
SENATE BILL 5489

State of Washington**54th Legislature****1995 Regular Session**

By Senators Sheldon, A. Anderson, Fraser, Drew, Hale, Haugen, Gaspard, Spanel, Snyder, Loveland and Winsley; by request of Governor Lowry

Read first time 01/24/95. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to implementing the recommendations of the
2 governor's task force on regulatory reform on integrating growth
3 management planning and environmental review; amending RCW 43.21C.075,
4 43.21C.031, 43.21C.110, 43.21C.080, 36.70A.140, 36.70A.300, 36.70A.330,
5 90.58.020, 90.58.030, 90.58.050, 90.58.060, 90.58.080, 90.58.090,
6 90.58.100, 90.58.120, 90.58.140, 90.58.180, 90.58.190, 34.05.461,
7 34.05.514, 36.70A.020, 36.70A.070, 36.70A.130, 36.70A.280, 36.70A.320,
8 82.02.090, 82.02.020, 82.46.010, 35.21.225, 35.43.042, 35.43.190,
9 35.92.010, 36.73.020, 36.94.220, 56.20.015, 57.08.010, 57.16.050,
10 36.70A.440, 36.70A.065, 58.17.070, 58.17.090, 58.17.092, 58.17.100,
11 58.17.330, 35.63.130, 35A.63.170, 36.70.970, 7.16.360, and 58.17.180;
12 reenacting and amending RCW 36.70A.030, 36.70A.290, 36.88.010, and
13 56.08.010; adding new sections to chapter 36.70A RCW; adding a new
14 section to chapter 43.21C RCW; adding a new section to chapter 35.43
15 RCW; adding new sections to chapter 36.32 RCW; adding a new section to
16 chapter 56.08 RCW; adding a new section to chapter 57.08 RCW; adding a
17 new section to chapter 64.40 RCW; adding new sections to chapter 43.131
18 RCW; adding a new section to chapter 4.84 RCW; adding new chapters to
19 Title 36 RCW; adding a new chapter to Title 90 RCW; creating new
20 sections; recodifying RCW 82.02.050, 82.02.060, 82.02.070, 82.02.080,
21 82.02.090, 82.02.100, 36.70A.065, and 36.70A.440; repealing RCW

1 90.58.145, 90.62.010, 90.62.020, 90.62.030, 90.62.040, 90.62.050,
2 90.62.060, 90.62.070, 90.62.080, 90.62.090, 90.62.100, 90.62.110,
3 90.62.120, 90.62.130, 90.62.900, 90.62.901, 90.62.904, 90.62.905,
4 90.62.906, 90.62.907, and 90.62.908; making an appropriation; providing
5 an effective date; providing an expiration date; and declaring an
6 emergency.

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

8	TABLE OF CONTENTS	Page #
9	PART I - PLANNING AND ENVIRONMENTAL REVIEW	2
10	PART II - PERMITTING	84
11	PART III - APPEALS	114
12	PART IV - STUDY	123
13	PART V - MISCELLANEOUS	126

14 NEW SECTION. **Sec. 1.** The legislature recognizes by this act that
15 the growth management act is a fundamental building block of regulatory
16 reform. The state and local governments have invested considerable
17 resources in an act that should serve as the integrating framework for
18 all other land-use related laws. The growth management act provides
19 the means to effectively combine certainty for development decisions,
20 reasonable environmental protection, long-range planning for cost-
21 effective infrastructure, and orderly growth and development.

22 **PART I - PLANNING AND ENVIRONMENTAL REVIEW**

23 NEW SECTION. **Sec. 101.** A new section is added to chapter 36.70A
24 RCW to read as follows:

25 (1) In reviewing a development permit application and making a
26 permit decision, a county or city planning under RCW 36.70A.040 shall
27 rely on its adopted development regulations or in the absence of
28 appropriate development regulations on the adopted comprehensive plan.

1 A development permit application shall be approved, approved with
2 conditions, or denied based on this review.

3 (2) At a minimum, adopted comprehensive plans and development
4 regulations shall be relied on to determine:

5 (a) The type of land use permitted at the site, including uses that
6 may be allowed under certain circumstances, such as planned unit
7 developments and conditional and special uses, if the criteria for
8 their approval have been satisfied;

9 (b) Density of residential development in urban growth areas; and

10 (c) System improvements, such as public facilities identified in
11 the comprehensive plan, related to the proposed project and site, if
12 the plan or development regulations provide for funding of these
13 improvements as required by this chapter.

14 (3) During project review, the county or city is only required to
15 determine whether the applicable items listed in subsection (2) of this
16 section are defined in the development regulations applicable to the
17 proposed project, or, if not defined in a development regulation
18 adopted under chapter 36.70A RCW, then identified in the applicable
19 elements of the comprehensive plan. During project review, the county
20 or city shall not reexamine alternatives to or hear appeals on these
21 items except for issues of code interpretation. As part of its project
22 review process, a county or city shall provide a procedure for
23 obtaining a code interpretation as provided in section 209 of this act.

24 (4) If the conditions of section 106 of this act are met, the
25 requirements for environmental analysis and mitigation measures in
26 development regulations and other applicable laws are presumed to
27 provide adequate mitigation for the specific adverse environmental
28 impacts to which the requirements apply.

29 (5) Permitting agencies shall continue to have the authority to
30 approve, condition, or deny projects as provided in their development
31 regulations adopted under this chapter and in their policies adopted
32 under RCW 43.21C.060.

33 Specific project design and conditions relating to the character of
34 development, such as the details of site plans, curb cuts, drainage
35 swales, transportation demand management, the payment of impact fees,
36 or other measures to mitigate a proposal's probable adverse
37 environmental impacts, if applicable, shall be identified through
38 project review.

1 NEW SECTION. **Sec. 102.** The legislature finds that during project
2 review, a county or city planning under RCW 36.70A.040 is likely to
3 discover the need to make various improvements in comprehensive plans
4 and development regulations. There is no current requirement or
5 process for applicants, citizens, or agency staff to ensure that these
6 improvements are considered in the plan review process. The
7 legislature also finds that in the past environmental review and
8 permitting of proposed projects has been used to reopen and make land
9 use planning decisions that should have been made through the
10 comprehensive planning process, in part because agency staff and
11 hearing examiners have not been able to ensure consideration of issues
12 in the local planning process. The legislature further finds that,
13 while plans and regulations should be improved and refined over time,
14 it is unfair to penalize applicants that have submitted permit
15 applications that meet current requirements. It is the intent of the
16 legislature in enacting section 103 of this act to establish a means by
17 which cities and counties will docket suggested plan amendments and
18 ensure their consideration during the planning process.

19 NEW SECTION. **Sec. 103.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1) Project review shall be used to make individual project
22 decisions, not land use planning decisions. If, during project review,
23 a county or city planning under RCW 36.70A.040 identifies deficiencies
24 in plans or regulations:

25 (a) The permitting process shall not be used as a comprehensive
26 planning process;

27 (b) Project review shall continue; and

28 (c) The identified deficiencies shall be docketed for possible
29 future plan amendments.

30 (2) Each county and city planning under RCW 36.70A.040 shall
31 include in its development regulations a procedure for any interested
32 person, including applicants, citizens, hearing examiners, and staff of
33 other agencies, to suggest plan amendments. The suggested amendments
34 shall be docketed and considered on at least a biennial basis.

35 (3) For purposes of this section, a deficiency in a comprehensive
36 plan or development regulation refers to the absence of required or
37 potentially desirable contents of a comprehensive plan or development
38 regulation. It does not refer to whether a development regulation

1 addresses a project's probable site-specific adverse environmental
2 impacts which the permitting agency could mitigate in the normal
3 project review process.

4 NEW SECTION. **Sec. 104.** Given the hundreds of jurisdictions and
5 agencies in the state, the legislature finds that it is essential to
6 have a uniform overall approach for applicants, citizens, land use and
7 environmental professionals, elected and nonelected officials, and
8 hearing examiners and other review bodies to use when evaluating
9 whether a project meets the requirements of chapter 36.70A RCW. The
10 legislature further finds that this uniform approach corresponds to
11 existing project review practices and will not place a burden on
12 applicants or local government. The legislature intends in adopting
13 section 105 of this act for this approach to be largely a code-checking
14 exercise for most projects, which are simple or routine, while complex
15 projects may require more analysis.

16 NEW SECTION. **Sec. 105.** A new section is added to chapter 36.70A
17 RCW to read as follows:

18 (1) A proposed project's consistency with a county's or a city's
19 development regulations adopted under this chapter, or, in the absence
20 of applicable development regulations, the appropriate elements of the
21 comprehensive plan, shall be determined by consideration of the type of
22 land use, the level of development, infrastructure, including public
23 facilities and public services needed to serve the development, and the
24 character of development, such as design and development standards.

25 (2) For purposes of this section, the term "consistency" shall
26 include all terms used in this chapter to refer to performance in
27 accordance with this chapter, including but not limited to compliance,
28 conformity, and consistency.

29 (3) Nothing in this section requires documentation, dictates an
30 agency's procedures for considering consistency, or limits a unit of
31 government from asking more specific or related questions with respect
32 to any of the four main categories listed in this section.

33 NEW SECTION. **Sec. 106.** A new section is added to chapter 43.21C
34 RCW to read as follows:

35 (1) The legislature finds that a wide range of environmental
36 subjects and impacts have been addressed by counties, cities, and towns

1 in comprehensive plans and development regulations adopted under
2 chapter 36.70A RCW, and by the state and federal government in
3 environmental rules and laws. These plans, regulations, rules, and
4 laws often provide environmental analysis and mitigation measures for
5 project actions without the need for an environmental impact statement
6 or further project mitigation. When existing plans, regulations,
7 rules, or laws provide environmental analysis and mitigation measures
8 for the specific adverse environmental impacts of proposed projects,
9 these requirements should be integrated with, and should not be
10 duplicated by, environmental review under this chapter. The
11 legislature reaffirms that a primary role of environmental review under
12 this chapter is to focus on the gaps and overlaps that may exist,
13 taking into account the other laws and requirements. Review of project
14 actions in counties, cities, and towns planning under RCW 36.70A.040
15 should integrate environmental review with project review and not use
16 this chapter to substitute for other land use planning and
17 environmental requirements.

18 (2) In reviewing a project action, a county, city, or town planning
19 under RCW 36.70A.040 shall presume that requirements for environmental
20 analysis, protection, and mitigation measures in development
21 regulations, comprehensive plans, and other applicable local, state, or
22 federal laws and rules provide adequate analysis of and mitigation for
23 the specific adverse environmental impacts to which the requirements
24 apply, and shall not conduct environmental analysis or impose
25 mitigation under this chapter if the following has occurred:

26 (a)(i) The local government has considered the probable adverse
27 environmental impacts of the proposed action and has determined that
28 these impacts are adequately addressed by the development regulations
29 or other applicable requirements of the comprehensive plan, subarea
30 plan element of the comprehensive plan, or other local, state, or
31 federal rules or laws; and

32 (ii) The local government has based or conditioned its approval on
33 compliance with these requirements or mitigation measures.

34 (b) If the requirements of (a) of this subsection are not satisfied
35 for some or all of the probable adverse environmental impacts of the
36 project action, environmental review under this chapter shall be
37 limited to those impacts and their effect on and relationship with
38 other impacts, if any, consistent with the intent of this section, and
39 shall be subject to the provisions of RCW 43.21C.060.

1 (3) For a county, city, or town planning under RCW 36.70A.040,
2 project review shall not require additional environmental analysis or
3 mitigation if the comprehensive plans, subarea plans, or development
4 regulations already address a project s probable site-specific adverse
5 environmental impacts, as determined under subsection (2) of this
6 section. If a comprehensive plan, subarea plan, or development
7 regulation adopted pursuant to chapter 36.70A RCW does not address a
8 project s probable site-specific adverse environmental impacts, project
9 review shall be integrated with environmental analysis under this
10 chapter.

11 (4) The addressing of impacts in a comprehensive plan, subarea
12 plan, or development regulation shall include but not be limited to the
13 adoption or designation of levels of service, land use designations, or
14 development standards.

15 (5) In deciding whether a specific adverse environmental impact has
16 been addressed by an existing rule or law of another agency with
17 jurisdiction with environmental expertise with regard to a specific
18 environmental impact, the local government shall consult with that
19 agency and may expressly defer to that agency. In making this
20 deferral, the local government shall base or condition its project
21 approval on compliance with these other existing rules or laws.

22 **Sec. 107.** RCW 43.21C.075 and 1994 c 253 s 4 are each amended to
23 read as follows:

24 (1) Because a major purpose of this chapter is to combine
25 environmental considerations with public decisions, any appeal brought
26 under this chapter shall be linked to a specific governmental action.
27 The State Environmental Policy Act provides a basis for challenging
28 whether governmental action is in compliance with the substantive and
29 procedural provisions of this chapter. The State Environmental Policy
30 Act is not intended to create a cause of action unrelated to a specific
31 governmental action.

