H-3061.1

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**HOUSE BILL 2418**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Pike, Taylor, Vick, Harris, Buys, Wilson, Magendanz, and Van Werven

AN ACT Relating to modifying the membership and appointment process of the growth management hearings board; amending RCW 36.70A.250, 36.70A.252, and 36.70A.260; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that as part of the 2010 consolidation of the growth management hearings board there was an intent to reduce the size of the hearings board to six members if the case load justified such an action. This act honors that intent by preserving the existing regional structure of the board's membership, while authorizing the governor to determine whether the seventh member of the board will be appointed or not.

This legislation is intended to improve the credibility of the growth management hearings board by addressing concerns about decisions infringing on constitutional protections and the accountability of the board. This bill raises the qualifications of the board members. It also allows elected officials that implement the growth management act to be a part of the growth management hearings board appointment process. We are a society in which the government holds power only through the consent of the governed, and the legitimacy of government actions is strengthened when the governed individuals are confident that the governing body is alert to all of the laws of the state and that the presiding official is one they empowered to make such decisions.

**Sec.**  RCW 36.70A.250 and 2010 c 211 s 4 are each amended to read as follows:

(1) A growth management hearings board for the state of Washington is created. The board shall consist of ((~~seven members qualified by experience or training in matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All seven board members shall be appointed by the governor, two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions, plus one board member residing within the state of Washington. At least three members of the board shall be admitted to practice law in this state, one each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions. At least three members of the board shall have been a city or county elected official, one each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions. After expiration of the terms of board members on the previously existing three growth management hearings boards,~~)) six members, and may include an additional at-large member as the caseload of the board requires, appointed in accordance with this subsection. No more than four members of the ((~~seven-member~~)) 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.

((~~(2)~~)) (a) The county legislative authorities for all counties located east of the crest of the Cascade mountains that are required or choose to plan under RCW 36.70A.040 shall jointly appoint two members of the growth management hearings board.

(b) The county legislative authorities for all counties located west of the crest of the Cascade mountains that are required or choose to plan under RCW 36.70A.040, excluding King, Kitsap, Pierce, and Snohomish counties, shall jointly appoint two members of the growth management hearings board.

(c) The county legislative authorities for King, Kitsap, Pierce, and Snohomish counties shall jointly appoint two members of the growth management hearings board.

(d) The governor may appoint one member of the growth management hearings board to the at-large position. The at-large member serves at the pleasure of the governor.

(2)(a) For appointments to the growth management hearings board made by the county legislative authorities in each region acting jointly in accordance with subsection (1)(a), (b), or (c) of this section:

(i) Appointees must reside within the geographic boundaries of one of the counties making the appointment;

(ii) At a minimum, one of the two members appointed to the board must be admitted to practice law in the state; and

(iii) At a minimum, one of the two members appointed to the board must have extensive experience in matters pertaining to land use law or land use planning and the practical application of those matters.

(b) For appointments to the growth management hearings board made by the governor in accordance with subsection (1)(d) of this section:

(i) Appointees must reside in the state of Washington; and

(ii) At a minimum, appointees must be admitted to practice law in the state or have extensive experience in matters pertaining to land use law or land use planning and the practical application of those matters.

(3)(a) Each member of the growth management hearings board shall be appointed for a term of six years. ((~~A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. Members of the previously existing three growth management hearings boards appointed before July 1, 2010, shall complete their staggered, six-year terms as members of the growth management hearings board created under subsection (1) of this section. The reduction from nine board members on the previously existing three growth management hearings boards to seven total members on the growth management hearings board shall be made through attrition, voluntary resignation, or retirement~~))

(b) Each member of the growth management hearings board appointed prior to January 1, 2016, may complete his or her unexpired six-year term. When the term of each member expires, a successor must be appointed in accordance with this section either by the appropriate county legislative authorities if the member holds a regional position, or by the governor if the member holds the at-large position.

(4) Prior to making an appointment, but no later than January 1, 2017, the county legislative authorities of each region that are required to make joint appointments to the growth management hearings board must jointly establish a process for making appointments. Appointments to the board must be made in accordance with this section beginning with board member positions that have terms expiring on June 30, 2016.

(5)(a) If a vacancy in a regional position on the growth management hearings board occurs, the county legislative authorities of the applicable region shall jointly appoint a person to serve for the remainder of the unexpired term. The appointee must fulfill the same qualifications provided in subsection (2) of this section as the member he or she replaces.

(b) If a vacancy in the at-large position on the growth management hearings board occurs, the governor may appoint a person who meets the requirements of subsection (2) of this section to serve for the remainder of the unexpired term.

**Sec.**  RCW 36.70A.252 and 2010 c 210 s 15 are each amended to read as follows:

(1) On July 1, 2011, the growth management hearings board is administratively consolidated into the environmental and land use hearings office created in RCW 43.21B.005.

(2) ((~~Not later than July 1, 2012,~~)) The growth management hearings board consists of ((~~seven~~)) six members ((~~qualified by experience or training in matters pertaining to land use law or land use planning, except that the governor may reduce the board to six members if warranted by the board's caseload. All board members must be appointed by the governor~~)), two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions ((~~and shall continue to meet the qualifications set out in RCW 36.70A.260. The reduction from seven board members to six board members must be made through attrition, voluntary resignation, or retirement~~)). The governor may appoint an additional member to the at-large position on the growth management hearings board as the caseload of the board requires.

**Sec.**  RCW 36.70A.260 and 2010 c 211 s 5 are each amended to read as follows:

(1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. Regional panels shall be constituted as follows:

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

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

(c) Western Washington region. A three-member western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the central Puget Sound region. Skamania county, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the western Washington region or the eastern Washington region.

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

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

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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