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**SUBSTITUTE SENATE BILL 6574 (Corrected Copy)**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Local Government (originally sponsored by Senators Takko and Short; by request of Office of the Governor)

READ FIRST TIME 02/05/20.

1 AN ACT Relating to clarifying the respective administrative  
2 powers, duties, and responsibilities of the growth management  
3 hearings board and the environmental land use and hearings office;  
4 and amending RCW 36.70A.250, 36.70A.252, 36.70A.260, 36.70A.270, and  
5 43.21B.005.

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

7 **Sec. 1.** RCW 36.70A.250 and 2010 c 211 s 4 are each amended to  
8 read as follows:

9 (1) ((A)) (a) There is hereby created within the environmental  
10 and land use hearings office established by RCW 43.21B.005 a growth  
11 management hearings board for the state of Washington ((is created)).  
12 The board shall consist of ((seven)) five members qualified by  
13 experience or training in pertinent matters pertaining to land use  
14 law or land use planning and who have experience in the practical  
15 application of those matters. All ((seven)) five board members shall  
16 be appointed by the governor((, ~~two each residing respectively in the~~  
17 central Puget Sound, eastern Washington, and western Washington  
18 regions, ~~plus one board member residing within the state of~~  
19 Washington)). At least three members of the board shall be admitted  
20 to practice law in this state, one each residing respectively in the  
21 central Puget Sound, eastern Washington, and western Washington

1 regions. At least (~~three~~) two members of the board shall have been  
2 a city or county elected official, one each residing respectively in  
3 (~~the central Puget Sound,~~) eastern Washington(~~7~~) and western  
4 Washington (~~regions~~). (~~After expiration of the terms of board~~  
5 ~~members on the previously existing three growth management hearings~~  
6 ~~boards,~~ ~~no~~) No more than (~~four~~) three members of the (~~seven-~~  
7 ~~member~~) five-member board may be members of the same major political  
8 party. No more than two members at the time of their appointment or  
9 during their term may reside in the same county. Board members shall  
10 operate on a full-time basis, shall receive an annual salary to be  
11 determined by the governor pursuant to RCW 43.03.040, shall receive  
12 reimbursement for travel expenses incurred in the discharge of their  
13 duties in accordance with RCW 43.03.050 and 43.03.060, and shall be  
14 considered employees of the state of Washington subject to chapter  
15 42.52 RCW.

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

27 **Sec. 2.** RCW 36.70A.252 and 2010 c 210 s 15 are each amended to  
28 read as follows:

29 (~~(1)~~) On July 1, 2011, the growth management hearings board is  
30 administratively consolidated into the environmental and land use  
31 hearings office created in RCW 43.21B.005. The chair of the growth  
32 management hearings board shall continue to exercise duties and  
33 responsibilities pursuant to RCW 36.70A.270(11). The environmental  
34 and land use hearings office shall be responsible for all other  
35 administrative functions pertaining to the growth management hearings  
36 board.

37 (~~(2) Not later than July 1, 2012, the growth management hearings~~  
38 ~~board consists of seven members qualified by experience or training~~  
39 ~~in matters pertaining to land use law or land use planning, except~~

1 ~~that the governor may reduce the board to six members if warranted by~~  
2 ~~the board's caseload. All board members must be appointed by the~~  
3 ~~governor, two each residing respectively in the central Puget Sound,~~  
4 ~~eastern Washington, and western Washington regions and shall continue~~  
5 ~~to meet the qualifications set out in RCW 36.70A.260. The reduction~~  
6 ~~from seven board members to six board members must be made through~~  
7 ~~attrition, voluntary resignation, or retirement.)~~)

8 **Sec. 3.** RCW 36.70A.260 and 2010 c 211 s 5 are each amended to  
9 read as follows:

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

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

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

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

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

1 arose, unless the board (~~(administrative officer)~~) chair determines  
2 that there is an emergency.