32 (2) Unless otherwise provided by this section:

33 (a) Appeals under this chapter shall be of the governmental action
34 together with its accompanying environmental determinations.

35 (b) Appeals of environmental determinations made (or lacking) under
36 this chapter shall be commenced within the time required to appeal the
37 governmental action which is subject to environmental review.

1 (3) If an agency has a procedure for appeals of agency
2 environmental determinations made under this chapter, such procedure:

3 (a) Shall not allow more than one agency appeal proceeding on a
4 procedural determination (the adequacy of a determination of
5 significance/nonsignificance or of a final environmental impact
6 statement)(~~(, consistent with any state statutory requirements for~~
7 ~~appeals to local legislative bodies)~~). The appeal proceeding on a
8 determination of significance(~~(/nonsignificance)~~) may occur before the
9 agency's final decision on a proposed action. Such an appeal shall
10 also be allowed for a determination of significance/nonsignificance
11 which may be issued by the agency after supplemental review;

12 (b) Shall consolidate an appeal of procedural issues and of
13 substantive determinations made under this chapter (such as a decision
14 to require particular mitigation measures or to deny a proposal) with
15 a hearing or appeal on the underlying governmental action by providing
16 for a single simultaneous ((~~appeal of an~~) hearing before one hearing
17 officer or body to consider the agency decision on a proposal and any
18 environmental determinations made under this chapter, with the
19 exception of the ((~~threshold determination~~)) appeal, if any, of a
20 determination of significance as provided in (a) of this subsection
21 ((~~or an appeal to the local legislative authority under RCW 43.21C.060~~
22 ~~or other applicable state statutes~~));

23 (c) Shall provide for the preparation of a record for use in any
24 subsequent appeal proceedings, and shall provide for any subsequent
25 appeal proceedings to be conducted on the record, consistent with other
26 applicable law. An adequate record consists of findings and
27 conclusions, testimony under oath, and taped or written transcript. An
28 electronically recorded transcript will suffice for purposes of review
29 under this subsection; and

30 (d) Shall provide that procedural determinations made by the
31 responsible official shall be entitled to substantial weight.

32 (4) If a person aggrieved by an agency action has the right to
33 judicial appeal and if an agency has an appeal procedure, such person
34 shall, prior to seeking any judicial review, use such agency procedure
35 if any such procedure is available, unless expressly provided otherwise
36 by state statute.

37 (5) RCW 43.21C.080 establishes an optional "notice of action"
38 procedure which, if used, imposes a time period for appealing decisions
39 under this chapter. Some statutes and ordinances contain time periods

1 for challenging governmental actions which are subject to review under
2 this chapter, such as various local land use approvals (the "underlying
3 governmental action"). This section does not modify any such time
4 periods. (~~This section governs when a judicial appeal must be brought
5 under this chapter where a "notice of action" is used, and/or where
6 there is another time period which is required by statute or ordinance
7 for challenging the underlying governmental action.~~) In this
8 subsection, the term "appeal" refers to a judicial appeal only.

9 (a) If there is a time period for appealing the underlying
10 governmental action, appeals under this chapter shall be commenced
11 within (~~thirty days~~) such time period. The agency shall give
12 official notice stating the date and place for commencing an appeal.
13 (~~If there is an agency proceeding under subsection (3) of this
14 section, the appellant shall, prior to commencing a judicial appeal,
15 submit to the responsible official a notice of intent to commence a
16 judicial appeal. This notice of intent shall be given within the time
17 period for commencing a judicial appeal on the underlying governmental
18 action.~~)

19 (b) If there is no time period for appealing the underlying
20 governmental action, and a notice of action under RCW 43.21C.080 (~~may
21 be used. If a notice of action~~) is used, (~~judicial~~) appeals shall
22 be commenced within the time period specified by RCW 43.21C.080(~~7
23 unless there is a time period for appealing the underlying governmental
24 action in which case (a) of this subsection shall apply.~~

25 (c) ~~Notwithstanding RCW 43.21C.080(1), if there is a time period
26 for appealing the underlying governmental action, a notice of action
27 may be published within such time period).~~

28 (6)(a) Judicial review of an appeal decision made by an agency
29 under (~~RCW 43.21C.075(5)~~) subsection (5) of this section shall be on
30 the record, consistent with other applicable law.

31 (b) A taped or written transcript may be used. If a taped
32 transcript is to be reviewed, a record shall identify the location on
33 the taped transcript of testimony and evidence to be reviewed. Parties
34 are encouraged to designate only those portions of the testimony
35 necessary to present the issues raised on review, but if a party
36 alleges that a finding of fact is not supported by evidence, the party
37 should include in the record all evidence relevant to the disputed
38 finding. Any other party may designate additional portions of the
39 taped transcript relating to issues raised on review. A party may

1 provide a written transcript of portions of the testimony at the
2 party's own expense or apply to that court for an order requiring the
3 party seeking review to pay for additional portions of the written
4 transcript.

5 (c) Judicial review under this chapter shall without exception be
6 of the governmental action together with its accompanying environmental
7 determinations.

8 (7) Jurisdiction over the review of determinations under this
9 chapter in an appeal before an agency or superior court shall upon
10 consent of the parties be transferred in whole or part to the
11 shorelines hearings board. The shorelines hearings board shall hear
12 the matter and sign the final order expeditiously. The superior court
13 shall certify the final order of the shorelines hearings board and said
14 certified final order may only be appealed to an appellate court. In
15 the case of an appeal under this chapter regarding a project or other
16 matter that is also the subject of an appeal to the shorelines hearings
17 board under chapter 90.58 RCW, the shorelines hearings board shall have
18 sole jurisdiction over both the appeal under this section and the
19 appeal under chapter 90.58 RCW, shall consider them together, and shall
20 issue a final order within one hundred eighty days as provided in RCW
21 90.58.180.

22 (8) For purposes of this section and RCW 43.21C.080, the words
23 "action", "decision", and "determination" mean substantive agency
24 action including any accompanying procedural determinations under this
25 chapter (except where the word "action" means "appeal" in RCW
26 43.21C.080(2) and (3)). The word "action" in this section and RCW
27 43.21C.080 does not mean a procedural determination by itself made
28 under this chapter. The word "determination" includes any
29 environmental document required by this chapter and state or local
30 implementing rules. The word "agency" refers to any state or local
31 unit of government. Except as provided in subsection (5) of this
32 section, the word "appeal" refers to administrative, legislative, or
33 judicial appeals.

34 (9) The court in its discretion may award reasonable attorney's
35 fees of up to one thousand dollars in the aggregate to the prevailing
36 party, including a governmental agency, on issues arising out of this
37 chapter if the court makes specific findings that the legal position of
38 a party is frivolous and without reasonable basis.

1 **Sec. 108.** RCW 43.21C.031 and 1983 c 117 s 1 are each amended to
2 read as follows:

3 (1) An environmental impact statement (the detailed statement
4 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
5 legislation and other major actions having a probable significant,
6 adverse environmental impact. The environmental impact statement may
7 be combined with the recommendation or report on the proposal or issued
8 as a separate document. Actions categorically exempt under RCW
9 43.21C.110(1)(a) do not require environmental review or the preparation
10 of an environmental impact statement under this chapter. In a county,
11 city, or town planning under RCW 36.70A.040, a planned action, as
12 provided for in subsection (2) of this section, does not require a
13 threshold determination or the preparation of an environmental impact
14 statement under this chapter, but is subject to environmental review
15 and mitigation as provided in section 106 of this act.

16 An environmental impact statement is required to analyze only those
17 probable adverse environmental impacts which are significant.
18 Beneficial environmental impacts may be discussed. The responsible
19 official shall consult with agencies and the public to identify such
20 impacts and limit the scope of an environmental impact statement. The
21 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
22 sections of an environmental impact statement. Discussions of
23 significant short-term and long-term environmental impacts, significant
24 irrevocable commitments of natural resources, significant alternatives
25 including mitigation measures, and significant environmental impacts
26 which cannot be mitigated should be consolidated or included, as
27 applicable, in those sections of an environmental impact statement
28 where the responsible official decides they logically belong.

29 (2)(a) For purposes of this section, a planned action means one or
30 more types of project action that:

31 (i) Are designated planned actions by an ordinance or resolution by
32 a county, city, or town planning under RCW 36.70A.040;

33 (ii) Have had the significant impacts adequately addressed in an
34 environmental impact statement prepared in conjunction with (A) a
35 comprehensive plan adopted under chapter 36.70A RCW, or (B) a fully
36 contained community, a master planned resort, a master planned
37 development, a phased project, or other development;

38 (iii) Are subsequent or implementing proposals for the projects
39 listed in (a)(ii) of this subsection;

1 (iv) Are located within an urban growth area, as defined in RCW
2 36.70A.030;

3 (v) Are not essential public facilities, as defined in RCW
4 36.70A.200; and

5 (vi) Are consistent with a comprehensive plan adopted under chapter
6 36.70A RCW.

7 (b) A county, city, or town shall limit planned actions to certain
8 types of development or to specific geographical areas that are less
9 extensive than the jurisdictional boundaries of the county, city, or
10 town.

11 **Sec. 109.** RCW 43.21C.110 and 1983 c 117 s 7 are each amended to
12 read as follows:

13 It shall be the duty and function of the department of ecology(~~(7~~
14 ~~which may utilize proposed rules developed by the environmental policy~~
15 ~~commission)):~~

16 (1) To adopt and amend thereafter rules of interpretation and
17 implementation of this chapter (~~((the state environmental policy act of~~
18 ~~1971))~~), subject to the requirements of chapter 34.05 RCW, for the
19 purpose of providing uniform rules and guidelines to all branches of
20 government including state agencies, political subdivisions, public and
21 municipal corporations, and counties. The proposed rules shall be
22 subject to full public hearings requirements associated with rule
23 promulgation. Suggestions for modifications of the proposed rules
24 shall be considered on their merits, and the department shall have the
25 authority and responsibility for full and appropriate independent
26 promulgation and adoption of rules, assuring consistency with this
27 chapter as amended and with the preservation of protections afforded by
28 this chapter. The rule making powers authorized in this section shall
29 include, but shall not be limited to, the following phases of
30 interpretation and implementation of this chapter (~~((the state~~
31 ~~environmental policy act of 1971))~~):

32 (a) Categories of governmental actions which are not to be
33 considered as potential major actions significantly affecting the
34 quality of the environment, including categories pertaining to
35 applications for water right permits pursuant to chapters 90.03 and
36 90.44 RCW. Actions that are included as categorically exempt may not
37 be conditioned or denied under this chapter. The types of actions

1 included as categorical exemptions in the rules shall be limited to
2 those types which are not major actions significantly affecting the
3 quality of the environment. The rules shall provide for certain
4 circumstances where actions which potentially are categorically exempt
5 require environmental review.

6 (b) Rules for criteria and procedures applicable to the
7 determination of when an act of a branch of government is a major
8 action significantly affecting the quality of the environment for which
9 a detailed statement is required to be prepared pursuant to RCW
10 43.21C.030.

11 (c) Rules and procedures applicable to the preparation of detailed
12 statements and other environmental documents, including but not limited
13 to rules for timing of environmental review, obtaining comments, data
14 and other information, and providing for and determining areas of
15 public participation which shall include the scope and review of draft
16 environmental impact statements.

17 (d) Scope of coverage and contents of detailed statements assuring
18 that such statements are simple, uniform, and as short as practicable;
19 statements are required to analyze only reasonable alternatives and
20 probable adverse environmental impacts which are significant, and may
21 analyze beneficial impacts.

22 (e) Rules and procedures for public notification of actions taken
23 and documents prepared.

24 (f) Definition of terms relevant to the implementation of this
25 chapter including the establishment of a list of elements of the
26 environment. Analysis of environmental considerations under RCW
27 43.21C.030(2) may be required only for those subjects listed as
28 elements of the environment (or portions thereof). The list of
29 elements of the environment shall consist of the "natural" and "built"
30 environment. The elements of the built environment shall consist of
31 public services and utilities (such as water, sewer, schools, fire and
32 police protection), transportation, environmental health (such as
33 explosive materials and toxic waste), and land and shoreline use
34 (including housing, and a description of the relationships with land
35 use and shoreline plans and designations, including population).

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

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

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

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

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

12 (l) Rules relating to the use of environmental documents in
13 planning and decision making and the implementation of the substantive
14 policies and requirements of this chapter, including procedures for
15 appeals under this chapter.

