
SENATE BILL 5360

State of Washington

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By Senators Swecker, Pridemore, Zarelli, Hatfield, Benton, Fraser, Haugen, Sheldon, Hobbs, Roach, Prentice, Fain, Shin, Parlette, and Hewitt

Read first time 01/21/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to fiscal relief for cities and counties during
2 periods of economic downturn by delaying or modifying certain
3 regulatory and statutory requirements; amending RCW 35.22.288,
4 35A.12.160, 36.70A.215, 43.19.648, 43.325.080, 46.68.113, 70.95.110,
5 82.02.070, 82.02.080, 90.46.015, 90.48.260, 90.58.080, and 90.58.090;
6 reenacting and amending RCW 36.70A.130; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** It is the legislature's intent to provide
9 local governments with more time to meet certain statutory
10 requirements. Many cities and counties in Washington are facing
11 revenue shortfalls, higher expenses, and more difficulty with borrowing
12 money as a result of the economic downturn. The effects of the
13 economic downturn on the budgets of local governments will be felt most
14 deeply from 2010 to 2012. Local governments are facing the combined
15 impact of decreased tax revenues, a falloff in state and federal aid,
16 and increased demand for social services. With the loss of tax revenue
17 and state and federal aid, local governments are being forced to make
18 significant cuts that will eliminate jobs, curtail essential services,
19 and increase the number of people in need. Additionally, local

1 governments are struggling to comply with certain statutory
2 requirements. Local governments want to comply with these statutory
3 requirements, but with budget constraints, they need more time to do
4 so. The legislature does not intend to remove any existing statutory
5 requirement, but rather modify the time under which a local government
6 must meet certain statutory requirements.

7 **Sec. 2.** RCW 35.22.288 and 1994 c 273 s 7 are each amended to read
8 as follows:

9 (1) Promptly after adoption, the text of each ordinance or a
10 summary of the content of each ordinance shall be:

11 (a) Published at least once in the official newspaper of the city;
12 or

13 (b) Posted on the city's web site and available in hard copy at a
14 location designated by the city legislative authority.

15 (2) For purposes of this section, a summary (~~shall~~) means a brief
16 description (~~which~~) that succinctly describes the main points of the
17 ordinance. Publication of the title of an ordinance (~~authorizing the~~
18 ~~issuance of bonds, notes, or other evidences of indebtedness~~) shall
19 constitute publication of a summary of that ordinance. When the city
20 publishes a summary, the publication shall include a statement that the
21 full text of the ordinance will be mailed upon request.

22 (~~An inadvertent mistake or omission in publishing the text or a~~
23 ~~summary of the content of~~) (3) A failure to publish an ordinance shall
24 not render the ordinance invalid.

25 (4) In addition to the requirement that a city publish the text or
26 a summary of the content of each adopted ordinance, every city shall
27 establish a procedure for notifying the public of upcoming hearings and
28 the preliminary agenda for the forthcoming council meeting. Such
29 procedure may include, but (~~not be~~) is neither required to nor
30 limited to, posting on the city's web site, written notification to the
31 city's official newspaper, publication of a notice in the official
32 newspaper, posting of upcoming council meeting agendas, or such other
33 processes as the city determines will satisfy the intent of this
34 requirement.

35 **Sec. 3.** RCW 35A.12.160 and 1994 c 273 s 15 are each amended to
36 read as follows:

1 (1) Promptly after adoption, the text of each ordinance or a
2 summary of the content of each ordinance shall be:

3 (a) Published at least once in the city's official newspaper; or

4 (b) Posted on the city's web site and available in hard copy at a
5 location designated by the city legislative authority.

6 (2) For purposes of this section, a summary (~~shall~~) means a brief
7 description (~~which~~) that succinctly describes the main points of the
8 ordinance. Publication of the title of an ordinance (~~authorizing the~~
9 ~~issuance of bonds, notes, or other evidences of indebtedness~~) shall
10 constitute publication of a summary of that ordinance. When the city
11 publishes a summary, the publication shall include a statement that the
12 full text of the ordinance will be mailed upon request.

13 (~~An inadvertent mistake or omission in publishing the text or a~~
14 ~~summary of the content of~~) (3) A failure to publish an ordinance shall
15 not render the ordinance invalid.

16 (4) In addition to the requirement that a city publish the text or
17 a summary of the content of each adopted ordinance, every city shall
18 establish a procedure for notifying the public of upcoming hearings and
19 the preliminary agenda for the forthcoming council meeting. Such
20 procedure may include, but (~~not be~~) is neither required to nor
21 limited to, posting on the city's web site, written notification to the
22 city's official newspaper, publication of a notice in the official
23 newspaper, posting of upcoming council meeting agendas, or such other
24 processes as the city determines will satisfy the intent of this
25 requirement.

26 **Sec. 4.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are
27 each reenacted and amended to read as follows:

28 (1)(a) Each comprehensive land use plan and development regulations
29 shall be subject to continuing review and evaluation by the county or
30 city that adopted them. Except as otherwise provided, a county or city
31 shall take legislative action to review and, if needed, revise its
32 comprehensive land use plan and development regulations to ensure the
33 plan and regulations comply with the requirements of this chapter
34 according to the deadlines in subsections (4) and (5) of this section.

35 (b) Except as otherwise provided, a county or city not planning
36 under RCW 36.70A.040 shall take action to review and, if needed, revise
37 its policies and development regulations regarding critical areas and

1 natural resource lands adopted according to this chapter to ensure
2 these policies and regulations comply with the requirements of this
3 chapter according to the deadlines in subsections (4) and (5) of this
4 section. Legislative action means the adoption of a resolution or
5 ordinance following notice and a public hearing indicating at a
6 minimum, a finding that a review and evaluation has occurred and
7 identifying the revisions made, or that a revision was not needed and
8 the reasons therefor.

