner
25 provided by law for review of superior court decisions in other civil
26 cases.

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

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

37 (7) After the court has assumed jurisdiction over a petition for

1 review under this section, the superior court civil rules shall govern
2 a request for intervention and all other procedural matters not
3 specifically provided for in this section.

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

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

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

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

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

17 (2) A determination of invalidity is prospective in effect and does
18 not extinguish rights that vested under state or local law before
19 receipt of the board's order by the city or county. The determination
20 of invalidity does not apply to a completed development permit
21 application for a project that vested under state or local law before
22 receipt of the board's order by the county or city or to related
23 construction permits for that project.

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

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

34 (i) A permit for construction by any owner, lessee, or contract
35 purchaser of a single-family residence for his or her own use or for
36 the use of his or her family on a lot existing before receipt by the

1 county or city of the board's order, except as otherwise specifically
2 provided in the board's order to protect the public health and safety;

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

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

10 (4) If the ordinance that adopts a plan or development regulation
11 under this chapter includes a savings clause intended to revive prior
12 policies or regulations in the event the new plan or regulations are
13 determined to be invalid, the board shall determine under subsection
14 (1) of this section whether the prior policies or regulations are valid
15 during the period of remand.

16 (5) A county or city subject to a determination of invalidity may
17 adopt interim controls and other measures to be in effect until it
18 adopts a comprehensive plan and development regulations that comply
19 with the requirements of this chapter. A development permit
20 application may vest under an interim control or measure upon
21 determination by the board that the interim controls and other measures
22 do not substantially interfere with the fulfillment of the goals of
23 this chapter.

24 (6) A county or city subject to a determination of invalidity may
25 file a motion requesting that the board clarify, modify, or rescind the
26 order. The board shall expeditiously schedule a hearing on the motion.
27 At the hearing on the motion, the parties may present information to
28 the board to clarify the part or parts of the comprehensive plan or
29 development regulations to which the final order applies. The board
30 shall issue any supplemental order based on the information provided at
31 the hearing not later than thirty days after the date of the hearing.

32 (7)(a) If a determination of invalidity has been made and the
33 county or city has enacted an ordinance or resolution amending the
34 invalidated part or parts of the plan or regulation or establishing
35 interim controls on development affected by the order of invalidity,
36 after a compliance hearing, the board shall modify or rescind the
37 determination of invalidity if it determines under the standard in

1 subsection (1) of this section that the plan or regulation, as amended
2 or made subject to such interim controls, will no longer substantially
3 interfere with the fulfillment of the goals of this chapter.

4 (b) If the board determines that part or parts of the plan or
5 regulation are no longer invalid as provided in this subsection, but
6 does not find that the plan or regulation is in compliance with all of
7 the requirements of this chapter, the board, in its order, may require
8 periodic reports to the board on the progress the jurisdiction is
9 making towards compliance.

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

12 A request for review by the state to ((a)) the growth management
13 hearings board may be made only by the governor, or with the governor's
14 consent the head of an agency, or by the commissioner of public lands
15 as relating to state trust lands, for the review of whether: (1) A
16 county or city that is required or chooses to plan under RCW 36.70A.040
17 has failed to adopt a comprehensive plan or development regulations, or
18 county-wide planning policies within the time limits established by
19 this chapter; or (2) a county or city that is required or chooses to
20 plan under this chapter has adopted a comprehensive plan, development
21 regulations, or county-wide planning policies, that are not in
22 compliance with the requirements of this chapter.

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

25 ((In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws
26 of 1997,)) The legislature intends that the board((s apply)) applies a
27 more deferential standard of review to actions of counties and cities
28 than the preponderance of the evidence standard provided for under
29 existing law. In recognition of the broad range of discretion that may
30 be exercised by counties and cities consistent with the requirements of
31 this chapter, the legislature intends for the board((s)) to grant
32 deference to counties and cities in how they plan for growth,
33 consistent with the requirements and goals of this chapter. Local
34 comprehensive plans and development regulations require counties and
35 cities to balance priorities and options for action in full
36 consideration of local circumstances. The legislature finds that while

1 this chapter requires local planning to take place within a framework
2 of state goals and requirements, the ultimate burden and responsibility
3 for planning, harmonizing the planning goals of this chapter, and
4 implementing a county's or city's future rests with that community.