16 (m) Rules and procedures that provide for the integration of
17 environmental review with project review as provided in section 106 of
18 this act. The rules and procedures shall be jointly developed with the
19 department of community, trade, and economic development and shall be
20 applicable to the preparation of environmental documents for actions in
21 counties, cities, and towns planning under RCW 36.70A.040. The rules
22 and procedures shall also include criteria to analyze the consistency
23 of project actions, including planned actions, with development
24 regulations adopted pursuant to chapter 36.70A RCW, or in the absence
25 of applicable development regulations, the appropriate elements of a
26 comprehensive plan or subarea plan adopted pursuant to chapter 36.70A
27 RCW. Ordinances or procedures adopted by a county, city, or town to
28 implement the provisions of section 106 of this act prior to the
29 effective date of rules adopted pursuant to this subsection (1)(m)
30 shall continue to be effective until the adoption of any new or revised
31 ordinances or procedures that may be required. If any revisions are
32 required by RCW 43.21C.120 as a result of rules adopted pursuant to
33 this subsection (1)(m), those revisions shall be within the limits
34 specified in RCW 43.21C.120.

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

37 (a) Consult with the state agencies and with representatives of
38 science, industry, agriculture, labor, conservation organizations,

1 state and local governments and other groups, as it deems advisable;
2 and

3 (b) Utilize, to the fullest extent possible, the services,
4 facilities, and information (including statistical information) of
5 public and private agencies, organizations, and individuals, in order
6 to avoid duplication of effort and expense, overlap, or conflict with
7 similar activities authorized by law and performed by established
8 agencies.

9 (3) Rules adopted pursuant to this section shall be subject to the
10 review procedures of chapter 34.05 RCW (~~(34.05.538 and 34.05.240)~~).

11 **Sec. 110.** RCW 43.21C.080 and 1977 ex.s. c 278 s 1 are each amended
12 to read as follows:

13 (1) Notice of any action taken by a governmental agency may be
14 publicized by the acting governmental agency, the applicant for, or the
15 proponent of such action, in substantially the form as set forth in
16 subsection (3) of this section and in the following manner:

17 (a) By publishing notice on the same day of each week for two
18 consecutive weeks in a legal newspaper of general circulation in the
19 area where the property which is the subject of the action is located;

20 (b) By filing notice of such action with the department of ecology
21 at its main office in Olympia prior to the date of the last newspaper
22 publication; and

23 (c) Except for those actions which are of a nonproject nature, by
24 one of the following methods which shall be accomplished prior to the
25 date of (~~last~~) first newspaper publication;

26 (i) Mailing to the latest recorded real property owners, as shown
27 by the records of the county treasurer, who share a common boundary
28 line with the property upon which the project is proposed through
29 United States mail, first class, postage prepaid.

30 (ii) Posting of the notice in a conspicuous manner on the property
31 upon which the project is to be constructed.

32 (2)(a) Except as otherwise provided in (b) of this subsection and
33 RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or
34 otherwise challenge any such governmental action for which notice is
35 given as provided in subsection (1) of this section on grounds of
36 noncompliance with the provisions of this chapter shall be commenced
37 within (~~thirty~~) twenty-one days from the date of last newspaper

1 publication of the notice pursuant to subsection (1) of this section,
2 or be barred(~~(: PROVIDED, HOWEVER, That)~~).

3 (b) The time period within which an action shall be commenced shall
4 be (~~(ninety)~~) twenty-one days (i) for projects to be performed by a
5 governmental agency or to be performed under government contract, or
6 (ii) for thermal power plant projects(~~(: PROVIDED FURTHER, That)~~).

7 (c) Any subsequent governmental action on the proposal for which
8 notice has been given as provided in subsection (1) of this section
9 shall not be set aside, enjoined, reviewed, or otherwise challenged on
10 grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a)
11 through (h) unless there has been a substantial change in the proposal
12 between the time of the first governmental action and the subsequent
13 governmental action, or unless the action now being considered was
14 identified in an earlier detailed statement or declaration of
15 nonsignificance as being one which would require further environmental
16 evaluation.

17 (~~((b))~~) (d) Any action to challenge a subsequent governmental
18 action based upon any provisions of this chapter shall be commenced
19 within (~~(thirty)~~) twenty-one days from the date of last newspaper
20 publication of the subsequent governmental action except (i) for
21 projects to be performed by a governmental agency or to be performed
22 under governmental contract, or (ii) for thermal power plant projects
23 which shall be challenged within (~~(ninety)~~) twenty-one days from the
24 date of last newspaper publication of the subsequent governmental
25 action, or be barred.

26 (3) The form for such notice of action shall be (~~(issued)~~)
27 established by the department of ecology by rule and shall be made
28 available by the governmental agency taking an action subject to being
29 publicized pursuant to this section, by the county auditor, and/or the
30 city clerk to the project applicant or proposer. (~~The form of such~~
31 ~~notice shall be substantially as follows:~~

32 NOTICE OF ACTION BY

33

34 (Government agency or entity)

35 Pursuant to the provisions of chapter 43.21C RCW, notice is hereby
36 given that:

37 The (Government agency or entity) did on
38 (date), take the action described below.

1 Any action to set aside, enjoin, review, or otherwise challenge
2 such action on the grounds of noncompliance with the provisions of
3 chapter 43.21C RCW (State Environmental Policy Act) shall be commenced
4 within days or be barred.

5 The action taken by (Government agency or
6 entity), notice of which is hereby given, was as follows:

7 (1) (Here insert description of action taken such
8 as: Adoption Ordinance No.; Issued Building Permit; Approved
9 preliminary (or final) plat, etc.)

10 (2) (Here insert brief description of the
11 complete project or proposal.)

12 (3) Said action pertained to property commonly known as:
13
14
15
16
17 (Sufficient description to locate property, but complete legal
18 description not required)

19 (4) Pertinent documents may be examined during regular business
20 hours at the office of: located at:
21
22 (Location, including room number)

23
24 (Name of government agency, proponent, or applicant giving notice)
25 Filed by
26 (Signature of individual and capacity in which such individual is
27 signing)))

28 **Sec. 111.** RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5 are
29 each reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Adopt a comprehensive land use plan" means to enact a new
33 comprehensive land use plan or to update an existing comprehensive land
34 use plan.

35 (2) "Agricultural land" means land primarily devoted to the
36 commercial production of horticultural, viticultural, floricultural,
37 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
38 straw, turf, seed, Christmas trees not subject to the excise tax

1 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
2 hatcheries, or livestock, and that has long-term commercial
3 significance for agricultural production.

4 (3) "City" means any city or town, including a code city.

5 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
6 means a generalized coordinated land use policy statement of the
7 governing body of a county or city that is adopted pursuant to this
8 chapter.

9 (5) "Critical areas" include the following areas and ecosystems:
10 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
11 used for potable water; (c) fish and wildlife habitat conservation
12 areas; (d) frequently flooded areas; and (e) geologically hazardous
13 areas.

14 (6) "Department" means the department of community, trade, and
15 economic development.

16 (7) (~~For purposes of RCW 36.70A.065 and 36.70A.440,~~) "Development
17 permit application" means any application for a development proposal
18 for a use that could be permitted under a plan adopted pursuant to this
19 chapter and is consistent with the underlying land use and zoning,
20 including but not limited to building permits, subdivisions,
21 substantial development permits under chapter 90.58 RCW, binding site
22 plans, planned unit developments, variances, conditional uses or other
23 applications pertaining to land uses, but shall not include
24 (~~rezones,~~) proposed amendments to comprehensive plans or the adoption
25 or amendment of development regulations. An application for a rezone
26 of a specific parcel or parcels of property that is authorized by a
27 comprehensive plan or subarea plan that is in effect on the date of
28 application is a development permit application.

29 (8) "Development regulations" means (~~any~~) the controls placed on
30 development or land use activities by a county or city, including, but
31 not limited to, zoning ordinances, critical areas ordinances, shoreline
32 master programs, official controls, planned unit development
33 ordinances, subdivision ordinances, and binding site plan ordinances
34 together with any amendments thereto. Development regulations do not
35 include decisions to approve a development permit application, even
36 though such decisions may be expressed in a resolution or ordinance of
37 the legislative body of the county or city.

38 (9) "Forest land" means land primarily devoted to growing trees for
39 long-term commercial timber production on land that can be economically

1 and practically managed for such production, including Christmas trees
2 subject to the excise tax imposed under RCW 84.33.100 through
3 84.33.140, and that has long-term commercial significance. In
4 determining whether forest land is primarily devoted to growing trees
5 for long-term commercial timber production on land that can be
6 economically and practically managed for such production, the following
7 factors shall be considered: (a) The proximity of the land to urban,
8 suburban, and rural settlements; (b) surrounding parcel size and the
9 compatibility and intensity of adjacent and nearby land uses; (c) long-
10 term local economic conditions that affect the ability to manage for
11 timber production; and (d) the availability of public facilities and
12 services conducive to conversion of forest land to other uses.

13 (10) "Geologically hazardous areas" means areas that because of
14 their susceptibility to erosion, sliding, earthquake, or other
15 geological events, are not suited to the siting of commercial,
16 residential, or industrial development consistent with public health or
17 safety concerns.

18 (11) "Long-term commercial significance" includes the growing
19 capacity, productivity, and soil composition of the land for long-term
20 commercial production, in consideration with the land's proximity to
21 population areas, and the possibility of more intense uses of the land.

22 (12) "Minerals" include gravel, sand, and valuable metallic
23 substances.

24 (13) "Public facilities" include streets, roads, highways,
25 sidewalks, street and road lighting systems, traffic signals, domestic
26 water systems, storm and sanitary sewer systems, parks and recreational
27 facilities, and schools.

28 (14) "Public services" include fire protection and suppression, law
29 enforcement, public health, education, recreation, environmental
30 protection, and other governmental services.

31 (15) "Urban growth" refers to growth that makes intensive use of
32 land for the location of buildings, structures, and impermeable
33 surfaces to such a degree as to be incompatible with the primary use of
34 such land for the production of food, other agricultural products, or
35 fiber, or the extraction of mineral resources. When allowed to spread
36 over wide areas, urban growth typically requires urban governmental
37 services. "Characterized by urban growth" refers to land having urban
38 growth located on it, or to land located in relationship to an area
39 with urban growth on it as to be appropriate for urban growth.

1 (16) "Urban growth areas" means those areas designated by a county
2 pursuant to RCW 36.70A.110.

3 (17) "Urban governmental services" include those governmental
4 services historically and typically delivered by cities, and include
5 storm and sanitary sewer systems, domestic water systems, street
6 cleaning services, fire and police protection services, public transit
7 services, and other public utilities associated with urban areas and
8 normally not associated with nonurban areas.

9 (18) "Wetland" or "wetlands" means areas that are inundated or
10 saturated by surface water or ground water at a frequency and duration
11 sufficient to support, and that under normal circumstances do support,
12 a prevalence of vegetation typically adapted for life in saturated soil
13 conditions. Wetlands generally include swamps, marshes, bogs, and
14 similar areas. Wetlands do not include those artificial wetlands
15 intentionally created from nonwetland sites, including, but not limited
16 to, irrigation and drainage ditches, grass-lined swales, canals,
17 detention facilities, wastewater treatment facilities, farm ponds, and
18 landscape amenities. ((However,)) Wetlands may include those
19 artificial wetlands intentionally created from nonwetland areas created
20 to mitigate conversion of wetlands((, if permitted by the county or
21 city)).

22 NEW SECTION. **Sec. 112.** A new section is added to chapter 36.70A
23 RCW to read as follows:

24 (1) In designating and protecting critical areas under this
25 chapter, counties and cities shall include the best available science
26 in developing policies and development regulations to protect the
27 functions and values of critical areas. In addition, counties and
28 cities shall give special consideration to conservation or protection
29 measures necessary to preserve or enhance anadromous fisheries.

30 (2) If it determines that advice from scientific or other experts
31 is necessary or will be of substantial assistance in reaching its
32 decision, a growth management hearings board may retain scientific or
33 other expert advice to assist in reviewing a petition under RCW
34 36.70A.290 that involves critical areas.

35 **Sec. 113.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each
36 amended to read as follows:

1 Each county and city that is required or chooses to plan under RCW
2 36.70A.040 shall establish and broadly disseminate to the public a
3 public participation program identifying procedures providing for early
4 and continuous public participation in the development and amendment of
5 comprehensive land use plans and development regulations implementing
6 such plans. The procedures shall provide for broad dissemination of
7 proposals and alternatives, opportunity for written comments, public
8 meetings after effective notice, provision for open discussion,
9 communication programs, information services, and consideration of and
10 response to public comments. In enacting legislation in response to
11 the board's decision pursuant to RCW 36.70A.300 declaring part or all
12 of a comprehensive plan or development regulation invalid, the county
13 or city shall provide for public participation that is appropriate and
14 effective under the circumstances presented by the board's order.
15 Errors in exact compliance with the established program and procedures
16 shall not render the comprehensive land use plan or development
17 regulations invalid if the spirit of the program and procedures is
18 observed.