9 (c) The review and evaluation required by this subsection may be
10 combined with the review required by subsection (3) of this section.
11 The review and evaluation required by this subsection shall include,
12 but is not limited to, consideration of critical area ordinances and,
13 if planning under RCW 36.70A.040, an analysis of the population
14 allocated to a city or county from the most recent ten-year population
15 forecast by the office of financial management.

16 (d) Any amendment of or revision to a comprehensive land use plan
17 shall conform to this chapter. Any amendment of or revision to
18 development regulations shall be consistent with and implement the
19 comprehensive plan.

20 (2)(a) Each county and city shall establish and broadly disseminate
21 to the public a public participation program consistent with RCW
22 36.70A.035 and 36.70A.140 that identifies procedures and schedules
23 whereby updates, proposed amendments, or revisions of the comprehensive
24 plan are considered by the governing body of the county or city no more
25 frequently than once every year. "Updates" means to review and revise,
26 if needed, according to subsection (1) of this section, and the
27 deadlines in subsections (4) and (5) of this section or in accordance
28 with the provisions of subsection (6) of this section. Amendments may
29 be considered more frequently than once per year under the following
30 circumstances:

31 (i) The initial adoption of a subarea plan. Subarea plans adopted
32 under this subsection (2)(a)(i) must clarify, supplement, or implement
33 jurisdiction-wide comprehensive plan policies, and may only be adopted
34 if the cumulative impacts of the proposed plan are addressed by
35 appropriate environmental review under chapter 43.21C RCW;

36 (ii) The development of an initial subarea plan for economic
37 development located outside of the one hundred year floodplain in a

1 county that has completed a state-funded pilot project that is based on
2 watershed characterization and local habitat assessment;

3 (iii) The adoption or amendment of a shoreline master program under
4 the procedures set forth in chapter 90.58 RCW;

5 (iv) The amendment of the capital facilities element of a
6 comprehensive plan that occurs concurrently with the adoption or
7 amendment of a county or city budget; or

8 (v) The adoption of comprehensive plan amendments necessary to
9 enact a planned action under RCW 43.21C.031(2), provided that
10 amendments are considered in accordance with the public participation
11 program established by the county or city under this subsection (2)(a)
12 and all persons who have requested notice of a comprehensive plan
13 update are given notice of the amendments and an opportunity to
14 comment.

15 (b) Except as otherwise provided in (a) of this subsection, all
16 proposals shall be considered by the governing body concurrently so the
17 cumulative effect of the various proposals can be ascertained.
18 However, after appropriate public participation a county or city may
19 adopt amendments or revisions to its comprehensive plan that conform
20 with this chapter whenever an emergency exists or to resolve an appeal
21 of a comprehensive plan filed with the growth management hearings board
22 or with the court.

23 (3)(a) Each county that designates urban growth areas under RCW
24 36.70A.110 shall review, at least every ten years, its designated urban
25 growth area or areas, and the densities permitted within both the
26 incorporated and unincorporated portions of each urban growth area. In
27 conjunction with this review by the county, each city located within an
28 urban growth area shall review the densities permitted within its
29 boundaries, and the extent to which the urban growth occurring within
30 the county has located within each city and the unincorporated portions
31 of the urban growth areas.

32 (b) The county comprehensive plan designating urban growth areas,
33 and the densities permitted in the urban growth areas by the
34 comprehensive plans of the county and each city located within the
35 urban growth areas, shall be revised to accommodate the urban growth
36 projected to occur in the county for the succeeding twenty-year period.
37 The review required by this subsection may be combined with the review
38 and evaluation required by RCW 36.70A.215.

1 (4) Except as provided in subsection (6) of this section, counties
2 and cities shall take action to review and, if needed, revise their
3 comprehensive plans and development regulations to ensure the plan and
4 regulations comply with the requirements of this chapter as follows:

5 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,
6 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
7 cities within those counties;

8 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,
9 Mason, San Juan, Skagit, and Skamania counties and the cities within
10 those counties;

11 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,
12 Grant, Kittitas, Spokane, and Yakima counties and the cities within
13 those counties; and

14 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,
15 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
16 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
17 counties and the cities within those counties.

18 (5) Except as otherwise provided in subsection (6) of this section,
19 following the review of comprehensive plans and development regulations
20 required by subsection (4) of this section, counties and cities shall
21 take action to review and, if needed, revise their comprehensive plans
22 and development regulations to ensure the plan and regulations comply
23 with the requirements of this chapter as follows:

24 (a) On or before (~~December 1, 2014~~) June 30, 2015, and every
25 (~~seven~~) ten years thereafter, for (~~Clallam, Clark, Jefferson,~~)
26 King, (~~Kitsap,~~) Pierce, and Snohomish(~~(, Thurston, and Whatcom)~~)
27 counties and the cities within those counties;

28 (b) On or before (~~December 1, 2015~~) June 30, 2016, and every
29 (~~seven~~) ten years thereafter, for (~~Cowlitz~~) Clallam, Clark, Island,
30 (~~Lewis~~) Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and
31 (~~Skamania~~) Whatcom counties and the cities within those counties;

32 (c) On or before (~~December 1, 2016~~) June 30, 2017, and every
33 (~~seven~~) ten years thereafter, for Benton, Chelan, Cowlitz, Douglas,
34 (~~Grant,~~) Kittitas, Lewis, Skamania, Spokane, and Yakima counties and
35 the cities within those counties; and

36 (d) On or before (~~December 1, 2017~~) June 30, 2018, and every
37 (~~seven~~) ten years thereafter, for Adams, Asotin, Columbia, Ferry,

1 Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan,
2 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
3 counties and the cities within those counties.

