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## Local Government Committee

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### HB 1158

**Brief Description:** Granting local governments the authority to make challenges related to growth management planning subject to direct review in superior court.

**Sponsors:** Representatives Pike, Blake, DeBolt, Manweller, Harris, Hayes, Buys, Magendanz, Hargrove, Haler, Wilson and McCaslin.

#### Brief Summary of Bill

- Authorizes, until December 31, 2025, counties with a population of fewer than 600,000 residents, and the cities within those counties, to adopt an ordinance granting superior court exclusive jurisdiction over petitions for review to which the county or city is a party and that would otherwise qualify for filing with the Growth Management Hearings Board under the Growth Management Act.
- Provides that ordinances adopted under this bill may be effective for a term of five or fewer years, and that the term may be extended for an additional period of five or fewer years.

**Hearing Date:** 1/22/15

**Staff:** Michaela Murdock (786-7289).

#### **Background:**

##### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

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*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.*

The GMA directs jurisdictions that fully plan under the GMA (planning jurisdictions) to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally-adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

#### The Growth Management Hearings Board.

A seven-member Growth Management Hearings Board (Board) is established under the GMA. Requests for review to the Board must be initiated by filing a petition that includes a detailed statement of issues presented for resolution. The Board may hear and determine only petitions alleging specific issues, for example:

- A state agency, county, or city planning under the GMA is not in compliance with requirements of the GMA, or applicable provisions of the Shoreline Management Act or the State Environmental Protection Act.
- The 20-year planning population projections adopted by the Office of Financial Management should be adjusted.
- A determination by the Department of Commerce (Commerce), finding that development regulations and comprehensive plans adopted by a county partially planning under the GMA are in compliance with requirements to protect natural resource lands and critical areas, as well as other applicable provisions of the GMA, is erroneous.
- Certain decisions of or actions by Commerce or a county under the Voluntary Stewardship Program are erroneous.

The Board must make findings of fact and prepare a written decision. The final order must be issued within 180 days of receipt of the petition for review, unless an extension is granted, or if multiple petitions are filed, within 180 days of receipt of the last petition that is consolidated. Final decisions and orders of the Board may be appealed to the superior court within 30 days of issuance.

#### Direct Judicial Review of Petitions for Review.

Under the GMA, a superior court may directly review a petition for review filed with the Board. All parties to the proceeding before the Board must agree to direct review by the superior court. The agreement must be in writing, signed by the parties or their representatives, and filed with the Board within 10 days of the petition's filing. If multiple petitions have been filed and the Board has consolidated the petitions, then the agreement for direct review must be filed within 10 days after the order of consolidation is served.

Within 10 days of receiving an agreement for direct review, the Board must file a certificate of agreement with the designated superior court and serve the parties with the certificate. The superior court obtains exclusive jurisdiction over a petition when it receives the certificate of agreement.

On direct review, a superior court has the same subject matter jurisdiction as the Board, except that the superior court does not have jurisdiction to directly review or modify an Office of Financial Management's population projection. Additionally, appeals from a final judgment of the superior court must be made to the court of appeals or Washington Supreme Court. The superior court must render its decision within 180 days of receiving the certificate of agreement.

**Summary of Bill:**

Until December 31, 2025, the legislative authority of a county with fewer than 600,000 persons is authorized to adopt an ordinance providing superior court with exclusive jurisdiction over petitions for review: (1) to which the county is a party; and (2) that would otherwise qualify for filing with the Board under provisions of the GMA. If a county exercises its authority to adopt such an ordinance, any city within the county may also adopt an ordinance providing superior court with exclusive jurisdiction over petitions: (1) to which the city is a party; and (2) that would otherwise qualify for filing with the Board under provisions of the GMA.

County or city ordinances granting exclusive jurisdiction to superior court may be effective for a term of five or fewer years. The term of the ordinance may be extended for one additional period of five or fewer years. A city may extend the term of its ordinance independently of any associated county actions.

Matters pending before the Board on or after the effective date of an ordinance adopted by a county or city remains subject to the Board's jurisdiction. Similarly, matters pending before a court on the date an ordinance expires remain subject to the exclusive jurisdiction of the court.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2015.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.