19 **Sec. 114.** RCW 36.70A.300 and 1991 sp.s. c 32 s 11 are each amended
20 to read as follows:

21 (1) The board shall issue a final order within one hundred eighty
22 days of receipt of the petition for review, or, when multiple petitions
23 are filed, within one hundred eighty days of receipt of the last
24 petition that is consolidated. Such a final order shall be based
25 exclusively on whether or not a state agency, county, or city is in
26 compliance with the requirements of this chapter, chapter 90.58 RCW as
27 it relates to adoption or amendment of shoreline master programs, or
28 chapter 43.21C RCW as it relates to plans, development regulations, and
29 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.
30 In the final order, the board shall either: (a) Find that the state
31 agency, county, or city is in compliance with the requirements of this
32 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
33 of shoreline master programs; or (b) find that the state agency,
34 county, or city is not in compliance with the requirements of this
35 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
36 of shoreline master programs, in which case the board shall remand the
37 matter to the affected state agency, county, or city and specify a
38 reasonable time not in excess of one hundred eighty days within which

1 the state agency, county, or city shall comply with the requirements of
2 this chapter.

3 (2) A finding of noncompliance and an order of remand shall not
4 affect the validity of comprehensive plans and development regulations
5 during the period of remand, unless the board's final order also:

6 (a) Includes a determination, supported by findings of fact and
7 conclusions of law, that the continued validity of the plan or
8 regulation would substantially interfere with the fulfillment of the
9 goals of this chapter; and

10 (b) Specifies the particular part or parts of the plan or
11 regulation that are determined to be invalid, and the reasons for their
12 invalidity.

13 (3) A determination of invalidity shall:

14 (a) Be prospective in effect and shall not extinguish rights that
15 vested under state or local law before the date of the board's order;
16 and

17 (b) Subject any development application that would otherwise vest
18 after the date of the board's order to the legislation that both is
19 enacted in response to the order of remand and determined by the board
20 pursuant to RCW 36.70A.330 to comply with the requirements of this
21 chapter.

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

28 (5) Any party aggrieved by a final decision of the hearings board
29 may appeal the decision as provided in RCW 34.05.514 to ((Thurston
30 county)) superior court within thirty days of the final order of the
31 board.

32 **Sec. 115.** RCW 36.70A.330 and 1991 sp.s. c 32 s 14 are each amended
33 to read as follows:

34 (1) After the time set for complying with the requirements of this
35 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time
36 upon the motion of a county or city subject to a determination of
37 invalidity under RCW 36.70A.300, the board(~~(, on its own motion or~~
38 motion of the petitioner,)) shall set a hearing for the purpose of

1 determining whether the state agency, county, or city is in compliance
2 with the requirements of this chapter.

3 (2) The board shall conduct a hearing and issue a finding of
4 compliance or noncompliance with the requirements of this chapter. A
5 person with standing to challenge the legislation enacted in response
6 to the board's final order may participate in the hearing along with
7 the petitioner and the state agency, city, or county. A hearing under
8 this subsection shall be given the highest priority of business to be
9 conducted by the board, and a finding shall be issued within forty-five
10 days of the filing of the motion under subsection (1) of this section
11 with the board.

12 (3) If the board finds that the state agency, county, or city is
13 not in compliance, the board shall transmit its finding to the
14 governor. The board may recommend to the governor that the sanctions
15 authorized by this chapter be imposed. The board shall also reconsider
16 its final order and decide:

17 (a) If a determination of invalidity has been made, whether such a
18 determination should be rescinded or modified under the standards in
19 RCW 36.70A.300(2); or

20 (b) If no determination of invalidity has been made, whether one
21 now should be made under the standards in RCW 36.70A.300(2).

22 The board shall schedule additional hearings as appropriate
23 pursuant to subsections (1) and (2) of this section.

24 **Sec. 116.** RCW 90.58.020 and 1992 c 105 s 1 are each amended to
25 read as follows:

26 The legislature finds that the shorelines of the state are among
27 the most valuable and fragile of its natural resources and that there
28 is great concern throughout the state relating to their utilization,
29 protection, restoration, and preservation. In addition it finds that
30 ever increasing pressures of additional uses are being placed on the
31 shorelines necessitating increased coordination in the management and
32 development of the shorelines of the state. The legislature further
33 finds that much of the shorelines of the state and the uplands adjacent
34 thereto are in private ownership; that unrestricted construction on the
35 privately owned or publicly owned shorelines of the state is not in the
36 best public interest; and therefore, coordinated planning is necessary
37 in order to protect the public interest associated with the shorelines
38 of the state while, at the same time, recognizing and protecting

1 private property rights consistent with the public interest. There is,
2 therefor, a clear and urgent demand for a planned, rational, and
3 concerted effort, jointly performed by federal, state, and local
4 governments, to prevent the inherent harm in an uncoordinated and
5 piecemeal development of the state's shorelines.

6 It is the policy of the state to provide for the management of the
7 shorelines of the state by planning for and fostering all reasonable
8 and appropriate uses. This policy is designed to insure the
9 development of these shorelines in a manner which, while allowing for
10 limited reduction of rights of the public in the navigable waters, will
11 promote and enhance the public interest. This policy contemplates
12 protecting against adverse effects to the public health, the land and
13 its vegetation and wildlife, and the waters of the state and their
14 aquatic life, while protecting generally public rights of navigation
15 and corollary rights incidental thereto.

16 The legislature declares that the interest of all of the people
17 shall be paramount in the management of shorelines of state-wide
18 significance. The department, in adopting guidelines for shorelines of
19 state-wide significance, and local government, in developing master
20 programs for shorelines of state-wide significance, shall give
21 preference to uses in the following order of preference which:

22 (1) Recognize and protect the state-wide interest over local
23 interest;

24 (2) Preserve the natural character of the shoreline;

25 (3) Result in long term over short term benefit;

26 (4) Protect the resources and ecology of the shoreline;

27 (5) Increase public access to publicly owned areas of the
28 shorelines;

29 (6) Increase recreational opportunities for the public in the
30 shoreline;

31 (7) Provide for any other element as defined in RCW 90.58.100
32 deemed appropriate or necessary.

33 In the implementation of this policy the public's opportunity to
34 enjoy the physical and aesthetic qualities of natural shorelines of the
35 state shall be preserved to the greatest extent feasible consistent
36 with the overall best interest of the state and the people generally.
37 To this end uses shall be preferred which are consistent with control
38 of pollution and prevention of damage to the natural environment, or
39 are unique to or dependent upon use of the state's shoreline.

1 Alterations of the natural condition of the shorelines of the state, in
2 those limited instances when authorized, shall be given priority for
3 single family residences and their appurtenant structures, ports,
4 shoreline recreational uses including but not limited to parks,
5 marinas, piers, and other improvements facilitating public access to
6 shorelines of the state, industrial and commercial developments which
7 are particularly dependent on their location on or use of the
8 shorelines of the state and other development that will provide an
9 opportunity for substantial numbers of the people to enjoy the
10 shorelines of the state. Alterations of the natural condition of the
11 shorelines and ((wetlands)) shorelands of the state shall be recognized
12 by the department. Shorelines and ((wetlands)) shorelands of the state
13 shall be appropriately classified and these classifications shall be
14 revised when circumstances warrant regardless of whether the change in
15 circumstances occurs through man-made causes or natural causes. Any
16 areas resulting from alterations of the natural condition of the
17 shorelines and ((wetlands)) shorelands of the state no longer meeting
18 the definition of "shorelines of the state" shall not be subject to the
19 provisions of chapter 90.58 RCW.

20 Permitted uses in the shorelines of the state shall be designed and
21 conducted in a manner to minimize, insofar as practical, any resultant
22 damage to the ecology and environment of the shoreline area and any
23 interference with the public's use of the water.

24 **Sec. 117.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to
25 read as follows:

26 As used in this chapter, unless the context otherwise requires, the
27 following definitions and concepts apply:

28 (1) Administration:

29 (a) "Department" means the department of ecology;

30 (b) "Director" means the director of the department of ecology;

31 (c) "Local government" means any county, incorporated city, or town
32 which contains within its boundaries any lands or waters subject to
33 this chapter;

34 (d) "Person" means an individual, partnership, corporation,
35 association, organization, cooperative, public or municipal
36 corporation, or agency of the state or local governmental unit however
37 designated;

1 (e) "Hearing board" means the shoreline hearings board established
2 by this chapter.

3 (2) Geographical:

4 (a) "Extreme low tide" means the lowest line on the land reached by
5 a receding tide;

6 (b) "Ordinary high water mark" on all lakes, streams, and tidal
7 water is that mark that will be found by examining the bed and banks
8 and ascertaining where the presence and action of waters are so common
9 and usual, and so long continued in all ordinary years, as to mark upon
10 the soil a character distinct from that of the abutting upland, in
11 respect to vegetation as that condition exists on June 1, 1971, as it
12 may naturally change thereafter, or as it may change thereafter in
13 accordance with permits issued by a local government or the department:
14 PROVIDED, That in any area where the ordinary high water mark cannot be
15 found, the ordinary high water mark adjoining salt water shall be the
16 line of mean higher high tide and the ordinary high water mark
17 adjoining fresh water shall be the line of mean high water;

18 (c) "Shorelines of the state" are the total of all "shorelines" and
19 "shorelines of state-wide significance" within the state;

20 (d) "Shorelines" means all of the water areas of the state,
21 including reservoirs, and their associated ((wetlands)) shorelands,
22 together with the lands underlying them; except (i) shorelines of
23 state-wide significance; (ii) shorelines on segments of streams
24 upstream of a point where the mean annual flow is twenty cubic feet per
25 second or less and the wetlands associated with such upstream segments;
26 and (iii) shorelines on lakes less than twenty acres in size and
27 wetlands associated with such small lakes;

28 (e) "Shorelines of state-wide significance" means the following
29 shorelines of the state:

30 (i) The area between the ordinary high water mark and the western
31 boundary of the state from Cape Disappointment on the south to Cape
32 Flattery on the north, including harbors, bays, estuaries, and inlets;

33 (ii) Those areas of Puget Sound and adjacent salt waters and the
34 Strait of Juan de Fuca between the ordinary high water mark and the
35 line of extreme low tide as follows:

36 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

37 (B) Birch Bay--from Point Whitehorn to Birch Point,

38 (C) Hood Canal--from Tala Point to Foulweather Bluff,

1 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,
2 and

3 (E) Padilla Bay--from March Point to William Point;

4 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
5 adjacent salt waters north to the Canadian line and lying seaward from
6 the line of extreme low tide;

7 (iv) Those lakes, whether natural, artificial, or a combination
8 thereof, with a surface acreage of one thousand acres or more measured
9 at the ordinary high water mark;

10 (v) Those natural rivers or segments thereof as follows:

11 (A) Any west of the crest of the Cascade range downstream of a
12 point where the mean annual flow is measured at one thousand cubic feet
13 per second or more,

14 (B) Any east of the crest of the Cascade range downstream of a
15 point where the annual flow is measured at two hundred cubic feet per
16 second or more, or those portions of rivers east of the crest of the
17 Cascade range downstream from the first three hundred square miles of
18 drainage area, whichever is longer;

19 (vi) Those ~~((wetlands))~~ shorelands associated with (i), (ii), (iv),
20 and (v) of this subsection (2)(e);

21 (f) "~~((Wetlands))~~ Shorelands" or "~~((wetland))~~ shoreland areas"
22 means those lands extending landward for two hundred feet in all
23 directions as measured on a horizontal plane from the ordinary high
24 water mark; floodways and contiguous floodplain areas landward two
25 hundred feet from such floodways; and all ~~((marshes, bogs, swamps,))~~
26 wetlands and river deltas associated with the streams, lakes, and tidal
27 waters which are subject to the provisions of this chapter; the same to
28 be designated as to location by the department of ecology(~~(:—PROVIDED,~~
29 ~~That))~~). Any county or city may determine that portion of a one-
30 hundred-year-flood plain to be included in its master program as long
31 as such portion includes, as a minimum, the floodway and the adjacent
32 land extending landward two hundred feet therefrom;

33 (g) "Floodway" means those portions of the area of a river valley
34 lying streamward from the outer limits of a watercourse upon which
35 flood waters are carried during periods of flooding that occur with
36 reasonable regularity, although not necessarily annually, said floodway
37 being identified, under normal condition, by changes in surface soil
38 conditions or changes in types or quality of vegetative ground cover
39 condition. The floodway shall not include those lands that can

1 reasonably be expected to be protected from flood waters by flood
2 control devices maintained by or maintained under license from the
3 federal government, the state, or a political subdivision of the state;

4 (h) "Wetlands" means areas that are inundated or saturated by
5 surface water or ground water at a frequency and duration sufficient to
6 support, and that under normal circumstances do support, a prevalence
7 of vegetation typically adapted for life in saturated soil conditions.
8 Wetlands generally include swamps, marshes, bogs, and similar areas.
9 Wetlands do not include those artificial wetlands intentionally created
10 from nonwetland sites, including, but not limited to, irrigation and
11 drainage ditches, grass-lined swales, canals, detention facilities,
12 wastewater treatment facilities, farm ponds, and landscape amenities.
13 Wetlands may include those artificial wetlands intentionally created
14 from nonwetland areas to mitigate the conversion of other wetlands.