4 (6)(a) Nothing in this section precludes a county or city from
5 conducting the review and evaluation required by this section before
6 the deadlines established in subsections (4) and (5) of this section.
7 Counties and cities may begin this process early and may be eligible
8 for grants from the department, subject to available funding, if they
9 elect to do so.

10 (b) A county that is subject to a deadline established in
11 subsection (4)(b) through (d) of this section and meets the following
12 criteria may comply with the requirements of this section at any time
13 within the thirty-six months following the deadline established in
14 subsection (4) of this section: The county has a population of less
15 than fifty thousand and has had its population increase by no more than
16 seventeen percent in the ten years preceding the deadline established
17 in subsection (4) of this section as of that date.

18 (c) A city that is subject to a deadline established in subsection
19 (4)(b) through (d) of this section and meets the following criteria may
20 comply with the requirements of this section at any time within the
21 thirty-six months following the deadline established in subsection (4)
22 of this section: The city has a population of no more than five
23 thousand and has had its population increase by the greater of either
24 no more than one hundred persons or no more than seventeen percent in
25 the ten years preceding the deadline established in subsection (4) of
26 this section as of that date.

27 (d) A county or city that is subject to a deadline established in
28 subsection (4)(d) of this section and that meets the criteria
29 established in subsection (6)(b) or (c) of this section may comply with
30 the requirements of subsection (4)(d) of this section at any time
31 within the thirty-six months after the extension provided in subsection
32 (6)(b) or (c) of this section.

33 (e) State agencies are encouraged to provide technical assistance
34 to the counties and cities in the review of critical area ordinances,
35 comprehensive plans, and development regulations.

36 (7)(a) The requirements imposed on counties and cities under this
37 section shall be considered "requirements of this chapter" under the

1 terms of RCW 36.70A.040(1). Only those counties and cities that meet
2 the following criteria may receive grants, loans, pledges, or financial
3 guarantees under chapter 43.155 or 70.146 RCW:

4 (i) Complying with the deadlines in this section;

5 (ii) Demonstrating substantial progress towards compliance with the
6 schedules in this section for development regulations that protect
7 critical areas; or

8 (iii) Complying with the extension provisions of subsection (6)(b),
9 (c), or (d) of this section.

10 (b) A county or city that is fewer than twelve months out of
11 compliance with the schedules in this section for development
12 regulations that protect critical areas is making substantial progress
13 towards compliance. Only those counties and cities in compliance with
14 the schedules in this section may receive preference for grants or
15 loans subject to the provisions of RCW 43.17.250.

16 **Sec. 5.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to
17 read as follows:

18 (1) Subject to the limitations in subsection (7) of this section,
19 a county shall adopt, in consultation with its cities, countywide
20 planning policies to establish a review and evaluation program. This
21 program shall be in addition to the requirements of RCW 36.70A.110,
22 36.70A.130, and 36.70A.210. In developing and implementing the review
23 and evaluation program required by this section, the county and its
24 cities shall consider information from other appropriate jurisdictions
25 and sources. The purpose of the review and evaluation program shall be
26 to:

27 (a) Determine whether a county and its cities are achieving urban
28 densities within urban growth areas by comparing growth and development
29 assumptions, targets, and objectives contained in the countywide
30 planning policies and the county and city comprehensive plans with
31 actual growth and development that has occurred in the county and its
32 cities; and

33 (b) Identify reasonable measures, other than adjusting urban growth
34 areas, that will be taken to comply with the requirements of this
35 chapter.

36 (2) The review and evaluation program shall:

1 (a) Encompass land uses and activities both within and outside of
2 urban growth areas and provide for annual collection of data on urban
3 and rural land uses, development, critical areas, and capital
4 facilities to the extent necessary to determine the quantity and type
5 of land suitable for development, both for residential and employment-
6 based activities;

7 (b) Provide for evaluation of the data collected under (a) of this
8 subsection every five years as provided in subsection (3) of this
9 section. The first evaluation shall be completed not later than
10 September 1, 2002. The county and its cities may establish in the
11 countywide planning policies indicators, benchmarks, and other similar
12 criteria to use in conducting the evaluation;

13 (c) Provide for methods to resolve disputes among jurisdictions
14 relating to the countywide planning policies required by this section
15 and procedures to resolve inconsistencies in collection and analysis of
16 data; and

17 (d) Provide for the amendment of the countywide policies and county
18 and city comprehensive plans as needed to remedy an inconsistency
19 identified through the evaluation required by this section, or to bring
20 these policies into compliance with the requirements of this chapter.

21 (3) At a minimum, the evaluation component of the program required
22 by subsection (1) of this section shall:

23 (a) Determine whether there is sufficient suitable land to
24 accommodate the countywide population projection established for the
25 county pursuant to RCW 43.62.035 and the subsequent population
26 allocations within the county and between the county and its cities and
27 the requirements of RCW 36.70A.110;

28 (b) Determine the actual density of housing that has been
29 constructed and the actual amount of land developed for commercial and
30 industrial uses within the urban growth area since the adoption of a
31 comprehensive plan under this chapter or since the last periodic
32 evaluation as required by subsection (1) of this section; and

33 (c) Based on the actual density of development as determined under
34 (b) of this subsection, review commercial, industrial, and housing
35 needs by type and density range to determine the amount of land needed
36 for commercial, industrial, and housing for the remaining portion of
37 the twenty-year planning period used in the most recently adopted
38 comprehensive plan.

