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By Representatives White, Kenney, Carlyle, Nelson, Moeller, Williams, Pettigrew, Pedersen, Ormsby, Hunt, Springer, Upthegrove, Dunshee, Kagi, and Chase

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1 AN ACT Relating to requiring consideration of impacts to tree
2 canopies in large cities through rules implementing the state
3 environmental policy act; and amending RCW 43.21C.110.

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

5 **Sec. 1.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to
6 read as follows:

7 It shall be the duty and function of the department of ecology:

8 (1) To adopt and amend thereafter rules of interpretation and
9 implementation of this chapter, subject to the requirements of chapter
10 34.05 RCW, for the purpose of providing uniform rules and guidelines to
11 all branches of government including state agencies, political
12 subdivisions, public and municipal corporations, and counties. The
13 proposed rules shall be subject to full public hearings requirements
14 associated with rule promulgation. Suggestions for modifications of
15 the proposed rules shall be considered on their merits, and the
16 department shall have the authority and responsibility for full and
17 appropriate independent promulgation and adoption of rules, assuring
18 consistency with this chapter as amended and with the preservation of
19 protections afforded by this chapter. The rule-making powers

1 authorized in this section shall include, but shall not be limited to,
2 the following phases of interpretation and implementation of this
3 chapter:

4 (a) Categories of governmental actions which are not to be
5 considered as potential major actions significantly affecting the
6 quality of the environment, including categories pertaining to
7 applications for water right permits pursuant to chapters 90.03 and
8 90.44 RCW. The types of actions included as categorical exemptions in
9 the rules shall be limited to those types which are not major actions
10 significantly affecting the quality of the environment. The rules
11 shall provide for certain circumstances where actions which potentially
12 are categorically exempt require environmental review. An action that
13 is categorically exempt under the rules adopted by the department may
14 not be conditioned or denied under this chapter.

15 (b) Rules for criteria and procedures applicable to the
16 determination of when an act of a branch of government is a major
17 action significantly affecting the quality of the environment for which
18 a detailed statement is required to be prepared pursuant to RCW
19 43.21C.030.

20 (c) Rules and procedures applicable to the preparation of detailed
21 statements and other environmental documents, including but not limited
22 to rules for timing of environmental review, obtaining comments, data
23 and other information, and providing for and determining areas of
24 public participation which shall include the scope and review of draft
25 environmental impact statements.

26 (d) Scope of coverage and contents of detailed statements assuring
27 that such statements are simple, uniform, and as short as practicable;
28 statements are required to analyze only reasonable alternatives and
29 probable adverse environmental impacts which are significant, and may
30 analyze beneficial impacts.

31 (e) Rules and procedures for public notification of actions taken
32 and documents prepared.

33 (f)(i) Definition of terms relevant to the implementation of this
34 chapter including the establishment of a list of elements of the
35 environment. Analysis of environmental considerations under RCW
36 43.21C.030(2) may be required only for those subjects listed as
37 elements of the environment (or portions thereof). The list of
38 elements of the environment shall consist of the "natural" and "built"

1 environment. The elements of the built environment shall consist of
2 public services and utilities (such as water, sewer, schools, fire and
3 police protection), transportation, environmental health (such as
4 explosive materials and toxic waste), and land and shoreline use
5 (including housing, and a description of the relationships with land
6 use and shoreline plans and designations, including population).

7 (ii) Rules adopted under this subsection (1)(f) must require
8 consideration of the impacts that a proposed action in a large city
9 might have upon the tree canopy of that city. For purposes of this
10 subsection, "large city" means a city with a population exceeding one
11 hundred thousand.

12 (g) Rules for determining the obligations and powers under this
13 chapter of two or more branches of government involved in the same
14 project significantly affecting the quality of the environment.

15 (h) Methods to assure adequate public awareness of the preparation
16 and issuance of detailed statements required by RCW 43.21C.030(2)(c).

17 (i) To prepare rules for projects setting forth the time limits
18 within which the governmental entity responsible for the action shall
19 comply with the provisions of this chapter.

20 (j) Rules for utilization of a detailed statement for more than one
21 action and rules improving environmental analysis of nonproject
22 proposals and encouraging better interagency coordination and
23 integration between this chapter and other environmental laws.

24 (k) Rules relating to actions which shall be exempt from the
25 provisions of this chapter in situations of emergency.

26 (l) Rules relating to the use of environmental documents in
27 planning and decision making and the implementation of the substantive
28 policies and requirements of this chapter, including procedures for
29 appeals under this chapter.

30 (m) Rules and procedures that provide for the integration of
31 environmental review with project review as provided in RCW 43.21C.240.
32 The rules and procedures shall be jointly developed with the department
33 of community, trade, and economic development and shall be applicable
34 to the preparation of environmental documents for actions in counties,
35 cities, and towns planning under RCW 36.70A.040. The rules and
36 procedures shall also include procedures and criteria to analyze
37 planned actions under RCW 43.21C.031(2) and revisions to the rules
38 adopted under this section to ensure that they are compatible with the

1 requirements and authorizations of chapter 347, Laws of 1995, as
2 amended by chapter 429, Laws of 1997. Ordinances or procedures adopted
3 by a county, city, or town to implement the provisions of chapter 347,
4 Laws of 1995 prior to the effective date of rules adopted under this
5 subsection (1)(m) shall continue to be effective until the adoption of
6 any new or revised ordinances or procedures that may be required. If
7 any revisions are required as a result of rules adopted under this
8 subsection (1)(m), those revisions shall be made within the time limits
9 specified in RCW 43.21C.120.

10 (2) In exercising its powers, functions, and duties under this
11 section, the department may:

12 (a) Consult with the state agencies and with representatives of
13 science, industry, agriculture, labor, conservation organizations,
14 state and local governments, and other groups, as it deems advisable;
15 and

16 (b) Utilize, to the fullest extent possible, the services,
17 facilities, and information (including statistical information) of
18 public and private agencies, organizations, and individuals, in order
19 to avoid duplication of effort and expense, overlap, or conflict with
20 similar activities authorized by law and performed by established
21 agencies.

22 (3) Rules adopted pursuant to this section shall be subject to the
23 review procedures of chapter 34.05 RCW.

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