15 (3) Procedural terms:

16 (a) "Guidelines" means those standards adopted to implement the
17 policy of this chapter for regulation of use of the shorelines of the
18 state prior to adoption of master programs. Such standards shall also
19 provide criteria to local governments and the department in developing
20 master programs;

21 (b) "Master program" shall mean the comprehensive use plan for a
22 described area, and the use regulations together with maps, diagrams,
23 charts, or other descriptive material and text, a statement of desired
24 goals, and standards developed in accordance with the policies
25 enunciated in RCW 90.58.020;

26 (c) "State master program" is the cumulative total of all master
27 programs approved or adopted by the department of ecology;

28 (d) "Development" means a use consisting of the construction or
29 exterior alteration of structures; dredging; drilling; dumping;
30 filling; removal of any sand, gravel, or minerals; bulkheading; driving
31 of piling; placing of obstructions; or any project of a permanent or
32 temporary nature which interferes with the normal public use of the
33 surface of the waters overlying lands subject to this chapter at any
34 state of water level;

35 (e) "Substantial development" shall mean any development of which
36 the total cost or fair market value exceeds two thousand five hundred
37 dollars, or any development which materially interferes with the normal
38 public use of the water or shorelines of the state; except that the

1 following shall not be considered substantial developments for the
2 purpose of this chapter:

3 (i) Normal maintenance or repair of existing structures or
4 developments, including damage by accident, fire, or elements;

5 (ii) Construction of the normal protective bulkhead common to
6 single family residences;

7 (iii) Emergency construction necessary to protect property from
8 damage by the elements;

9 (iv) Construction and practices normal or necessary for farming,
10 irrigation, and ranching activities, including agricultural service
11 roads and utilities on ((~~wetlands~~)) shorelands, and the construction
12 and maintenance of irrigation structures including but not limited to
13 head gates, pumping facilities, and irrigation channels(~~(:—PROVIDED,~~
14 ~~That~~)). A feedlot of any size, all processing plants, other activities
15 of a commercial nature, alteration of the contour of the ((~~wetlands~~))
16 shorelands by leveling or filling other than that which results from
17 normal cultivation, shall not be considered normal or necessary farming
18 or ranching activities. A feedlot shall be an enclosure or facility
19 used or capable of being used for feeding livestock hay, grain, silage,
20 or other livestock feed, but shall not include land for growing crops
21 or vegetation for livestock feeding and/or grazing, nor shall it
22 include normal livestock wintering operations;

23 (v) Construction or modification of navigational aids such as
24 channel markers and anchor buoys;

25 (vi) Construction on ((~~wetlands~~)) shorelands by an owner, lessee,
26 or contract purchaser of a single family residence for his own use or
27 for the use of his family, which residence does not exceed a height of
28 thirty-five feet above average grade level and which meets all
29 requirements of the state agency or local government having
30 jurisdiction thereof, other than requirements imposed pursuant to this
31 chapter;

32 (vii) Construction of a dock, including a community dock, designed
33 for pleasure craft only, for the private noncommercial use of the
34 owner, lessee, or contract purchaser of single and multiple family
35 residences, the cost of which does not exceed two thousand five hundred
36 dollars;

37 (viii) Operation, maintenance, or construction of canals,
38 waterways, drains, reservoirs, or other facilities that now exist or
39 are hereafter created or developed as a part of an irrigation system

1 for the primary purpose of making use of system waters, including
2 return flow and artificially stored ground water for the irrigation of
3 lands;

4 (ix) The marking of property lines or corners on state owned lands,
5 when such marking does not significantly interfere with normal public
6 use of the surface of the water;

7 (x) Operation and maintenance of any system of dikes, ditches,
8 drains, or other facilities existing on September 8, 1975, which were
9 created, developed, or utilized primarily as a part of an agricultural
10 drainage or diking system((+)

11 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~
12 ~~(A) the restoration of interim transportation services as may be~~
13 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~
14 ~~including, but not limited to, improvements to highways, development of~~
15 ~~park and ride facilities, and development of ferry terminal facilities~~
16 ~~until a new or reconstructed Hood Canal bridge is open to traffic; and~~
17 ~~(B) the reconstruction of a permanent bridge at the site of the~~
18 ~~original Hood Canal bridge)).~~

19 **Sec. 118.** RCW 90.58.050 and 1971 ex.s. c 286 s 5 are each amended
20 to read as follows:

21 This chapter establishes a cooperative program of shoreline
22 management between local government and the state. Local government
23 shall have the primary responsibility for initiating the planning
24 required by this chapter and administering the regulatory program
25 consistent with the policy and provisions of this chapter. The
26 department shall act primarily in a supportive and review capacity with
27 ~~((primary))~~ an emphasis on providing assistance to local government and
28 on insuring compliance with the policy and provisions of this chapter.

29 **Sec. 119.** RCW 90.58.060 and 1971 ex.s. c 286 s 6 are each amended
30 to read as follows:

31 ~~((Within one hundred twenty days from June 1, 1971,))~~ The
32 department shall ~~((submit to local governments proposed))~~ periodically
33 review and adopt guidelines consistent with RCW 90.58.020, containing
34 the elements specified in RCW 90.58.100 for:

35 (a) Development of master programs for regulation of the uses of
36 shorelines; and

1 (b) Development of master programs for regulation of the uses of
2 shorelines of state-wide significance.

3 (2) Before adopting or amending guidelines under this section, the
4 department shall provide an opportunity for public review and comment
5 as follows:

6 (a) The department shall mail copies of the proposal to all cities,
7 counties, and federally recognized Indian tribes, and to any other
8 person who has requested a copy, and shall publish the proposed
9 guidelines in the Washington state register. Comments shall be
10 submitted in writing to the department within sixty days from ((receipt
11 of such proposed guidelines, local governments shall submit to the
12 department in writing proposed changes, if any, and comments upon the
13 proposed guidelines.

14 (3) ~~Thereafter and within one hundred twenty days from the~~
15 ~~submission of such proposed guidelines to local governments, the~~
16 ~~department, after review and consideration of the comments and~~
17 ~~suggestions submitted to it, shall resubmit final proposed guidelines.~~

18 (4) ~~Within sixty days thereafter public hearings shall be held by))~~
19 the date the proposal has been published in the register.

20 (b) ~~The department ((in Olympia and Spokane, at which interested~~
21 ~~public and private parties shall have the opportunity)) shall hold at~~
22 least four public hearings on the proposal in different locations
23 throughout the state to provide a reasonable opportunity for residents
24 in all parts of the state to present statements and views on the
25 proposed guidelines. Notice of ((such)) the hearings shall be
26 published at least once in each of the three weeks immediately
27 preceding the hearing in one or more newspapers of general circulation
28 in each county of the state. If an amendment to the guidelines
29 addresses an issue limited to one geographic area, the number and
30 location of hearings may be adjusted consistent with the intent of this
31 subsection to assure all parties a reasonable opportunity to comment on
32 the proposed amendment. The department shall accept written comments
33 on the proposal during the sixty-day public comment period and for
34 seven days after the final public hearing.

35 (c) At the conclusion of the public comment period, the department
36 shall review the comments received and modify the proposal consistent
37 with the provisions of this chapter. The proposal shall then be
38 published for adoption pursuant to the provisions of chapter 34.05 RCW.

1 (~~(5) Within ninety days following such public hearings, the~~
2 ~~department at a public hearing to be held in Olympia shall adopt~~
3 ~~guidelines.~~) (3) The department may propose amendments to the
4 guidelines not more than once each year. At least once every five
5 years the department shall conduct a review of the guidelines pursuant
6 to the procedures outlined in subsection (2) of this section.

7 **Sec. 120.** RCW 90.58.080 and 1974 ex.s. c 61 s 1 are each amended
8 to read as follows:

9 Local governments (~~are directed with regard to shorelines of the~~
10 ~~state within their various jurisdictions as follows:~~

11 ~~(1) To complete within eighteen months after June 1, 1971, a~~
12 ~~comprehensive inventory of such shorelines. Such inventory shall~~
13 ~~include but not be limited to the general ownership patterns of the~~
14 ~~lands located therein in terms of public and private ownership, a~~
15 ~~survey of the general natural characteristics thereof, present uses~~
16 ~~conducted therein and initial projected uses thereof;~~

17 ~~(2) To~~) shall develop or amend, within twenty-four months after
18 the adoption of guidelines as provided in RCW 90.58.060, a master
19 program for regulation of uses of the shorelines of the state
20 consistent with the required elements of the guidelines adopted by the
21 department.

22 **Sec. 121.** RCW 90.58.090 and 1971 ex.s. c 286 s 9 are each amended
23 to read as follows:

24 (1) A master program(~~s or segments thereof~~), segment of a master
25 program, or an amendment to a master program shall become effective
26 when (~~adopted or~~) approved by the department (~~as appropriate~~).
27 Within the time period provided in RCW 90.58.080, each local government
28 shall have submitted a master program, either totally or by segments,
29 for all shorelines of the state within its jurisdiction to the
30 department for review and approval.

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

33 (a) Provide notice to and opportunity for written comment by all
34 interested parties of record as a part of the local government review
35 process for the proposal and to all persons, groups, and agencies that
36 have requested in writing notice of proposed master programs or
37 amendments generally or for a specific area, subject matter, or issue.

1 The comment period shall be at least thirty days, unless the department
2 determines that the level of complexity or controversy involved
3 supports a shorter period;

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

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

11 (d) Within thirty days after receipt of the local government
12 response pursuant to (c) of this subsection, make written findings and
13 conclusions regarding the consistency of the proposal with the policy
14 of RCW 90.58.020 and the applicable guidelines, provide a response to
15 the issues identified in (c) of this subsection, and either approve the
16 proposal as submitted, recommend specific changes necessary to make the
17 proposal approvable, or deny approval of the proposal in those
18 instances where no alteration of the proposal appears likely to
19 accomplish the purposes for which it was submitted and the requirements
20 of this chapter. The written findings and conclusions shall be
21 provided to the local government, all interested persons, parties,
22 groups, and agencies of record on the proposal;

23 (e) If the department recommends changes to the proposed master
24 program or amendment, within thirty days after the department mails the
25 written findings and conclusions to the local government, the local
26 government may:

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

30 (ii) Submit an alternative proposal. If, in the opinion of the
31 department, the alternative is consistent with the purpose and intent
32 of the changes originally submitted by the department and with this
33 chapter it shall approve the changes and provide written notice to all
34 recipients of the written findings and conclusions. If the department
35 determines the proposal is not consistent with the purpose and intent
36 of the changes proposed by the department, the department may resubmit
37 the proposal for public and agency review pursuant to this section or
38 reject the proposal.

1 ~~((1) As to those segments of the master program relating to~~
2 ~~shorelines, they shall be approved by))~~

3 (3) The department shall approve the segment of a master program
4 relating to shorelines unless it determines that the submitted segments
5 are not consistent with the policy of RCW 90.58.020 and the applicable
6 guidelines. ~~((If approval is denied, the department shall state within~~
7 ~~ninety days from the date of submission in detail the precise facts~~
8 ~~upon which that decision is based, and shall submit to the local~~
9 ~~government suggested modifications to the program to make it consistent~~
10 ~~with said policy and guidelines. The local government shall have~~
11 ~~ninety days after it receives recommendations from the department to~~
12 ~~make modifications designed to eliminate the inconsistencies and to~~
13 ~~resubmit the program to the department for approval. Any resubmitted~~
14 ~~program shall take effect when and in such form and content as is~~
15 ~~approved by the department.~~

16 ~~(2) As to))~~ (4) The department shall approve those segments of the
17 master program relating to shorelines of state-wide significance ~~((the~~
18 ~~department shall have full authority following review and evaluation of~~
19 ~~the submission by local government to develop and adopt an alternative~~
20 ~~to the local government's proposal if in the department's opinion the~~
21 ~~program submitted does not))~~ only after determining the program
22 provides the optimum implementation of the policy of this chapter to
23 satisfy the state-wide interest. ~~((If the submission by local~~
24 ~~government is not approved, the department shall suggest modifications~~
25 ~~to the local government within ninety days from receipt of the~~
26 ~~submission. The local government shall have ninety days after it~~
27 ~~receives said modifications to consider the same and resubmit a master~~
28 ~~program to the department. Thereafter, the department shall adopt the~~
29 ~~resubmitted program or, if the department determines that said program~~
30 ~~does not provide for optimum implementation, it may develop and adopt~~
31 ~~an alternative as hereinbefore provided.))~~ If the department does not
32 approve a segment of a local government master program relating to a
33 shoreline of state-wide significance, the department may develop and by
34 rule adopt an alternative to the local government s proposal.

35 ~~((3))~~ (5) In the event a local government has not complied with
36 the requirements of RCW 90.58.070 it may thereafter upon written notice
37 to the department elect to adopt a master program for the shorelines
38 within its jurisdiction, in which event it shall comply with the

1 provisions established by this chapter for the adoption of a master
2 program for such shorelines.