1 (4) If the evaluation required by subsection (3) of this section
2 demonstrates an inconsistency between what has occurred since the
3 adoption of the countywide planning policies and the county and city
4 comprehensive plans and development regulations and what was envisioned
5 in those policies and plans and the planning goals and the requirements
6 of this chapter, as the inconsistency relates to the evaluation factors
7 specified in subsection (3) of this section, the county and its cities
8 shall adopt and implement measures that are reasonably likely to
9 increase consistency during the subsequent five-year period. If
10 necessary, a county, in consultation with its cities as required by RCW
11 36.70A.210, shall adopt amendments to countywide planning policies to
12 increase consistency. The county and its cities shall annually monitor
13 the measures adopted under this subsection to determine their effect
14 and may revise or rescind them as appropriate.

15 (5)(a) Not later than July 1, 1998, the department shall prepare a
16 list of methods used by counties and cities in carrying out the types
17 of activities required by this section. The department shall provide
18 this information and appropriate technical assistance to counties and
19 cities required to or choosing to comply with the provisions of this
20 section.

21 (b) By December 31, 2007, the department shall submit to the
22 appropriate committees of the legislature a report analyzing the
23 effectiveness of the activities described in this section in achieving
24 the goals envisioned by the countywide planning policies and the
25 comprehensive plans and development regulations of the counties and
26 cities.

27 (6) From funds appropriated by the legislature for this purpose,
28 the department shall provide grants to counties, cities, and regional
29 planning organizations required under subsection (7) of this section to
30 conduct the review and perform the evaluation required by this section.

31 (7) The provisions of this section shall apply to counties, and the
32 cities within those counties, that were greater than one hundred fifty
33 thousand in population in 1995 as determined by office of financial
34 management population estimates and that are located west of the crest
35 of the Cascade mountain range. The obligations under this subsection
36 are subject to the availability of amounts appropriated for the
37 specific purpose identified in subsection (1) of this section, unless
38 the department received private funds for the specific purpose

1 identified in subsection (1) of this section. Any other county
2 planning under RCW 36.70A.040 may carry out the review, evaluation, and
3 amendment programs and procedures as provided in this section.

4 **Sec. 6.** RCW 43.19.648 and 2009 c 459 s 7 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, effective
7 June 1, 2015, all state agencies and local government subdivisions of
8 the state, to the extent determined practicable by the rules adopted by
9 the department of (~~community, trade, and economic development~~)
10 commerce pursuant to RCW 43.325.080, are required to satisfy one
11 hundred percent of their fuel usage for operating publicly owned
12 vessels, vehicles, and construction equipment from electricity or
13 biofuel.

14 (2) Effective June 1, 2018, all cities and counties, to the extent
15 determined practicable by the rules adopted by the department of
16 commerce pursuant to RCW 43.325.080, are required to satisfy one
17 hundred percent of their fuel usage for operating publicly owned
18 vessels, vehicles, and construction equipment from electricity or
19 biofuel.

20 (3) In order to phase in this transition for the state, all state
21 agencies, to the extent determined practicable by the department of
22 (~~community, trade, and economic development~~) commerce by rules
23 adopted pursuant to RCW 43.325.080, are required to achieve forty
24 percent fuel usage for operating publicly owned vessels, vehicles, and
25 construction equipment from electricity or biofuel by June 1, 2013.
26 The department of general administration, in consultation with the
27 department of (~~community, trade, and economic development~~) commerce,
28 shall report to the governor and the legislature by December 1, 2013,
29 on what percentage of the state's fuel usage is from electricity or
30 biofuel.

31 (~~(+3)~~) (4) Except for cars owned or operated by the Washington
32 state patrol, when tires on vehicles in the state's motor vehicle fleet
33 are replaced, they must be replaced with tires that have the same or
34 better rolling resistance as the original tires.

35 (~~(+4)~~) (5) By December 31, 2015, the state must, to the extent
36 practicable, install electrical outlets capable of charging electric

1 vehicles in each of the state's fleet parking and maintenance
2 facilities.

3 ~~((+5))~~ (6) The department of transportation's obligations under
4 subsection ~~((+2))~~ (3) of this section are subject to the availability
5 of amounts appropriated for the specific purpose identified in
6 subsection ~~((+2))~~ (3) of this section.

7 ~~((+6))~~ (7) The department of transportation's obligations under
8 subsection ~~((+4))~~ (5) of this section are subject to the availability
9 of amounts appropriated for the specific purpose identified in
10 subsection ~~((+4))~~ (5) of this section unless the department receives
11 federal or private funds for the specific purpose identified in
12 subsection ~~((+4))~~ (5) of this section.

13 ~~((+7))~~ (8) The definitions in this subsection apply throughout
14 this section unless the context clearly requires otherwise.

15 (a) "Battery charging station" means an electrical component
16 assembly or cluster of component assemblies designed specifically to
17 charge batteries within electric vehicles, which meet or exceed any
18 standards, codes, and regulations set forth by chapter 19.28 RCW and
19 consistent with rules adopted under RCW 19.27.540.

20 (b) "Battery exchange station" means a fully automated facility
21 that will enable an electric vehicle with a swappable battery to enter
22 a drive lane and exchange the depleted battery with a fully charged
23 battery through a fully automated process, which meets or exceeds any
24 standards, codes, and regulations set forth by chapter 19.28 RCW and
25 consistent with rules adopted under RCW 19.27.540.