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

7 The governor may impose a sanction or sanctions specified under RCW
8 36.70A.340 on: (1) A county or city that fails to designate critical
9 areas, agricultural lands, forest lands, or mineral resource lands
10 under RCW 36.70A.170 by the date such action was required to have been
11 taken; (2) a county or city that fails to adopt development regulations
12 under RCW 36.70A.060 protecting critical areas or conserving
13 agricultural lands, forest lands, or mineral resource lands by the date
14 such action was required to have been taken; (3) a county that fails to
15 designate urban growth areas under RCW 36.70A.110 by the date such
16 action was required to have been taken; and (4) a county or city that
17 fails to adopt its comprehensive plan or development regulations when
18 such actions are required to be taken.

19 Imposition of a sanction or sanctions under this section shall be
20 preceded by written findings by the governor, that either the county or
21 city is not proceeding in good faith to meet the requirements of the
22 act; or that the county or city has unreasonably delayed taking the
23 required action. The governor shall consult with and communicate his
24 or her findings to the ((appropriate)) growth management hearings board
25 prior to imposing the sanction or sanctions. For those counties or
26 cities that are not required to plan or have not opted in, the governor
27 in imposing sanctions shall consider the size of the jurisdiction
28 relative to the requirements of this chapter and the degree of
29 technical and financial assistance provided.

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

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

35 (2)(a) The department's decision to approve, reject, or modify a
36 proposed master program or amendment adopted by a local government

1 planning under RCW 36.70A.040 shall be appealed to the growth
2 management hearings board (~~with — jurisdiction — over — the — local~~
3 ~~government~~). The appeal shall be initiated by filing a petition as
4 provided in RCW 36.70A.250 through 36.70A.320.

5 (b) If the appeal to the growth management hearings board concerns
6 shorelines, the growth management hearings board shall review the
7 proposed master program or amendment solely for compliance with the
8 requirements of this chapter, the policy of RCW 90.58.020 and the
9 applicable guidelines, the internal consistency provisions of RCW
10 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter
11 43.21C RCW as it relates to the adoption of master programs and
12 amendments under chapter 90.58 RCW.

13 (c) If the appeal to the growth management hearings board concerns
14 a shoreline of statewide significance, the board shall uphold the
15 decision by the department unless the board, by clear and convincing
16 evidence, determines that the decision of the department is
17 inconsistent with the policy of RCW 90.58.020 and the applicable
18 guidelines.

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

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

24 (3)(a) The department's decision to approve, reject, or modify a
25 proposed master program or master program amendment by a local
26 government not planning under RCW 36.70A.040 shall be appealed to the
27 shorelines hearings board by filing a petition within thirty days of
28 the date of the department's written notice to the local government of
29 the department's decision to approve, reject, or modify a proposed
30 master program or master program amendment as provided in RCW
31 90.58.090(2).

32 (b) In an appeal relating to shorelines, the shorelines hearings
33 board shall review the proposed master program or master program
34 amendment and, after full consideration of the presentations of the
35 local government and the department, shall determine the validity of
36 the local government's master program or amendment in light of the
37 policy of RCW 90.58.020 and the applicable guidelines.

1 (c) In an appeal relating to shorelines of statewide significance,
2 the shorelines hearings board shall uphold the decision by the
3 department unless the board determines, by clear and convincing
4 evidence that the decision of the department is inconsistent with the
5 policy of RCW 90.58.020 and the applicable guidelines.

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

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

16 (4) A master program amendment shall become effective after the
17 approval of the department or after the decision of the shorelines
18 hearings board to uphold the master program or master program
19 amendment, provided that the board may remand the master program or
20 master program adjustment to the local government or the department for
21 modification prior to the final adoption of the master program or
22 master program amendment.