3 Upon approval of such master program by the department it shall
4 supersede such master program as may have been adopted by the
5 department for such shorelines.

6 (6) A master program or amendment to a master program takes effect
7 when and in such form as approved or adopted by the department. The
8 department shall maintain a record of each master program, the action
9 taken on any proposal for adoption or amendment of the master program,
10 and any appeal of the department's action. The department's approved
11 document of record constitutes the official master program.

12 **Sec. 122.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to
13 read as follows:

14 (1) The master programs provided for in this chapter, when adopted
15 ~~((and))~~ or approved by the department ~~((, as appropriate,))~~ shall
16 constitute use regulations for the various shorelines of the state. In
17 preparing the master programs, and any amendments thereto, the
18 department and local governments shall to the extent feasible:

19 (a) Utilize a systematic interdisciplinary approach which will
20 insure the integrated use of the natural and social sciences and the
21 environmental design arts;

22 (b) Consult with and obtain the comments of any federal, state,
23 regional, or local agency having any special expertise with respect to
24 any environmental impact;

25 (c) Consider all plans, studies, surveys, inventories, and systems
26 of classification made or being made by federal, state, regional, or
27 local agencies, by private individuals, or by organizations dealing
28 with pertinent shorelines of the state;

29 (d) Conduct or support such further research, studies, surveys, and
30 interviews as are deemed necessary;

31 (e) Utilize all available information regarding hydrology,
32 geography, topography, ecology, economics, and other pertinent data;

33 (f) Employ, when feasible, all appropriate, modern scientific data
34 processing and computer techniques to store, index, analyze, and manage
35 the information gathered.

36 (2) The master programs shall include, when appropriate, the
37 following:

1 (a) An economic development element for the location and design of
2 industries, transportation facilities, port facilities, tourist
3 facilities, commerce and other developments that are particularly
4 dependent on their location on or use of the shorelines of the state;

5 (b) A public access element making provision for public access to
6 publicly owned areas;

7 (c) A recreational element for the preservation and enlargement of
8 recreational opportunities, including but not limited to parks,
9 tidelands, beaches, and recreational areas;

10 (d) A circulation element consisting of the general location and
11 extent of existing and proposed major thoroughfares, transportation
12 routes, terminals, and other public utilities and facilities, all
13 correlated with the shoreline use element;

14 (e) A use element which considers the proposed general distribution
15 and general location and extent of the use on shorelines and adjacent
16 land areas for housing, business, industry, transportation,
17 agriculture, natural resources, recreation, education, public buildings
18 and grounds, and other categories of public and private uses of the
19 land;

20 (f) A conservation element for the preservation of natural
21 resources, including but not limited to scenic vistas, aesthetics, and
22 vital estuarine areas for fisheries and wildlife protection;

23 (g) An historic, cultural, scientific, and educational element for
24 the protection and restoration of buildings, sites, and areas having
25 historic, cultural, scientific, or educational values;

26 (h) An element that gives consideration to the state-wide interest
27 in the prevention and minimization of flood damages; and

28 (i) Any other element deemed appropriate or necessary to effectuate
29 the policy of this chapter.

30 (3) The master programs shall include such map or maps, descriptive
31 text, diagrams and charts, or other descriptive material as are
32 necessary to provide for ease of understanding.

33 (4) Master programs will reflect that state-owned shorelines of the
34 state are particularly adapted to providing wilderness beaches,
35 ecological study areas, and other recreational activities for the
36 public and will give appropriate special consideration to same.

37 (5) Each master program shall contain provisions to allow for the
38 varying of the application of use regulations of the program, including
39 provisions for permits for conditional uses and variances, to insure

1 that strict implementation of a program will not create unnecessary
2 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
3 varying shall be allowed only if extraordinary circumstances are shown
4 and the public interest suffers no substantial detrimental effect. The
5 concept of this subsection shall be incorporated in the rules adopted
6 by the department relating to the establishment of a permit system as
7 provided in RCW 90.58.140(3).

8 (6) Each master program shall contain standards governing the
9 protection of single family residences and appurtenant structures
10 against damage or loss due to shoreline erosion. The standards shall
11 govern the issuance of substantial development permits for shoreline
12 protection, including structural methods such as construction of
13 bulkheads, and nonstructural methods of protection. The standards
14 shall provide for methods which achieve effective and timely protection
15 against loss or damage to single family residences and appurtenant
16 structures due to shoreline erosion. The standards shall provide a
17 preference for permit issuance for measures to protect single family
18 residences occupied prior to January 1, 1992, where the proposed
19 measure is designed to minimize harm to the shoreline natural
20 environment.

21 **Sec. 123.** RCW 90.58.120 and 1989 c 175 s 182 are each amended to
22 read as follows:

23 All rules, regulations, (~~((master programs,))~~) designations, and
24 guidelines, issued by the department, and master programs and
25 amendments adopted by the department pursuant to RCW 90.58.070(2) or
26 90.58.090(4) shall be adopted or approved in accordance with the
27 provisions of RCW 34.05.310 through 34.05.395 insofar as such
28 provisions are not inconsistent with the provisions of this chapter.
29 In addition:

30 (1) Prior to the (~~((approval or))~~) adoption by the department of a
31 master program, or portion thereof pursuant to RCW 90.58.070(2) or
32 90.58.090(4), at least one public hearing shall be held in each county
33 affected by a program or portion thereof for the purpose of obtaining
34 the views and comments of the public. Notice of each such hearing
35 shall be published at least once in each of the three weeks immediately
36 preceding the hearing in one or more newspapers of general circulation
37 in the county in which the hearing is to be held.

1 (2) All guidelines, regulations, designations, or master programs
2 adopted or approved under this chapter shall be available for public
3 inspection at the office of the department or the appropriate county
4 ((auditor)) and city ((clerk)). The terms "adopt" and "approve" for
5 purposes of this section, shall include modifications and rescission of
6 guidelines.

7 **Sec. 124.** RCW 90.58.140 and 1992 c 105 s 3 are each amended to
8 read as follows:

9 (1) A development shall not be undertaken on the shorelines of the
10 state unless it is consistent with the policy of this chapter and,
11 after adoption or approval, as appropriate, the applicable guidelines,
12 rules, or master program.

13 (2) A substantial development shall not be undertaken on shorelines
14 of the state without first obtaining a permit from the government
15 entity having administrative jurisdiction under this chapter.

16 A permit shall be granted:

17 (a) From June 1, 1971, until such time as an applicable master
18 program has become effective, only when the development proposed is
19 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their
20 adoption, the guidelines and rules of the department; and (iii) so far
21 as can be ascertained, the master program being developed for the area;

22 (b) After adoption or approval, as appropriate, by the department
23 of an applicable master program, only when the development proposed is
24 consistent with the applicable master program and ~~((the provisions of))~~
25 this chapter ((90.58-RCW)).

26 (3) The local government shall establish a program, consistent with
27 rules adopted by the department, for the administration and enforcement
28 of the permit system provided in this section. The administration of
29 the system so established shall be performed exclusively by the local
30 government.

31 (4) Except as otherwise specifically provided in subsection
32 ~~((+13))~~ (11) of this section, the local government shall require
33 notification of the public of all applications for permits governed by
34 any permit system established pursuant to subsection (3) of this
35 section by ensuring that ~~((+~~

36 ~~(a) A notice of such an application is published at least once a~~
37 ~~week on the same day of the week for two consecutive weeks in a legal~~

1 newspaper of general circulation within the area in which the
2 development is proposed; and

3 ~~((b) Additional))~~ notice of ~~((such an))~~ the application is given by
4 at least one of the following methods:

5 ~~((i))~~ (a) Mailing of the notice to the latest recorded real
6 property owners as shown by the records of the county assessor within
7 at least three hundred feet of the boundary of the property upon which
8 the substantial development is proposed;

9 ~~((ii))~~ (b) Posting of the notice in a conspicuous manner on the
10 property upon which the project is to be constructed; or

11 ~~((iii))~~ (c) Any other manner deemed appropriate by local
12 authorities to accomplish the objectives of reasonable notice to
13 adjacent landowners and the public.

14 The notices shall include a statement that any person desiring to
15 submit written comments concerning an application, or desiring to
16 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision
17 concerning an application as expeditiously as possible after the
18 issuance of the ~~((order))~~ decision, may submit the comments or requests
19 for ~~((orders))~~ decisions to the local government within thirty days of
20 the last date the notice is to be published pursuant to ~~((subsection~~
21 ~~(a) of))~~ this subsection. The local government shall forward, in a
22 timely manner following the issuance of ~~((an order))~~ a decision, a copy
23 of the ~~((order))~~ decision to each person who submits a request for the
24 ~~((order))~~ decision.

25 If a hearing is to be held on an application, notices of such a
26 hearing shall include a statement that any person may submit oral or
27 written comments on an application at the hearing.

28 (5) The system shall include provisions to assure that construction
29 pursuant to a permit will not begin or be authorized until ~~((thirty))~~
30 twenty-one days from the date the final order was filed as provided in
31 subsection (6) of this section; or until all review proceedings are
32 terminated if the proceedings were initiated within ~~((thirty))~~ twenty-
33 one days from the date of filing as defined in subsection (6) of this
34 section except as follows:

35 (a) In the case of any permit issued to the state of Washington,
36 department of transportation, for the construction and modification of
37 SR 90 (I-90) on or adjacent to Lake Washington, the construction may
38 begin after thirty days from the date of filing, and the permits are
39 valid until December 31, 1995;

1 (b) If a permit is granted by the local government and (i) the
2 granting of the permit is appealed to the shorelines hearings board
3 within (~~(thirty)~~) twenty-one days of the date of filing, (ii) the
4 hearings board approves the granting of the permit by the local
5 government or approves a portion of the substantial development for
6 which the local government issued the permit, and (iii) an appeal for
7 judicial review of the hearings board decision is filed pursuant to
8 chapter 34.05 RCW(~~(, the permittee)~~) construction may be commenced
9 thirty days after the date of the appeal of the board's decision is
10 filed. The appellant may request, within ten days of the filing of the
11 appeal with the court, a hearing before the court to determine whether
12 construction (~~(may begin)~~) pursuant to the permit approved by the
13 hearings board or to a revised permit issued pursuant to the order of
14 the hearings board should begin. If, at the conclusion of the hearing,
15 the court finds that construction pursuant to such a permit would
16 (~~(not)~~) involve a significant, irreversible damaging of the
17 environment, the court (~~(may allow)~~) shall prohibit the permittee (~~(to~~
18 ~~begin)~~) from commencing the construction pursuant to the approved or
19 revised permit (~~(as the court deems appropriate. The court may require~~
20 ~~the permittee to post bonds, in the name of the local government that~~
21 ~~issued the permit, sufficient to remove the substantial development or~~
22 ~~to restore the environment if the permit is ultimately disapproved by~~
23 ~~the courts, or to alter the substantial development if the alteration~~
24 ~~is ultimately ordered by the courts)~~) until all review proceedings are
25 final. Construction pursuant to a permit revised at the direction of
26 the hearings board may begin only on that portion of the substantial
27 development for which the local government had originally issued the
28 permit, and construction pursuant to such a revised permit on other
29 portions of the substantial development may not begin until after all
30 review proceedings are terminated. In such a hearing before the court,
31 the burden of proving whether the construction may involve significant
32 irreversible damage to the environment and demonstrating whether such
33 construction would or would not be appropriate is on the appellant;

34 (c) (~~(If a permit is granted by the local government and the~~
35 ~~granting of the permit is appealed directly to the superior court for~~
36 ~~judicial review pursuant to the proviso in RCW 90.58.180(1), the~~
37 ~~permittee may request the court to remand the appeal to the shorelines~~
38 ~~hearings board, in which case the appeal shall be so remanded and~~
39 ~~construction pursuant to such a permit shall be governed by the~~

1 ~~provisions of subsection (b) of this subsection or may otherwise begin~~
2 ~~after review proceedings before the hearings board are terminated if~~
3 ~~judicial review is not thereafter requested pursuant to chapter 34.05~~
4 ~~RCW;~~

5 (d)) If the permit is for a substantial development meeting the
6 requirements of subsection ((+13)) (11) of this section, construction
7 pursuant to that permit may not begin or be authorized until ((thirty))
8 twenty-one days from the date the final order was filed as provided in
9 subsection (6) of this section.

10 If a permittee begins construction pursuant to subsections (a),
11 (b), or (c)((, ~~or~~ (d))) of this subsection, the construction is begun
12 at the permittee's own risk. If, as a result of judicial review, the
13 courts order the removal of any portion of the construction or the
14 restoration of any portion of the environment involved or require the
15 alteration of any portion of a substantial development constructed
16 pursuant to a permit, the permittee is barred from recovering damages
17 or costs involved in adhering to such requirements from the local
18 government that granted the permit, the hearings board, or any
19 appellant or intervener.