26 **Sec. 7.** RCW 43.325.080 and 2007 c 348 s 204 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, by June
29 1, 2010, the department shall adopt rules to define practicability and
30 clarify how state agencies and local government subdivisions will be
31 evaluated in determining whether they have met the goals set out in RCW
32 43.19.648(1). At a minimum, the rules must address:

33 ~~((+1))~~ (a) Criteria for determining how the goal in RCW
34 43.19.648(1) will be met by June 1, 2015;

35 ~~((+2))~~ (b) Factors considered to determine compliance with the
36 goal in RCW 43.19.648(1), including but not limited to: The regional

1 availability of fuels; vehicle costs; differences between types of
2 vehicles, vessels, or equipment; the cost of program implementation;
3 and cost differentials in different parts of the state; and

4 ~~((+3))~~ (c) A schedule for phased-in progress towards meeting the
5 goal in RCW 43.19.648(1) that may include different schedules for
6 different fuel applications or different quantities of biofuels.

7 (2) By June 1, 2015, the department shall adopt rules to define
8 practicability and clarify how cities and counties will be evaluated in
9 determining whether they have met the goals set out in RCW
10 43.19.648(2). At a minimum, the rules must address:

11 (a) Criteria for determining how the goal in RCW 43.19.648(2) will
12 be met by June 1, 2018;

13 (b) Factors considered to determine compliance with the goal in RCW
14 43.19.648(2), including but not limited to: The regional availability
15 of fuels; vehicle costs; differences between types of vehicles,
16 vessels, or equipment; the cost of program implementation; and cost
17 differentials in different parts of the state; and

18 (c) A schedule for phased-in progress towards meeting the goal in
19 RCW 43.19.648(2) that may include different schedules for different
20 fuel applications or different quantities of biofuels.

21 **Sec. 8.** RCW 46.68.113 and 2006 c 334 s 21 are each amended to read
22 as follows:

23 During the ~~((2003-2005))~~ 2013-2015 biennium, cities and towns shall
24 provide to the transportation commission, or its successor entity,
25 preservation rating information on at least seventy percent of the
26 total city and town arterial network. Thereafter, the preservation
27 rating information requirement shall increase in five percent
28 increments in subsequent biennia, but in no case shall it exceed eighty
29 percent. The rating system used by cities and towns must be based upon
30 the Washington state pavement rating method or an equivalent standard
31 approved by the department of transportation. Beginning January 1,
32 2007, the preservation rating information shall be submitted to the
33 department.

34 **Sec. 9.** RCW 70.95.110 and 1991 c 298 s 4 are each amended to read
35 as follows:

36 (1) The comprehensive county solid waste management plans and any

1 comprehensive city solid waste management plans prepared in accordance
2 with RCW 70.95.080 shall be maintained in a current condition and
3 reviewed and revised periodically by counties and cities as may be
4 required by the department. Upon each review such plans shall be
5 extended to show long-range needs for solid waste handling facilities
6 for twenty years in the future, and a revised construction and capital
7 acquisition program for six years in the future. Each revised solid
8 waste management plan shall be submitted to the department.

9 Each plan shall be reviewed and revised within five years of July
10 1, 1984, and thereafter shall be reviewed, and revised if necessary
11 according to the schedule provided in subsection (2) of this section.

12 (2) Cities and counties preparing solid waste management plans
13 shall submit the waste reduction and recycling element required in RCW
14 70.95.090 and any revisions to other elements of its comprehensive
15 solid waste management plan to the department no later than:

16 (a) July 1, 1991, for class one areas: PROVIDED, That portions
17 relating to multiple family residences shall be submitted no later than
18 July 1, 1992;

19 (b) July 1, 1992, for class two areas; and

20 (c) July 1, 1994, for class three areas.

21 Thereafter, each plan shall be reviewed and revised, if necessary,
22 at least every (~~five~~) ten years. Nothing in chapter 431, Laws of
23 1989 shall prohibit local governments from submitting a plan prior to
24 the dates listed in this subsection.

25 (3) The classes of areas are defined as follows:

26 (a) Class one areas are the counties of Spokane, Snohomish, King,
27 Pierce, and Kitsap and all the cities therein.

28 (b) Class two areas are all other counties located west of the
29 crest of the Cascade mountains and all the cities therein.

30 (c) Class three areas are the counties east of the crest of the
31 Cascade mountains and all the cities therein, except for Spokane
32 county.

33 (4) Cities and counties shall begin implementing the programs to
34 collect source separated materials no later than one year following the
35 adoption and approval of the waste reduction and recycling element and
36 these programs shall be fully implemented within two years of approval.

1 **Sec. 10.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read
2 as follows:

3 (1) Impact fee receipts shall be earmarked specifically and
4 retained in special interest-bearing accounts. Separate accounts shall
5 be established for each type of public facility for which impact fees
6 are collected. All interest shall be retained in the account and
7 expended for the purpose or purposes for which the impact fees were
8 imposed. Annually, each county, city, or town imposing impact fees
9 shall provide a report on each impact fee account showing the source
10 and amount of all moneys collected, earned, or received and system
11 improvements that were financed in whole or in part by impact fees.

12 (2) Impact fees for system improvements shall be expended only in
13 conformance with the capital facilities plan element of the
14 comprehensive plan.

15 (3)(a) Except as provided otherwise by (b) of this subsection,
16 impact fees shall be expended or encumbered for a permissible use
17 within ((~~six~~)) ten years of receipt, unless there exists an
18 extraordinary and compelling reason for fees to be held longer than
19 ((~~six~~)) ten years. Such extraordinary or compelling reasons shall be
20 identified in written findings by the governing body of the county,
21 city, or town.

22 (b) School impact fees must be expended or encumbered for a
23 permissible use within ten years of receipt, unless there exists an
24 extraordinary and compelling reason for fees to be held longer than ten
25 years. Such extraordinary or compelling reasons shall be identified in
26 written findings by the governing body of the county, city, or town.

