S-0424.1

SENATE BILL 5197

State of Washington   **69th Legislature**   **2025 Regular Session**

By Senators Salomon and Liias

Prefiled 01/09/25.

1   AN ACT Relating to ensuring that local government planning
2 complies with the growth management act; and amending RCW 36.70A.302
3 and 36.70A.330.

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

5   **Sec. 1.** RCW 36.70A.302 and 2010 c 211 s 10 are each amended to
6 read as follows:
7   (1) The board may determine that part or all of a comprehensive
8 plan or development regulations are invalid if the board:
9   (a) Makes a finding of noncompliance and issues an order of
10 remand under RCW 36.70A.300;
11   (b) Includes in the final order a determination, supported by
12 findings of fact and conclusions of law, that the continued validity
13 of part or parts of the plan or regulation would substantially
14 interfere with the fulfillment of the goals of this chapter; and
15   (c) Specifies in the final order the particular part or parts of
16 the plan or regulation that are determined to be invalid, and the
17 reasons for their invalidity.
18   (2) A determination of invalidity is prospective in effect and
19 does not extinguish rights that vested under state or local law
20 before receipt of the board's order by the city or county. The
21 determination of invalidity does not apply to a completed development

permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may
file a motion requesting that the board clarify, modify, or rescind
the order. The board shall expeditiously schedule a hearing on the
motion. At the hearing on the motion, the parties may present
information to the board to clarify the part or parts of the
comprehensive plan or development regulations to which the final
order applies. The board shall issue any supplemental order based on
the information provided at the hearing not later than thirty days
after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the
county or city has enacted an ordinance or resolution amending or
repealing the invalidated part or parts of the plan or regulation or
establishing interim controls on development affected by the order of
invalidity, after a compliance hearing, the board shall modify or
rescind the determination of invalidity if it determines under the
standard in subsection (1) of this section that the plan or
regulation, as amended or made subject to such interim controls, or
as it exists after invalidated portions of the plan or regulation
have been repealed, will no longer substantially interfere with the
fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or
regulation are no longer invalid as provided in this subsection, but
does not find that the plan or regulation is in compliance with all
of the requirements of this chapter, the board, in its order, may
require periodic reports to the board on the progress the
jurisdiction is making towards compliance.

   Sec. 2. RCW 36.70A.330 and 2021 c 312 s 2 are each amended to
read as follows:
   (1) After the time set for complying with the requirements of
this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier
time upon the motion of a county or city subject to a determination
of invalidity under RCW 36.70A.300, the board shall set a hearing for
the purpose of determining whether the state agency, county, or city
is in compliance with the requirements of this chapter.
   (2) The board shall conduct a hearing and issue a finding of
compliance or noncompliance with the requirements of this chapter and
with any compliance schedule established by the board in its final
order. The board may not issue a finding of compliance if a county or
city subject to a determination of invalidity under RCW 36.70A.300

1   has repealed the plan or regulations that were found noncompliant,
2   unless the plan or regulations that will be in effect after such a
3   repeal are compliant with the requirements of this chapter. A person
4   with standing to challenge the legislation enacted in response to the
5   board's final order may participate in the hearing along with the
6   petitioner and the state agency, county, or city. A hearing under
7   this subsection shall be given the highest priority of business to be
8   conducted by the board, and a finding shall be issued within forty-
9   five days of the filing of the motion under subsection (1) of this
10 section with the board. The board shall issue any order necessary to
11 make adjustments to the compliance schedule and set additional
12 hearings as provided in subsection (5) of this section.
13   (3) If the board after a compliance hearing finds that the state
14 agency, county, or city is not in compliance, the board shall
15 transmit its finding to the governor.
16   (a) The board may refer a finding of noncompliance to the
17 department. The purpose of the referral is for the department to
18 provide technical assistance to facilitate speedy resolution of the
19 finding of noncompliance and to provide training pursuant to RCW
20 36.70A.332 as necessary.
21   (b) Alternatively, the board may recommend to the governor that
22 the sanctions authorized by this chapter be imposed. The board shall
23 take into consideration the county's or city's efforts to meet its
24 compliance schedule in making the decision to recommend sanctions to
25 the governor.
26   (4) In a compliance hearing upon petition of a party, the board
27 shall also reconsider its final order and decide, if no determination
28 of invalidity has been made, whether one now should be made under RCW
29 36.70A.302.
30   (5) The board shall schedule additional hearings as appropriate
31 pursuant to subsections (1) and (2) of this section.

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