

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

NOT CONSIDERED 04/26/2021

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

2 "NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
3 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

31 (i) Provide notice to and opportunity for written comment by all
32 interested parties of record as a part of the local government review

1 process for the proposal and to all persons, groups, and agencies
2 that have requested in writing notice of the proposed action. The
3 comment period shall be at least 30 days, unless the department
4 determines that the level of complexity or controversy involved
5 supports a shorter period;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **Sec. 11.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
25 read as follows:

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

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

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

1 (c) That the approval of a work plan adopted under RCW
2 36.70A.735(1)(a) is not in compliance with the requirements of the
3 program established under RCW 36.70A.710;

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

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

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

11 (g) That a department approval under section 10 of this act is
12 clearly erroneous. Actions submitted to the department for approval
13 may only be appealed to the growth management hearings board within
14 60 days following publication by the department of a determination of
15 compliance.

16 (2) A petition may be filed only by: (a) The state, or a county
17 or city that plans under this chapter; (b) a person who has
18 participated orally or in writing before the county or city regarding
19 the matter on which a review is being requested; (c) a person who is
20 certified by the governor within sixty days of filing the request
21 with the board; or (d) 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)
27 of this section, a person must show that his or her participation
28 before the county or city was reasonably related to the person's
29 issue as 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, 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 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 the board, a county growth management planning
38 population projection shall only be used for the planning purposes
39 set forth in this chapter and shall be known as the "board adjusted
40 population projection." None of these changes shall affect the

1 official state and county population forecasts prepared by the office
2 of financial management, which shall continue to be used for state
3 budget and planning purposes."

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

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

8 On page 30, line 8, after "36.70A.130;" insert "adding a new
9 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.

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