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

25 (1) The final decision of an administrative agency in an
26 adjudicative proceeding under this chapter may, except as otherwise
27 provided in chapter 43.21L RCW, be directly reviewed by the court of
28 appeals either (a) upon certification by the superior court pursuant to
29 this section or (b) if the final decision is from an environmental
30 board as defined in subsection (3) of this section, upon acceptance by
31 the court of appeals after a certificate of appealability has been
32 filed by the environmental board that rendered the final decision.

33 (2) For direct review upon certification by the superior court, an
34 application for direct review must be filed with the superior court
35 within thirty days of the filing of the petition for review in superior
36 court. The superior court may certify a case for direct review only if

1 the judicial review is limited to the record of the agency proceeding
2 and the court finds that:

3 (a) Fundamental and urgent issues affecting the future
4 administrative process or the public interest are involved which
5 require a prompt determination;

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

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

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

12 Procedures for certification shall be established by court rule.

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

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

21 (i) Fundamental and urgent statewide or regional issues are raised;
22 or

23 (ii) The proceeding is likely to have significant precedential
24 value.

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

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

32 (6) The procedures for direct review of final decisions of
33 environmental boards include:

34 (a) Within thirty days after filing the petition for review with
35 the superior court, a party may file an application for direct review
36 with the superior court and serve the appropriate environmental board
37 and all parties of record. The application shall request the
38 environmental board to file a certificate of appealability.

1 (b) If an issue on review is the jurisdiction of the environmental
2 board, the board may file an application for direct review on that
3 issue.

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

7 (d) If a certificate of appealability is issued, the parties shall
8 have fifteen days from the date of service to file a notice of
9 discretionary review in the superior court, and the notice shall
10 include a copy of the certificate of appealability and a copy of the
11 final decision.

12 (e) If the appellate court accepts review, the certificate of
13 appealability shall be transmitted to the court of appeals as part of
14 the certified record.

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

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

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

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

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

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

29 (4) "State agency" means any state board, commission, department,
30 or officer authorized by law to make rules or to conduct adjudicative
31 proceedings, except those in the legislative or judicial branches, the
32 growth management hearings board(~~s~~), the utilities and transportation
33 commission, the pollution control hearings board, the shorelines
34 hearings board, the forest practices appeals board, the environmental
35 hearings office, the board of industrial insurance appeals, the
36 Washington personnel resources board, the public employment relations
37 commission, and the board of tax appeals.

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

4 (2) All reports, documents, surveys, books, records, files, papers,
5 or written material in the possession of the three growth management
6 hearings boards must be delivered to the custody of the growth
7 management hearings board. All office furnishings, office equipment,
8 motor vehicles, and other tangible property in the possession of the
9 three growth management hearings boards must be made available to the
10 growth management hearings board.

11 (3) All funds, credits, or other assets held by the three growth
12 management hearings boards must, on the effective date of this section,
13 be transferred to the growth management hearings board. Any
14 appropriations made to the three growth management hearings boards
15 must, on the effective date of this section, be transferred and
16 credited to the growth management hearings board. If any question
17 arises as to the transfer of any personnel, funds, books, documents,
18 records, papers, files, equipment, or other tangible property used or
19 held in the exercise of the powers and the performance of the duties
20 and functions transferred, the director of financial management shall
21 make a determination as to the proper allocation and certify the same
22 to the state agencies concerned.

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

30 (5) This section may not be construed to alter any existing
31 collective bargaining unit or the provisions of any existing collective
32 bargaining agreement until the agreement has expired or until the
33 bargaining unit has been modified by action of the public employment
34 relations commission as provided by law.

35 (6) All rules and pending business before the three growth
36 management hearings boards must be continued and acted upon by the
37 growth management hearings board. All existing contracts and

1 obligations remain in full force and must be performed by the growth
2 management hearings board.

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

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

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

Passed by the Senate March 8, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.