20 (6) Any ruling on an application for a permit under the authority
21 of this section, whether it is an approval or a denial, shall,
22 concurrently with the transmittal of the ruling to the applicant, be
23 filed with the department and the attorney general. With regard to a
24 permit other than a permit governed by subsection ((+12)) (10) of this
25 section, "date of filing" as used herein means the date of actual
26 receipt by the department. With regard to a permit for a variance or
27 a conditional use, "date of filing" means the date a decision of the
28 department rendered on the permit pursuant to subsection ((+12)) (10)
29 of this section is transmitted by the department to the local
30 government. The department shall notify in writing the local
31 government and the applicant of the date of filing.

32 (7) Applicants for permits under this section have the burden of
33 proving that a proposed substantial development is consistent with the
34 criteria that must be met before a permit is granted. In any review of
35 the granting or denial of an application for a permit as provided in
36 RCW 90.58.180 (1) and (2), the person requesting the review has the
37 burden of proof.

38 (8) Any permit may, after a hearing with adequate notice to the
39 permittee and the public, be rescinded by the issuing authority upon

1 the finding that a permittee has not complied with conditions of a
2 permit. If the department is of the opinion that noncompliance exists,
3 the department shall provide written notice to the local government and
4 the permittee. If the department is of the opinion that the
5 noncompliance continues to exist thirty days after the date of the
6 notice, and the local government has taken no action to rescind the
7 permit, the department may petition the hearings board for a rescission
8 of the permit upon written notice of the petition to the local
9 government and the permittee if the request by the department is made
10 to the hearings board within fifteen days of the termination of the
11 thirty-day notice to the local government.

12 (9) The holder of a certification from the governor pursuant to
13 chapter 80.50 RCW shall not be required to obtain a permit under this
14 section.

15 (10) ~~((A permit shall not be required for any development on
16 shorelines of the state included within a preliminary or final plat
17 approved by the applicable state agency or local government before
18 April 1, 1971, if:~~

19 ~~(a) The final plat was approved after April 13, 1961, or the
20 preliminary plat was approved after April 30, 1969; and~~

21 ~~(b) The development is completed within two years after June 1,
22 1971.~~

23 ~~(11) The applicable state agency or local government is authorized
24 to approve a final plat with respect to shorelines of the state
25 included within a preliminary plat approved after April 30, 1969, and
26 before April 1, 1971: PROVIDED, That any substantial development
27 within the platted shorelines of the state is authorized by a permit
28 granted pursuant to this section, or does not require a permit as
29 provided in subsection (10) of this section, or does not require a
30 permit because of substantial development occurred before June 1, 1971.~~

31 ~~(12))~~ Any permit for a variance or a conditional use by local
32 government under approved master programs must be submitted to the
33 department for its approval or disapproval.

34 ~~((13))~~ (11)(a) An application for a substantial development
35 permit for a limited utility extension or for the construction of a
36 bulkhead or other measures to protect a single family residence and its
37 appurtenant structures from shoreline erosion shall be subject to the
38 following procedures:

1 (i) The public comment period under subsection (4) of this section
2 shall be twenty days. The notice provided under subsection (4) of this
3 section shall state the manner in which the public may obtain a copy of
4 the local government decision on the application no later than two days
5 following its issuance;

6 (ii) The local government shall issue its decision to grant or deny
7 the permit within twenty-one days of the last day of the comment period
8 specified in (i) of this subsection; and

9 (iii) If there is an appeal of the decision to grant or deny the
10 permit to the local government legislative authority, the appeal shall
11 be finally determined by the legislative authority within thirty days.

12 (b) For purposes of this section, a limited utility extension means
13 the extension of a utility service that:

14 (i) Is categorically exempt under chapter 43.21C RCW for one or
15 more of the following: Natural gas, electricity, telephone, water, or
16 sewer;

17 (ii) Will serve an existing use in compliance with this chapter;
18 and

19 (iii) Will not extend more than twenty-five hundred linear feet
20 within the shorelines of the state.

21 **Sec. 125.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to
22 read as follows:

23 (1) Any person aggrieved by the granting, denying, or rescinding of
24 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek
25 review from the shorelines hearings board by filing a ~~((request for the~~
26 ~~same))~~ petition for review within ~~((thirty))~~ twenty-one days of the
27 date of filing as defined in RCW 90.58.140(6).

28 ~~((Concurrently with))~~ Within seven days of the filing of any
29 ~~((request))~~ petition for review with the board as provided in this
30 section pertaining to a final ~~((order))~~ decision of a local government,
31 the requestor shall ~~((file a copy))~~ serve copies of ~~((his or her~~
32 ~~request with))~~ the petition on the department and the attorney general.
33 ~~((If it appears to the department or the attorney general that the~~
34 ~~requestor has valid reasons to seek review, either the department or~~
35 ~~the attorney general may certify the request within thirty days after~~
36 ~~its receipt to the shorelines hearings board following which the board~~
37 ~~shall then, but not otherwise, review the matter covered by the~~
38 ~~requestor. The failure to obtain such certification shall not preclude~~

1 ~~the requestor from obtaining a review in the superior court under any~~
2 ~~right to review otherwise available to the requestor.))~~ The department
3 and the attorney general may intervene to protect the public interest
4 and insure that the provisions of this chapter are complied with at any
5 time within fifteen days from the date of the receipt by the department
6 or the attorney general of a copy of the ((request)) petition for
7 review filed pursuant to this section. The shorelines hearings board
8 shall ((initially)) schedule review proceedings on ((such requests))
9 the petition for review without regard as to whether ((such requests
10 ~~have or have not been certified or as to whether~~)) the period for the
11 department or the attorney general to intervene has or has not
12 expired(~~, unless such review is to begin within thirty days of such~~
13 ~~scheduling. If at the end of the thirty day period for certification~~
14 ~~neither the department nor the attorney general has certified a request~~
15 ~~for review, the hearings board shall remove the request from its review~~
16 ~~schedule)).~~

17 (2) The department or the attorney general may obtain review of any
18 final ((order)) decision granting a permit, or granting or denying an
19 application for a permit issued by a local government by filing a
20 written ((request)) petition with the shorelines hearings board and the
21 appropriate local government within ((thirty)) twenty-one days from the
22 date the final ((order)) decision was filed as provided in RCW
23 90.58.140(6).

24 (3) The review proceedings authorized in subsections (1) and (2) of
25 this section are subject to the provisions of chapter 34.05 RCW
26 pertaining to procedures in adjudicative proceedings. Judicial review
27 of such proceedings of the shorelines hearings board is governed by
28 chapter 34.05 RCW. The board shall issue its decision on the appeal
29 authorized under subsections (1) and (2) of this section within one
30 hundred eighty days after the date the petition is filed with the board
31 or a petition to intervene is filed by the department or the attorney
32 general, whichever is later. The time period may be waived by the
33 parties or may be extended by the board for a period of thirty days
34 upon a showing of good cause.

35 (4) ((A local government may appeal to the shorelines hearings
36 board)) Any person may appeal any rules, regulations, or guidelines
37 adopted or approved by the department within thirty days of the date of
38 the adoption or approval. The board shall make a final decision within
39 sixty days following the hearing held thereon.

1 ~~((If the board))~~ (5) The board shall find the rule, regulation, or
2 guideline to be valid and enter a final decision to that effect unless
3 it determines that the rule, regulation, or guideline:

4 (a) Is clearly erroneous in light of the policy of this chapter; or

5 (b) Constitutes an implementation of this chapter in violation of
6 constitutional or statutory provisions; or

7 (c) Is arbitrary and capricious; or

8 (d) Was developed without fully considering and evaluating all
9 material submitted to the department ~~((by the local government))~~ during
10 public review and comment; or

11 (e) Was not adopted in accordance with required procedures~~((?))~~.

12 (6) If the board makes a determination under subsection (5) (a)
13 through (e) of this section, it shall enter a final decision declaring
14 the rule, regulation, or guideline invalid, remanding the rule,
15 regulation, or guideline to the department with a statement of the
16 reasons in support of the determination, and directing the department
17 to adopt, after a thorough consultation with the affected local
18 government and any other interested party, a new rule, regulation, or
19 guideline consistent with the board's decision. ((Unless the board
20 makes one or more of the determinations as hereinbefore provided, the
21 board shall find the rule, regulation, or guideline to be valid and
22 enter a final decision to that effect.

23 ~~(5) Rules, regulations, and guidelines))~~ (7) A decision of the
24 board on the validity of a rule, regulation, or guideline shall be
25 subject to review in superior court, if authorized pursuant to ((RCW
26 34.05.570(2). No review shall be granted by a superior court on
27 petition from a local government unless the local government shall
28 first have obtained review under subsection (4) of this section and the
29 petition for court review is)) chapter 34.05 RCW. A petition for
30 review of the decision of the shorelines hearings board on a rule,
31 regulation, or guideline shall be filed within ((three months)) thirty
32 days after the date of final decision by the shorelines hearings board.

33 **Sec. 126.** RCW 90.58.190 and 1989 c 175 s 184 are each amended to
34 read as follows:

35 (1) ~~((The department and each local government shall periodically~~
36 ~~review any master programs under its jurisdiction and make such~~
37 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~
38 ~~local government to its master program shall be forwarded to the~~

1 ~~department for review. The department shall approve, reject, or~~
2 ~~propose modification to the adjustment. If the department either~~
3 ~~rejects or proposes modification to the master program adjustment, it~~
4 ~~shall provide substantive written comments as to why the proposal is~~
5 ~~being rejected or modified.))~~ The appeal of the department s decision
6 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or
7 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.

8 (2)(a) The department's decision to approve, reject, or modify a
9 proposed master program or amendment adopted by a local government
10 planning under RCW 36.70A.040 shall be appealed to the growth
11 management hearings board with jurisdiction over the local government.
12 The appeal shall be initiated by filing a petition as provided in RCW
13 36.70A.250 through 36.70A.320.

14 (b) If the appeal to the growth management hearings board concerns
15 shorelines, the growth management hearings board shall review the
16 proposed master program or amendment for compliance with the
17 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
18 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
19 relates to the adoption of master programs and amendments under chapter
20 90.58 RCW.

21 (c) If the appeal to the growth management hearings board concerns
22 a shoreline of state-wide significance, the board shall uphold the
23 decision by the department unless the board, by clear and convincing
24 evidence, determines that the decision of the department is
25 inconsistent with the policy of RCW 90.58.020 and the applicable
26 guidelines.

27 (d) The appellant has the burden of proof in all appeals to the
28 growth management hearings board under this subsection.

29 (e) Any party aggrieved by a final decision of a growth management
30 hearings board under this subsection may appeal the decision to
31 superior court as provided in RCW 36.70A.300.

32 (3)(a) Any local government aggrieved by the department's decision
33 to approve, reject, or modify a proposed master program or master
34 program ((adjustment)) amendment adopted by a local government not
35 planning under RCW 36.70A.040 may appeal the department's decision by
36 filing a petition to the shorelines hearings board within thirty days
37 of the date of the department s written notice to the local government
38 of the department s decision to approve, reject, or modify a proposed

1 master program or master program amendment as provided in RCW
2 90.58.090(2).

3 (b) In an appeal relating to shorelines, the shorelines hearings
4 board shall review the proposed master program or master program
5 ((adjustment)) amendment and, after full consideration of the
6 presentations of the local government and the department, shall
7 determine the validity of the local government's ((adjustment)) master
8 program or amendment in light of the policy of RCW 90.58.020 and the
9 applicable guidelines.

10 (c) In an appeal relating to shorelines of state-wide significance,
11 the shorelines hearings board shall uphold the decision by the
12 department unless ((a local government shall)) the board determines, by
13 clear and convincing evidence ((and argument, persuade the board)) that
14 the decision of the department is inconsistent with the policy of RCW
15 90.58.020 and the applicable guidelines.

16 (d) Review by the shorelines hearings board shall be considered an
17 adjudicative proceeding under chapter 34.05 RCW, the Administrative
18 Procedure Act. The aggrieved local government shall have the burden of
19 proof in all such reviews.

20 (e) Whenever possible, the review by the shorelines hearings board
21 shall be heard within the county where the land subject to the proposed
22 master program or master program ((adjustment)) amendment is primarily
23 located. The department and any local government aggrieved by a final
24 decision of the hearings board may appeal the decision to ((the))
25 superior court ((of Thurston county)) as provided in chapter 34.05 RCW.

26 ((+3)) (4) A master program amendment shall become effective after
27 the approval of the department or after the decision of the shorelines
28 hearings board to uphold the master program or master program
29 ((adjustment)) amendment, provided that the board may remand the master
30 program or master program adjustment to the local government or the
31 department for modification prior to the final adoption of the master
32 program or master program ((adjustment)) amendment.