27 (4) Impact fees may be paid under protest in order to obtain a
28 permit or other approval of development activity.

29 (5) Each county, city, or town that imposes impact fees shall
30 provide for an administrative appeals process for the appeal of an
31 impact fee; the process may follow the appeal process for the
32 underlying development approval or the county, city, or town may
33 establish a separate appeals process. The impact fee may be modified
34 upon a determination that it is proper to do so based on principles of
35 fairness. The county, city, or town may provide for the resolution of
36 disputes regarding impact fees by arbitration.

1 **Sec. 11.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each
2 amended to read as follows:

3 (1) The current owner of property on which an impact fee has been
4 paid may receive a refund of such fees if the county, city, or town
5 fails to expend or encumber the impact fees within (~~six~~) ten years of
6 when the fees were paid or other such period of time established
7 pursuant to RCW 82.02.070(3) on public facilities intended to benefit
8 the development activity for which the impact fees were paid. In
9 determining whether impact fees have been encumbered, impact fees shall
10 be considered encumbered on a first in, first out basis. The county,
11 city, or town shall notify potential claimants by first-class mail
12 deposited with the United States postal service at the last known
13 address of claimants.

14 The request for a refund must be submitted to the county, city, or
15 town governing body in writing within one year of the date the right to
16 claim the refund arises or the date that notice is given, whichever is
17 later. Any impact fees that are not expended within these time
18 limitations, and for which no application for a refund has been made
19 within this one-year period, shall be retained and expended on the
20 indicated capital facilities. Refunds of impact fees under this
21 subsection shall include interest earned on the impact fees.

22 (2) When a county, city, or town seeks to terminate any or all
23 impact fee requirements, all unexpended or unencumbered funds,
24 including interest earned, shall be refunded pursuant to this section.
25 Upon the finding that any or all fee requirements are to be terminated,
26 the county, city, or town shall place notice of such termination and
27 the availability of refunds in a newspaper of general circulation at
28 least two times and shall notify all potential claimants by first-class
29 mail to the last known address of claimants. All funds available for
30 refund shall be retained for a period of one year. At the end of one
31 year, any remaining funds shall be retained by the local government,
32 but must be expended for the indicated public facilities. This notice
33 requirement shall not apply if there are no unexpended or unencumbered
34 balances within an account or accounts being terminated.

35 (3) A developer may request and shall receive a refund, including
36 interest earned on the impact fees, when the developer does not proceed
37 with the development activity and no impact has resulted.

1 **Sec. 12.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read
2 as follows:

3 (1) The department of ecology shall, in coordination with the
4 department of health, adopt rules for reclaimed water use consistent
5 with this chapter. The rules must address all aspects of reclaimed
6 water use, including commercial and industrial uses, land applications,
7 direct groundwater recharge, wetland discharge, surface percolation,
8 constructed wetlands, and streamflow or surface water augmentation.
9 The department of health shall, in coordination with the department of
10 ecology, adopt rules for greywater reuse. The rules must also
11 designate whether the department of ecology or the department of health
12 will be the lead agency responsible for a particular aspect of
13 reclaimed water use. In developing the rules, the departments of
14 health and ecology shall amend or rescind any existing rules on
15 reclaimed water in conflict with the new rules.

16 (2) All rules required to be adopted pursuant to this section must
17 be completed no ~~((later than December 31, 2010, although the department
18 of ecology is encouraged to adopt the final rules as soon as possible))~~
19 earlier than June 30, 2013.

20 (3) The department of ecology must consult with the advisory
21 committee created under RCW 90.46.050 in all aspects of rule
22 development required under this section.

23 **Sec. 13.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to
24 read as follows:

25 The department of ecology is hereby designated as the state water
26 pollution control agency for all purposes of the federal clean water
27 act as it exists on February 4, 1987, and is hereby authorized to
28 participate fully in the programs of the act as well as to take all
29 action necessary to secure to the state the benefits and to meet the
30 requirements of that act. With regard to the national estuary program
31 established by section 320 of that act, the department shall exercise
32 its responsibility jointly with the Puget Sound partnership, created in
33 RCW 90.71.210. The department of ecology may delegate its authority
34 under this chapter, including its national pollutant discharge
35 elimination permit system authority and duties regarding animal feeding
36 operations and concentrated animal feeding operations, to the
37 department of agriculture through a memorandum of understanding. Until

1 any such delegation receives federal approval, the department of
2 agriculture's adoption or issuance of animal feeding operation and
3 concentrated animal feeding operation rules, permits, programs, and
4 directives pertaining to water quality shall be accomplished after
5 reaching agreement with the director of the department of ecology.
6 Adoption or issuance and implementation shall be accomplished so that
7 compliance with such animal feeding operation and concentrated animal
8 feeding operation rules, permits, programs, and directives will achieve
9 compliance with all federal and state water pollution control laws.
10 The department of ecology shall extend without modification any
11 national pollution discharge elimination system municipal storm water
12 general permit first issued on January 17, 2007, until after June 30,
13 2013. The powers granted herein include, among others, and
14 notwithstanding any other provisions of chapter 90.48 RCW or otherwise,
15 the following:

16 (1) Complete authority to establish and administer a comprehensive
17 state point source waste discharge or pollution discharge elimination
18 permit program which will enable the department to qualify for full
19 participation in any national waste discharge or pollution discharge
20 elimination permit system and will allow the department to be the sole
21 agency issuing permits required by such national system operating in
22 the state of Washington subject to the provisions of RCW 90.48.262(2).
23 Program elements authorized herein may include, but are not limited to:
24 (a) Effluent treatment and limitation requirements together with timing
25 requirements related thereto; (b) applicable receiving water quality
26 standards requirements; (c) requirements of standards of performance
27 for new sources; (d) pretreatment requirements; (e) termination and
28 modification of permits for cause; (f) requirements for public notices
29 and opportunities for public hearings; (g) appropriate relationships
30 with the secretary of the army in the administration of his
31 responsibilities which relate to anchorage and navigation, with the
32 administrator of the environmental protection agency in the performance
33 of his duties, and with other governmental officials under the federal
34 clean water act; (h) requirements for inspection, monitoring, entry,
35 and reporting; (i) enforcement of the program through penalties,
36 emergency powers, and criminal sanctions; (j) a continuing planning
37 process; and (k) user charges.

