

HOUSE BILL REPORT

HB 2426

As Passed Legislature

Title: An act relating to improving efficiency in appeals to the pollution control hearings board.

Brief Description: Improving efficiency in appeals to the pollution control hearings board.

Sponsors: Representatives Bernbaum, Reed, Parshley, McEntire and Scott.

Brief History:

Committee Activity:

Environment & Energy: 1/20/26, 1/29/26 [DP].

Floor Activity:

Passed House: 2/11/26, 96-0.

Passed Senate: 3/6/26, 48-0.

Passed Legislature.

Brief Summary of Bill

- Authorizes permit appeals to the Pollution Control Hearings Board to be heard by one member of the board or alternative compositions of the board in certain circumstances.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass. Signed by 19 members: Representatives Doglio, Chair; Hall, Vice Chair; Klicker, Assistant Ranking Member; Abbarno, Abell, Berry, Duerr, Fey, Hackney, Kloba, Ley, Mena, Mendoza, Ramel, Stearns, Street, Stuebe, Wylie and Ybarra.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dye, Ranking Minority Member; Barnard.

Staff: Matt Sterling (786-7289).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Environmental and Land Use Hearings Office.

In 2010 the Environmental and Land Use Hearings Office (ELUHO) was created as the single administrative agency to administer the Pollution Control Hearings Board (PCHB), the Growth Management Hearings Board (GMHB), and the Shoreline Hearings Board (SHB).

The ELUHO employs administrative law judges to preside over administrative hearings and issue written orders affirming, modifying, or reversing agency decisions. The Director of ELUHO may appoint administrative appeals judges to serve on cases before the PCHB.

Pollution Control Hearings Board.

The PCHB is an administrative body that hears and decides appeals from state and local governmental agencies on a wide variety of environmental permits and penalty orders. The PCHB is administered by ELUHO and has three members, all of whom are appointed by the Governor and confirmed by the Senate for staggered six-year terms. One of the three PCHB members must be an attorney.

Certain appeals that involve a penalty of \$15,000 or less or that involve a derelict or abandoned vessel under the Derelict Vessel Removal Program may be heard by one member of the PCHB, whose decision is the final decision of the PCHB. For appeals that involve a derelict or abandoned vessel, an administrative law judge employed by the PCHB may be substituted for a PCHB board member.

Growth Management Hearings Board.

The GMHB was created pursuant to the Growth Management Act (GMA) and has the authority to hear petitions alleging noncompliance with the requirements of the GMA. The GMHB consists of seven members qualified by experience or training in matters pertaining to land use law or land use planning and who have practical experience in those areas. All GMHB members are appointed by the Governor. Members are appointed for six-year terms. Decisions of the GMHB may be appealed to Superior Court.

Shoreline Hearings Board.

The SHB hears and decides appeals of shoreline building and construction permits or penalty orders issued by local or state government agencies under the Shoreline Management Act.

Summary of Bill:

Permit appeals to the PCHB may be heard by alternative compositions of the PCHB. If the parties to an appeal and the PCHB unanimously consent, the PCHB that hears the permit appeal may be comprised of:

- an administrative appeals judge who has demonstrated a knowledge of environmental

- law;
- a combination of PCHB members and a member of the GMHB or SHB who is qualified by experience or training in matters pertaining to the environment; or
- a single member of the PCHB, or a member of the GMHB or SHB, who is qualified by experience or training in matters pertaining to the environment.

The selection of an alternative PCHB composition must prioritize the efficient use of administrative resources.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Many people are experiencing challenges with the permitting environment in Washington. Various stakeholders met in an effort to make changes to the Pollutions Control Hearings Board (PCHB) to be more predictable and efficient. The bill would allow the Environment and Land Use Hearings Board to mix and match environmental board members, use an administrative appeals judge, or a single board member if everyone agrees to the alternative board. If someone thinks an alternative board would be inappropriate for that hearing, then the normal process would apply. This bill would allow an appeal to the PCHB to be heard by a broader range of qualified parties and would provide additional flexibility for the PCHB to efficiently conduct hearings of appeals. The Growth Management Hearings Board (GMHB) has cyclical hearing schedules that could assist in providing flexibility to the PCHB hearings.

(Opposed) None.

(Other) The Environmental and Land Use Hearings Office (ELUHO) supports expediency in the board hearing processes. Hearings are generally scheduled about 14 months in advance. The bill would allow alternative board compositions to decide permit appeals. If the bill is passed, the ELUHO would adopt rules to implement. The language of the bill does not specify that a member of an alternative board composition must be an attorney. Additionally, if intent of the bill is to have the GMHB as an option for the alternative board compositions, that should be specified.

Persons Testifying: (In support) Representative Adam Bernbaum, prime sponsor; Darrin Raines, Greater Grays Harbor Inc.; Clifford Traisman, Washington Conservation Action; and Bryce Yadon, Futurewise.

(Other) Dominga Soliz, Director, Environmental and Land Use Hearings Office.

Persons Signed In To Testify But Not Testifying: None.