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

10 **Sec. 4.** RCW 36.70A.270 and 2019 c 452 s 2 are each amended to  
11 read as follows:

12 The growth management hearings board shall be governed by the  
13 following rules on conduct and procedure:

14 (1) Any board member may be removed for inefficiency,  
15 malfeasance, and misfeasance in office, under specific written  
16 charges filed by the governor. The governor shall transmit such  
17 written charges to the member accused and the chief justice of the  
18 supreme court. The chief justice shall thereupon designate a tribunal  
19 composed of three judges of the superior court to hear and adjudicate  
20 the charges. Removal of any member of the board by the tribunal shall  
21 disqualify such member for reappointment.

22 (2) (~~Each board member shall receive reimbursement for travel~~  
23 ~~expenses incurred in the discharge of his or her duties in accordance~~  
24 ~~with RCW 43.03.050 and 43.03.060. Each member shall receive an annual~~  
25 ~~salary to be determined by the governor pursuant to RCW 43.03.040.))  
26 The principal office of the board shall be located in (~~Olympia~~)  
27 Thurston county, but it may hold hearings at any other place in the  
28 state.~~

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

35 (4) A majority of the board shall constitute a quorum for  
36 adopting rules necessary for the conduct of its powers and duties or  
37 transacting other official business, and may act even though one  
38 position of the board is vacant. One or more members may hold  
39 hearings and take testimony to be reported for action by the board

1 when authorized by rule or order of the board. The board shall  
2 perform all the powers and duties specified in this chapter or as  
3 otherwise provided by law.

4 (5) The board may use one or more hearing examiners to assist the  
5 board in its hearing function, to make conclusions of law and  
6 findings of fact and, if requested by the board, to make  
7 recommendations to the board for decisions in cases before the board.  
8 Such hearing examiners must have demonstrated knowledge of land use  
9 planning and law. The board shall specify in its rules of practice  
10 and procedure, as required by subsection (7) of this section, the  
11 procedure and criteria to be employed for designating hearing  
12 examiners as a presiding officer. Hearing examiners used by the board  
13 shall meet the requirements of subsection (3) of this section. The  
14 findings and conclusions of the hearing examiner shall not become  
15 final until they have been formally approved by the board. This  
16 authorization to use hearing examiners does not waive the requirement  
17 of RCW 36.70A.300 that final orders be issued within one hundred  
18 eighty days of board receipt of a petition.

19 (6) The board shall make findings of fact and prepare a written  
20 decision in each case decided by it, and such findings and decision  
21 shall be effective upon being signed by two or more members of the  
22 regional panel deciding the particular case and upon being filed at  
23 the board's principal office, and shall be open for public inspection  
24 at all reasonable times.

25 (7) All proceedings before the board, any of its members, or a  
26 hearing examiner appointed by the board shall be conducted in  
27 accordance with such administrative rules of practice and procedure  
28 as the board prescribes. The board shall develop and adopt rules of  
29 practice and procedure, including rules regarding expeditious and  
30 summary disposition of appeals and the assignment of cases to  
31 regional panels. The board shall publish such rules it renders and  
32 arrange for the reasonable distribution of the rules. Except as it  
33 conflicts with specific provisions of this chapter, the  
34 administrative procedure act, chapter 34.05 RCW, and specifically  
35 including the provisions of RCW 34.05.455 governing ex parte  
36 communications, shall govern the practice and procedure of the board.

37 (8) The board must ensure all rulings, decisions, and orders are  
38 available to the public through the environmental and land use  
39 hearings office's web sites as described in RCW 43.21B.005. To ensure  
40 uniformity and usability of searchable databases and web sites, the

1 board shall coordinate with the environmental and land use hearings  
2 office, the department of commerce, and other interested stakeholders  
3 to develop and maintain a rational system of categorizing its  
4 decisions and orders.

5 (9) A board member or hearing examiner is subject to  
6 disqualification under chapter 34.05 RCW. The rules of practice of  
7 the board shall establish procedures by which a party to a hearing  
8 conducted before the board may file with the board a motion to  
9 disqualify, with supporting affidavit, against a board member or  
10 hearing examiner assigned to preside at the hearing.