1 (2) The power to establish and administer state programs in a
2 manner which will insure the procurement of moneys, whether in the form
3 of grants, loans, or otherwise; to assist in the construction,
4 operation, and maintenance of various water pollution control
5 facilities and works; and the administering of various state water
6 pollution control management, regulatory, and enforcement programs.

7 (3) The power to develop and implement appropriate programs
8 pertaining to continuing planning processes, area-wide waste treatment
9 management plans, and basin planning.

10 The governor shall have authority to perform those actions required
11 of him or her by the federal clean water act.

12 **Sec. 14.** RCW 90.58.080 and 2007 c 170 s 1 are each amended to read
13 as follows:

14 (1) Local governments shall develop or amend a master program for
15 regulation of uses of the shorelines of the state consistent with the
16 required elements of the guidelines adopted by the department in
17 accordance with the schedule established by this section.

18 (2)(a) Subject to the provisions of subsections (5) and (6) of this
19 section, each local government subject to this chapter shall develop or
20 amend its master program for the regulation of uses of shorelines
21 within its jurisdiction according to the following schedule:

22 (i) On or before December 1, 2005, for the city of Port Townsend,
23 the city of Bellingham, the city of Everett, Snohomish county, and
24 Whatcom county;

25 (ii) On or before December 1, 2009, for King county and the cities
26 within King county greater in population than ten thousand;

27 (iii) Except as provided by (a)(i) and (ii) of this subsection, on
28 or before December 1, 2011, for Clallam, Clark, Jefferson, King,
29 Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the
30 cities within those counties;

31 (iv) On or before December 1, 2012, for Cowlitz, Island, Lewis,
32 Mason, San Juan, Skagit, and Skamania counties and the cities within
33 those counties;

34 (v) On or before December 1, 2013, for Benton, Chelan, Douglas,
35 Grant, Kittitas, Spokane, and Yakima counties and the cities within
36 those counties; and

1 (vi) On or before December 1, 2014, for Adams, Asotin, Columbia,
2 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,
3 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman
4 counties and the cities within those counties.

5 (b) Nothing in this subsection (2) shall preclude a local
6 government from developing or amending its master program prior to the
7 dates established by this subsection (2).

8 (3)(a) Following approval by the department of a new or amended
9 master program, local governments required to develop or amend master
10 programs on or before December 1, 2009, as provided by subsection
11 (2)(a)(i) and (ii) of this section, shall be deemed to have complied
12 with the schedule established by subsection (2)(a)(iii) of this section
13 and shall not be required to complete master program amendments until
14 (~~seven~~) ten years after the applicable dates established by
15 subsection (2)(a)(iii) of this section. Any jurisdiction listed in
16 subsection (2)(a)(i) of this section that has a new or amended master
17 program approved by the department on or after March 1, 2002, but
18 before July 27, 2003, shall not be required to complete master program
19 amendments until (~~seven~~) ten years after the applicable date provided
20 by subsection (2)(a)(iii) of this section.

21 (b) Following approval by the department of a new or amended master
22 program, local governments choosing to develop or amend master programs
23 on or before December 1, 2009, shall be deemed to have complied with
24 the schedule established by subsection (2)(a)(iii) through (vi) of this
25 section and shall not be required to complete master program amendments
26 until (~~seven~~) ten years after the applicable dates established by
27 subsection (2)(a)(iii) through (vi) of this section.

28 (4) Local governments shall conduct a review of their master
29 programs at least once every (~~seven~~) ten years after the applicable
30 dates established by subsection (2)(a)(iii) through (vi) of this
31 section. Following the review required by this subsection (4), local
32 governments shall, if necessary, revise their master programs. The
33 purpose of the review is:

34 (a) To assure that the master program complies with applicable law
35 and guidelines in effect at the time of the review; and

36 (b) To assure consistency of the master program with the local
37 government's comprehensive plan and development regulations adopted
38 under chapter 36.70A RCW, if applicable, and other local requirements.

1 (5) Local governments are encouraged to begin the process of
2 developing or amending their master programs early and are eligible for
3 grants from the department as provided by RCW 90.58.250, subject to
4 available funding. Except for those local governments listed in
5 subsection (2)(a)(i) and (ii) of this section, the deadline for
6 completion of the new or amended master programs shall be two years
7 after the date the grant is approved by the department. Subsequent
8 master program review dates shall not be altered by the provisions of
9 this subsection.

10 (6)(a) Grants to local governments for developing and amending
11 master programs pursuant to the schedule established by this section
12 shall be provided at least two years before the adoption dates
13 specified in subsection (2) of this section. To the extent possible,
14 the department shall allocate grants within the amount appropriated for
15 such purposes to provide reasonable and adequate funding to local
16 governments that have indicated their intent to develop or amend master
17 programs during the biennium according to the schedule established by
18 subsection (2) of this section. Any local government that applies for
19 but does not receive funding to comply with the provisions of
20 subsection (2) of this section may delay the development or amendment
21 of its master program until the following biennium.

