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ENVIRONMENTAL AND LAND USE HEARINGS OFFICE

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TO: Pat Sullivan, Director
Office of Financial Management

FROM: Dominga Soliz, Director
Environmental and Land Use Hearings Office

DATE: November 14, 2024

RE: BUDGET REDUCTIONS FOR FISCAL YEAR 2025 AND 2025-27
BIENNIUM

The Environmental and Land Use Hearings Office (ELUHO) shares the concerns of the Office of Financial Management (OFM) about the magnitude of the projected operating budget deficit in coming years. Although we are a small agency, we want to do our part to contribute to savings that prioritize essential programs and caseloads. Our budget reduction proposal supports efficiencies in an area that has been under-spent in recent years.

Proposal – Growth Management Hearings Board Member Vacancy

Account	Account Title	Type	FY 2025	FY 2026	FY 2027	2025-27
001-1	General Fund-State	State	\$200,000	\$200,000	\$200,000	\$200,000
Total \$						
	Staffing					
Total FTE			1.0	1.0	1.0	1.0

This proposal recommends the Governor leave the fifth Growth Management Hearings Board (GMHB) member position unfilled. Over the last several years, the GMHB caseload has been low, in keeping with a downward trend for more than a decade. The board has been operating with well without a full board since May 2023. Nine (9) cases have been filed with the GMHB so far in 2024, declining from 50 filed in 2010, 25 filed in 2015, and 17 filed in 2020. Although we anticipate an increase in GMHB cases soon, following recent changes to the Growth Management Act (GMA), we expect that a four-member board can keep up with an increase in work.

By statute, the GMHB consists of five full-time members appointed by the Governor who reside in three specified regions of the state. RCW 36.70A.250. There is currently one member in the board's eastern Washington region, one in the western Washington region, and two in the board's central Puget Sound region. Board members are appointed for six-year terms and when

board members leave their position before the term has ended, the Governor must fill the vacancy for the unexpired portion of the term. RCW 36.70A.250. The current vacant position is in the board's eastern Washington region and was vacated when the former member's term expired on June 30, 2024.

There is precedent for leaving a GMHB member position unfilled due to decreased work. In the past, the Governor has decided to leave a GMHB position unfilled. When the GMHB was a seven-member board, the Governor opted not to appoint a seventh board member for several years due to declining workload. *See reduction decision package submitted September 2014.*

Potential Impacts and Considerations

A reduction in funding for the fifth GMHB position will curtail the Governor's ability to make any desired appointment to the board in the absence of an appropriation. As a small agency, ELUHO will not have funding from other programs available to shift to the GMHB should the need arise.

By statute, the GMHB resolves cases through regional panels. RCW 36.70A.260. The panel makeup is prescribed by the GMA and designed to have cases heard by a majority of members who are residents of the region from which the case arose. By not filling the vacant eastern Washington board member position, the eastern Washington regional panel will not be comprised of two eastern Washington residents. Further, if the current eastern Washington board member must recuse himself from an eastern Washington case, it will be heard by board members who reside outside of eastern Washington. However, statute allows the board chair to waive the requirements of the panel makeup due to vacancy or other reasons. RCW 36.70A.260.

Note that since the Legislature reduced the board from seven to five members in 2020, it has not been possible to have two members in each of the three regions. The western Washington region has only had one board member for several years.

Growth management in Washington is a politically-charged area and it may be beneficial to vet any decision on funding reductions through a stakeholder process. Matters of increased complexity and significance may lie ahead for the board, as the 2023 legislature, through SHB 1181, added climate change and resiliency as a goal within the GMA. We estimate a handful of new GMHB appeals per year as a result of the law because petitioners will want to legally test the application of greenhouse gas emissions reductions and other new requirements.

Assumptions

We assume the GMHB caseload can increase to five times its current amount to about 50 new cases per year before a fifth board member would need to be hired. This is based on an estimated 150 board member hours per petition.

- $150 \times 50 = 7,500$ total petition hours per FY.
- $7500 \text{ petition hours} / 4 \text{ board members} = 1,875$ estimated petition hours per board member per FY if the current caseload increased five times.

Should the caseload increase beyond 50 petitions per year, it may be necessary for ELUHO to request a supplemental appropriation and submit a decision package to reestablish funding for the fifth position. As with most adjudicative bodies, the workload of the GMHB fluctuates over time and a reduction in the number of board members reduces the board's flexibility to respond to such fluctuating caseloads.

We assume that with the reduction, a four-member board can continue to meet its 100% target for the performance measure, "percent of GMHB final decisions and compliance orders issued within statutory deadlines."

Reduction in FY25 and the 2025-27 Biennium

The vast majority of ELUHO's funding, including funding for GMHB member salaries, derives from the state General Fund. GMHB members currently make \$159,528 annual salary plus benefits of \$40,898 for a total of about \$200,000 per FY. The eastern Washington GMHB member position has been vacant since July 1, 2024 so ELUHO could afford the full reduction of \$200,000 for FY25 and a reduction of \$200,000 per FY for the 2025-27 biennium.

We hope this proposal is helpful in reducing the projected shortfall.