11 (10) All members of the board shall meet on at least an annual  
12 basis with the objective of sharing information that promotes the  
13 goals and purposes of this chapter.

14 (11) The board shall annually elect one of its members to be the  
15 board ~~((administrative officer))~~ chair. The duties and  
16 responsibilities of the ~~((administrative officer))~~ chair include  
17 ~~((handling day-to-day administrative, budget, and personnel matters  
18 on behalf of the board, together with making case assignments to  
19 board members in accordance with the board's rules of procedure in  
20 order to achieve a fair and balanced workload among all board  
21 members. The administrative officer of the board may carry a reduced  
22 caseload to allow time for performing the administrative work  
23 functions))~~ developing board procedures and managing board meetings.

24 **Sec. 5.** RCW 43.21B.005 and 2019 c 452 s 1 are each amended to  
25 read as follows:

26 (1) There is created an environmental and land use hearings  
27 office of the state of Washington. The environmental and land use  
28 hearings office consists of the pollution control hearings board  
29 created in RCW 43.21B.010, the shorelines hearings board created in  
30 RCW 90.58.170, and the growth management hearings board created in  
31 RCW 36.70A.250. The governor shall ~~((designate one of the members of  
32 the pollution control hearings board or growth management hearings  
33 board to be the))~~ appoint a director of the environmental and land  
34 use hearings office during the term of the governor. Membership,  
35 powers, functions, and duties of the pollution control hearings  
36 board, the shorelines hearings board, and the growth management  
37 hearings board shall be as provided by law.

38 (2) The director of the environmental and land use hearings  
39 office may appoint one or more administrative appeals judges in cases

1 before the environmental boards and, (~~with the consent of the chair~~  
2 ~~of the growth management hearings board,~~) one or more hearing  
3 examiners in cases before the land use board comprising the office.  
4 The administrative appeals judges shall possess the powers and duties  
5 conferred by the administrative procedure act, chapter 34.05 RCW,  
6 have a demonstrated knowledge of environmental law, and shall be  
7 admitted to the practice of law in the state of Washington. The  
8 hearing examiners possess the powers and duties provided for in RCW  
9 36.70A.270.

10 (3) Administrative appeals judges are not subject to chapter  
11 41.06 RCW. The administrative appeals judges appointed under  
12 subsection (2) of this section are subject to discipline and  
13 termination, for cause, by the director of the environmental and land  
14 use hearings office. Upon written request by the person so  
15 disciplined or terminated, the director of the environmental and land  
16 use hearings office shall state the reasons for such action in  
17 writing. The person affected has a right of review by the superior  
18 court of Thurston county on petition for reinstatement or other  
19 remedy filed within thirty days of receipt of such written reasons.

20 (4) The director of the environmental and land use hearings  
21 office may appoint, discharge, and fix the compensation of such  
22 administrative or clerical staff as may be necessary.

23 (5) The director of the environmental and land use hearings  
24 office may also contract for required services.

25 (6) The director of the environmental and land use hearings  
26 office must ensure that timely and accurate (~~growth management~~  
27 ~~hearings~~) board rulings, decisions, and orders are made available to  
28 the public through searchable databases accessible through the  
29 environmental and land use hearings office web sites. To ensure  
30 uniformity and usability of searchable databases and web sites, the  
31 director must coordinate with the (~~growth management hearings~~  
32 ~~board~~) relevant boards, the department of commerce, and other  
33 interested stakeholders to develop and maintain a rational system of  
34 categorizing (~~growth management hearings~~) board rulings, decisions,  
35 and orders. The environmental and land use hearings office web sites  
36 must allow a user to search growth management hearings board  
37 decisions and orders by topic, party, and geographic location or by

1 natural language. All rulings, decisions, and orders issued before  
2 January 1, 2019, must be published by June 30, 2021.

--- **END** ---