22 (b) Local governments with delayed compliance dates as provided in
23 (a) of this subsection shall be the first priority for funding in
24 subsequent biennia, and the development or amendment compliance
25 deadline for those local governments shall be two years after the date
26 of grant approval.

27 (c) Failure of the local government to apply in a timely manner for
28 a master program development or amendment grant in accordance with the
29 requirements of the department shall not be considered a delay
30 resulting from the provisions of (a) of this subsection.

31 (7) Notwithstanding the provisions of this section, all local
32 governments subject to the requirements of this chapter that have not
33 developed or amended master programs on or after March 1, 2002, shall,
34 no later than December 1, 2014, develop or amend their master programs
35 to comply with guidelines adopted by the department after January 1,
36 2003.

37 (8) Local governments may be provided an additional year beyond the
38 deadlines in this section to complete their master program or

1 amendment. The department shall grant the request if it determines
2 that the local government is likely to adopt or amend its master
3 program within the additional year.

4 **Sec. 15.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read
5 as follows:

6 (1) A master program, segment of a master program, or an amendment
7 to a master program shall become effective when approved by the
8 department or within one hundred eighty days of receipt by the
9 department. The one hundred eighty day time period may be extended for
10 an additional thirty days by the department or at the request of the
11 local government. Within the time period provided in RCW 90.58.080,
12 each local government shall have submitted a master program, either
13 totally or by segments, for all shorelines of the state within its
14 jurisdiction to the department for review and approval.

15 (2) Upon receipt of a proposed master program or amendment, the
16 department shall:

17 (a) Provide notice to and opportunity for written comment by all
18 interested parties of record as a part of the local government review
19 process for the proposal and to all persons, groups, and agencies that
20 have requested in writing notice of proposed master programs or
21 amendments generally or for a specific area, subject matter, or issue.
22 The comment period shall be at least thirty days, unless the department
23 determines that the level of complexity or controversy involved
24 supports a shorter period;

25 (b) In the department's discretion, conduct a public hearing during
26 the thirty-day comment period in the jurisdiction proposing the master
27 program or amendment;

28 (c) Within fifteen days after the close of public comment, request
29 the local government to review the issues identified by the public,
30 interested parties, groups, and agencies and provide a written response
31 as to how the proposal addresses the identified issues;

32 (d) Within thirty days after receipt of the local government
33 response pursuant to (c) of this subsection, make written findings and
34 conclusions regarding the consistency of the proposal with the policy
35 of RCW 90.58.020 and the applicable guidelines, provide a response to
36 the issues identified in (c) of this subsection, and either approve the
37 proposal as submitted, recommend specific changes necessary to make the

1 proposal approvable, or deny approval of the proposal in those
2 instances where no alteration of the proposal appears likely to be
3 consistent with the policy of RCW 90.58.020 and the applicable
4 guidelines. The written findings and conclusions shall be provided to
5 the local government, all interested persons, parties, groups, and
6 agencies of record on the proposal;

7 (e) If the department recommends changes to the proposed master
8 program or amendment, within thirty days after the department mails the
9 written findings and conclusions to the local government, the local
10 government may:

11 (i) Agree to the proposed changes. The receipt by the department
12 of the written notice of agreement constitutes final action by the
13 department approving the amendment; or

14 (ii) Submit an alternative proposal. If, in the opinion of the
15 department, the alternative is consistent with the purpose and intent
16 of the changes originally submitted by the department and with this
17 chapter it shall approve the changes and provide written notice to all
18 recipients of the written findings and conclusions. If the department
19 determines the proposal is not consistent with the purpose and intent
20 of the changes proposed by the department, the department may resubmit
21 the proposal for public and agency review pursuant to this section or
22 reject the proposal.

23 (3) The department shall approve the segment of a master program
24 relating to shorelines unless it determines that the submitted segments
25 are not consistent with the policy of RCW 90.58.020 and the applicable
26 guidelines.

27 (4) The department shall approve the segment of a master program
28 relating to critical areas as defined by RCW 36.70A.030(5) provided the
29 master program segment is consistent with RCW 90.58.020 and applicable
30 shoreline guidelines, and if the segment provides a level of protection
31 of critical areas at least equal to that provided by the local
32 government's critical areas ordinances adopted and thereafter amended
33 pursuant to RCW 36.70A.060(2).

34 (5) The department shall approve those segments of the master
35 program relating to shorelines of statewide significance only after
36 determining the program provides the optimum implementation of the
37 policy of this chapter to satisfy the statewide interest. If the
38 department does not approve a segment of a local government master

1 program relating to a shoreline of statewide significance, the
2 department may develop and by rule adopt an alternative to the local
3 government's proposal.

4 (6) In the event a local government has not complied with the
5 requirements of RCW 90.58.070 it may thereafter upon written notice to
6 the department elect to adopt a master program for the shorelines
7 within its jurisdiction, in which event it shall comply with the
8 provisions established by this chapter for the adoption of a master
9 program for such shorelines.

10 Upon approval of such master program by the department it shall
11 supersede such master program as may have been adopted by the
12 department for such shorelines.

13 (7) A master program or amendment to a master program takes effect
14 when and in such form as approved or adopted by the department.
15 Shoreline master programs that were adopted by the department prior to
16 July 22, 1995, in accordance with the provisions of this section then
17 in effect, shall be deemed approved by the department in accordance
18 with the provisions of this section that became effective on that date.
19 The department shall maintain a record of each master program, the
20 action taken on any proposal for adoption or amendment of the master
21 program, and any appeal of the department's action. The department's
22 approved document of record constitutes the official master program.

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