**1241-S.E AMS SHOR S2821.1 - NOT FOR FLOOR USE**

**ESHB 1241** - S AMD TO HLG COMM AMD (S-2308.1/21) **760**

By Senator Short

**NOT CONSIDERED 04/26/2021**

On page 29, after line 38, insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) For certain countywide planning policy, comprehensive plan, and development regulations specified in this section, counties and their cities may apply for a determination of compliance from the department finding that the action is in compliance with the requirements of this chapter and chapter 43.21C RCW and the applicable rules.

(2) Counties and cities may submit the following actions to the department for approval under this subsection:

(a) Development of or amendments to the housing element;

(b) Development of or amendments to comprehensive plan or development regulations designating or protecting critical areas;

(c) Development of or amendments to comprehensive plan or development regulations to designate or assure the conservation of resource lands;

(d) Development of or amendments to countywide planning policy, comprehensive plan, or development regulation amendments that change the urban growth area;

(e) Countywide planning policy, comprehensive plan, or development regulation amendments that govern the siting of essential public facilities;

(f) Findings of noncompliance referred to the department by the growth management hearings board under RCW 36.70A.330.

(3) Matters submitted to the department for approval become effective when approved by the department as provided in subsection (5) of this section.

(4)(a) Upon receipt of a proposed comprehensive plan, development regulation, or countywide planning policy, the department shall:

(i) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of the proposed action. The comment period shall be at least 30 days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(ii) In the department's discretion, conduct a public hearing during the 30-day comment period in the jurisdiction proposing the comprehensive plan, development regulation, or countywide planning policy;

(iii) Within 15 days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(iv) Within 30 days after receipt of the local government response pursuant to (a)(iii) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department, provide a response to the issues identified in (a)(iii) of this subsection, and either approve the comprehensive plan, development regulation, or countywide planning policy as submitted, recommend specific changes necessary to make the comprehensive plan, development regulation, or countywide planning policy approvable, or deny approval of the comprehensive plan, development regulation, or countywide planning policy in those instances where no alternative comprehensive plan, development regulation, or countywide planning policy appears likely to be consistent with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department. The written findings and conclusions shall be provided to the local government, and made available to all interested persons, parties, groups, and agencies of record on the proposal.

(b) If the department recommends changes to the proposed comprehensive plan, development regulation, or countywide planning policy, within 90 days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes by written notice to the department; or

(ii) Submit an alternative comprehensive plan, development regulation, or countywide planning policy. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter, it shall approve the changes and provide notice to all recipients of the written findings and conclusions. If the department determines the proposed comprehensive plan, development regulation, or countywide planning policy is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposed comprehensive plan, development regulation, or countywide planning policy for public and agency review pursuant to this section or reject the proposed comprehensive plan, development regulation, or countywide planning policy.

(5) The department shall approve a proposed comprehensive plan, development regulation, or countywide planning policy unless it determines that the proposed comprehensive plan, development regulation, or countywide planning policy is not consistent with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department.

(6) A comprehensive plan, development regulation, or countywide planning policy takes effect when and in such form as approved or adopted by the department. The effective date is 14 days from the date of the department's written notice of final action to the local government stating the department has approved or rejected the proposed comprehensive plan, development regulation, or countywide planning policy. The department's written notice to the local government must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed comprehensive plan, development regulation, or countywide planning policy. The department shall maintain a record of each comprehensive plan, development regulation, or countywide planning policy, the action taken on any proposed comprehensive plan, development regulation, or countywide planning policy, and any appeal of the department's action.

(7) Promptly after approval or disapproval of a comprehensive plan, development regulation, or countywide planning policy, the department shall publish a notice consistent in the Washington State Register that the comprehensive plan, development regulation, or countywide planning policy has been approved or disapproved.

(8) The department's final decision to approve or reject a proposed comprehensive plan, development regulation, or countywide planning policy may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a comprehensive plan, development regulation, or countywide planning policy may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted comprehensive plan, development regulation, or countywide planning policy complies with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department, or chapter 43.21C RCW.

(c) If approval of a determination of compliance by the department under this section is appealed to the growth management hearings board under RCW 36.70A.280, the city or county may not be determined to be ineligible or otherwise penalized in the acceptance of applications or the awarding of state agency grants or loans under RCW 43.17.250 during the pendency of the appeal before the board or subsequent judicial appeals.

**Sec.**  RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

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

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

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

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; ((~~or~~))

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous;

(f) That a department determination under RCW 36.70A.060(1)(d) is erroneous; or

(g) That a department approval under section 10 of this act is clearly erroneous. Actions submitted to the department for approval may only be appealed to the growth management hearings board within 60 days following publication by the department of a determination of compliance.

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

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

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

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

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

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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On page 30, beginning on line 7, after "36.70A.190," strike "and 36.70A.210" and insert "36.70A.210, and 36.70A.280"

On page 30, line 8, after "36.70A.130;" insert "adding a new section to chapter 36.70A RCW;"

EFFECT: Allows counties and their cities to apply for a determination of compliance from the Department of Commerce (Commerce) finding that certain countywide planning policy, comprehensive plan, and development regulation actions are in compliance with Growth Management Act and the State Environmental Policy Act. Provides that the Growth Management Hearings Board (GMHB) may hear appeals challenging the designation of natural resource lands and critical areas, or approval of a determination of compliance from Commerce. Provides that actions submitted to Commerce for approval of a determination of compliance may only be appealed to the GMHB within 60 days following publication by Commerce of a determination of compliance.