33 **Sec. 127.** RCW 34.05.461 and 1989 c 175 s 19 are each amended to
34 read as follows:

35 (1) Except as provided in subsection (2) of this section:

36 (a) If the presiding officer is the agency head or one or more
37 members of the agency head, the presiding officer may enter an initial

1 order if further review is available within the agency, or a final
2 order if further review is not available;

3 (b) If the presiding officer is a person designated by the agency
4 to make the final decision and enter the final order, the presiding
5 officer shall enter a final order; and

6 (c) If the presiding officer is one or more administrative law
7 judges, the presiding officer shall enter an initial order.

8 (2) With respect to agencies exempt from chapter 34.12 RCW or an
9 institution of higher education, the presiding officer shall transmit
10 a full and complete record of the proceedings, including such comments
11 upon demeanor of witnesses as the presiding officer deems relevant, to
12 each agency official who is to enter a final or initial order after
13 considering the record and evidence so transmitted.

14 (3) Initial and final orders shall include a statement of findings
15 and conclusions, and the reasons and basis therefor, on all the
16 material issues of fact, law, or discretion presented on the record,
17 including the remedy or sanction and, if applicable, the action taken
18 on a petition for a stay of effectiveness. Any findings based
19 substantially on credibility of evidence or demeanor of witnesses shall
20 be so identified. Findings set forth in language that is essentially
21 a repetition or paraphrase of the relevant provision of law shall be
22 accompanied by a concise and explicit statement of the underlying
23 evidence of record to support the findings. The order shall also
24 include a statement of the available procedures and time limits for
25 seeking reconsideration or other administrative relief. An initial
26 order shall include a statement of any circumstances under which the
27 initial order, without further notice, may become a final order.

28 (4) Findings of fact shall be based exclusively on the evidence of
29 record in the adjudicative proceeding and on matters officially noticed
30 in that proceeding. Findings shall be based on the kind of evidence on
31 which reasonably prudent persons are accustomed to rely in the conduct
32 of their affairs. Findings may be based on such evidence even if it
33 would be inadmissible in a civil trial. However, the presiding officer
34 shall not base a finding exclusively on such inadmissible evidence
35 unless the presiding officer determines that doing so would not unduly
36 abridge the parties' opportunities to confront witnesses and rebut
37 evidence. The basis for this determination shall appear in the order.

1 (5) Where it bears on the issues presented, the agency's
2 experience, technical competency, and specialized knowledge may be used
3 in the evaluation of evidence.

4 (6) If a person serving or designated to serve as presiding officer
5 becomes unavailable for any reason before entry of the order, a
6 substitute presiding officer shall be appointed as provided in RCW
7 34.05.425. The substitute presiding officer shall use any existing
8 record and may conduct any further proceedings appropriate in the
9 interests of justice.

10 (7) The presiding officer may allow the parties a designated time
11 after conclusion of the hearing for the submission of memos, briefs, or
12 proposed findings.

13 (8)(a) Except as otherwise provided in (b) of this subsection,
14 initial or final orders shall be served in writing within ninety days
15 after conclusion of the hearing or after submission of memos, briefs,
16 or proposed findings in accordance with subsection (7) of this section
17 unless this period is waived or extended for good cause shown.

18 (b) This subsection does not apply to the final order of the
19 shorelines hearings board on appeal under RCW 90.58.180(3).

20 (9) The presiding officer shall cause copies of the order to be
21 served on each party and the agency.

22 **Sec. 128.** RCW 34.05.514 and 1994 c 257 s 23 are each amended to
23 read as follows:

24 (1) Except as provided in subsection (2) of this section (~~and RCW~~
25 ~~36.70A.300(3))~~), proceedings for review under this chapter shall be
26 instituted by filing a petition in the superior court, at the
27 petitioner's option, for (a) Thurston county, (b) the county of the
28 petitioner's residence or principal place of business, or (c) in any
29 county where the property owned by the petitioner and affected by the
30 contested decision is located.

31 (2) For proceedings involving institutions of higher education, the
32 petition shall be filed either in the county in which the principal
33 office of the institution involved is located or in the county of a
34 branch campus if the action involves such branch.

35 **Sec. 129.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
36 amended to read as follows:

1 The following goals are adopted to guide the development and
2 adoption of comprehensive plans and development regulations of those
3 counties and cities that are required or choose to plan under RCW
4 36.70A.040. The following goals are not listed in order of priority
5 and shall be used exclusively for the purpose of guiding the
6 development of comprehensive plans and development regulations:

7 (1) Urban growth. Encourage development in urban areas where
8 adequate public facilities and services exist or can be provided in an
9 efficient manner.

10 (2) Reduce sprawl. Reduce the inappropriate conversion of
11 undeveloped land into sprawling, low-density development.

12 (3) Transportation. Encourage efficient multimodal transportation
13 systems that are based on regional priorities and coordinated with
14 county and city comprehensive plans.

15 (4) Housing. Encourage the availability of affordable housing to
16 all economic segments of the population of this state, promote a
17 variety of residential densities and housing types, and encourage
18 preservation of existing housing stock.

19 (5) Economic development. Encourage economic development
20 throughout the state that is consistent with adopted comprehensive
21 plans, promote economic opportunity for all citizens of this state,
22 especially for unemployed and for disadvantaged persons, and encourage
23 growth in areas experiencing insufficient economic growth, all within
24 the capacities of the state's natural resources, public services, and
25 public facilities.

26 (6) Property rights. Private property shall not be taken for
27 public use without just compensation having been made. The property
28 rights of landowners shall be protected from arbitrary and
29 discriminatory actions.

30 (7) Permits. Applications for both state and local government
31 permits should be processed in a timely and fair manner to ensure
32 predictability.

33 (8) Natural resource industries. Maintain and enhance natural
34 resource-based industries, including productive timber, agricultural,
35 and fisheries industries. Encourage the conservation of productive
36 forest lands and productive agricultural lands, and discourage
37 incompatible uses.

38 (9) Open space and recreation. Encourage the retention of open
39 space and development of recreational opportunities, conserve fish and

1 wildlife habitat, increase access to natural resource lands and water,
2 and develop parks.

3 (10) Environment. Protect the environment and enhance the state's
4 high quality of life, including air and water quality, and the
5 availability of water.

6 (11) Citizen participation and coordination. Encourage the
7 involvement of citizens in the planning process and ensure coordination
8 between communities and jurisdictions to reconcile conflicts.

9 (12) Public facilities and services. Ensure that those public
10 facilities and services necessary to support development shall be
11 adequate to serve the development at the time the development is
12 available for occupancy and use without decreasing current service
13 levels below locally established minimum standards.

14 (13) Historic preservation. Identify and encourage the
15 preservation of lands, sites, and structures, that have historical or
16 archaeological significance.

17 (14) Shorelines of the state. See RCW 90.58.030.

18 **Sec. 130.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each
19 amended to read as follows:

20 The comprehensive plan of a county or city that is required or
21 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
22 and descriptive text covering objectives, principles, and standards
23 used to develop the comprehensive plan. The plan shall be an
24 internally consistent document and all elements shall be consistent
25 with the future land use map. A comprehensive plan shall be adopted
26 and amended with public participation as provided in RCW 36.70A.140.

27 Each comprehensive plan shall include a plan, scheme, or design for
28 each of the following:

29 (1) A land use element designating the proposed general
30 distribution and general location and extent of the uses of land, where
31 appropriate, for agriculture, timber production, housing, commerce,
32 industry, recreation, open spaces, public utilities, public facilities,
33 and other land uses. The land use element shall include population
34 densities, building intensities, and estimates of future population
35 growth. The land use element shall provide for protection of the
36 quality and quantity of ground water used for public water supplies.
37 Where applicable, the land use element shall review drainage, flooding,
38 and storm water run-off in the area and nearby jurisdictions and

1 provide guidance for corrective actions to mitigate or cleanse those
2 discharges that pollute waters of the state, including Puget Sound or
3 waters entering Puget Sound.

4 (2) A housing element recognizing the vitality and character of
5 established residential neighborhoods that: (a) Includes an inventory
6 and analysis of existing and projected housing needs; (b) includes a
7 statement of goals, policies, and objectives for the preservation,
8 improvement, and development of housing; (c) identifies sufficient land
9 for housing, including, but not limited to, government-assisted
10 housing, housing for low-income families, manufactured housing,
11 multifamily housing, and group homes and foster care facilities; and
12 (d) makes adequate provisions for existing and projected needs of all
13 economic segments of the community.

14 (3) A capital facilities plan element consisting of: (a) An
15 inventory of existing capital facilities owned by public entities,
16 showing the locations and capacities of the capital facilities; (b) a
17 forecast of the future needs for such capital facilities; (c) the
18 proposed locations and capacities of expanded or new capital
19 facilities; (d) at least a six-year plan that will finance such capital
20 facilities within projected funding capacities and clearly identifies
21 sources of public money for such purposes; and (e) a requirement to
22 reassess the land use element if probable funding falls short of
23 meeting existing needs and to ensure that the land use element, capital
24 facilities plan element, and financing plan within the capital
25 facilities plan element are coordinated and consistent.

26 (4) A utilities element consisting of the general location,
27 proposed location, and capacity of all existing and proposed utilities,
28 including, but not limited to, electrical lines, telecommunication
29 lines, and natural gas lines.

30 (5) Counties shall include a rural element including lands that are
31 not designated for urban growth, agriculture, forest, or mineral
32 resources. The rural element shall permit land uses that are
33 compatible with the rural character of such lands and provide for a
34 variety of rural densities.

35 (6) A transportation element that implements, and is consistent
36 with, the land use element. The transportation element shall include
37 the following subelements:

38 (a) Land use assumptions used in estimating travel;

39 (b) Facilities and services needs, including:

1 (i) An inventory of air, water, and land transportation facilities
2 and services, including transit alignments, to define existing capital
3 facilities and travel levels as a basis for future planning;

4 (ii) Level of service standards for all arterials and transit
5 routes to serve as a gauge to judge performance of the system. These
6 standards should be regionally coordinated;

7 (iii) Specific actions and requirements for bringing into
8 compliance any facilities or services that are below an established
9 level of service standard;

10 (iv) Forecasts of traffic for at least ten years based on the
11 adopted land use plan to provide information on the location, timing,
12 and capacity needs of future growth;

13 (v) Identification of system expansion needs and transportation
14 system management needs to meet current and future demands;

15 (c) Finance, including:

16 (i) An analysis of funding capability to judge needs against
17 probable funding resources;

18 (ii) A multiyear financing plan based on the needs identified in
19 the comprehensive plan, the appropriate parts of which shall serve as
20 the basis for the six-year street, road, or transit program required by
21 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
22 35.58.2795 for public transportation systems;

23 (iii) If probable funding falls short of meeting identified needs,
24 a discussion of how additional funding will be raised, or how land use
25 assumptions will be reassessed to ensure that level of service
26 standards will be met;

27 (d) Intergovernmental coordination efforts, including an assessment
28 of the impacts of the transportation plan and land use assumptions on
29 the transportation systems of adjacent jurisdictions;

30 (e) Demand-management strategies.

31 After adoption of the comprehensive plan by jurisdictions required
32 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
33 must adopt and enforce ordinances which prohibit development approval
34 if the development causes the level of service on a transportation
35 facility to decline below the standards adopted in the transportation
36 element of the comprehensive plan, unless transportation improvements
37 or strategies to accommodate the impacts of development are made
38 concurrent with the development. These strategies may include
39 increased public transportation service, ride sharing programs, demand

1 management, and other transportation systems management strategies.
2 For the purposes of this subsection (6) "concurrent with the
3 development" shall mean that improvements or strategies are in place at
4 the time of development, or that a financial commitment is in place to
5 complete the improvements or strategies within six years.

6 The transportation element described in this subsection, and the
7 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
8 counties, and RCW 35.58.2795 for public transportation systems, must be
9 consistent.

10 (7) A shoreline element, consisting of the comprehensive use plan
11 segment of the shoreline master program adopted by the city or county
12 and approved by the department of ecology pursuant to chapter 90.58
13 RCW.

14 **Sec. 131.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each
15 amended to read as follows:

16 (1) Each comprehensive land use plan and development regulations
17 shall be subject to continuing evaluation and review by the county or
18 city that adopted them.

19 Any amendment or revision to a comprehensive land use plan shall
20 conform to this chapter, and any change to development regulations
21 shall be consistent with and implement the comprehensive plan.

22 (2) Each county and city shall establish and broadly disseminate to
23 the public a public participation program identifying procedures
24 whereby proposed amendments or revisions of the comprehensive plan are
25 considered by the governing body of the county or city no more
26 frequently than once every year. All proposals shall be considered by
27 the governing body concurrently so the cumulative effect of the various
28 proposals can be ascertained. However, a county or city may adopt
29 amendments or revisions to its comprehensive plan that conform with
30 this chapter whenever an emergency exists after appropriate public
31 participation.

32 (3) Each county that designates urban growth areas under RCW
33 36.70A.110 shall review, at least every ten years, its designated urban
34 growth area or areas, and the densities permitted within both the
35 incorporated and unincorporated portions of each urban growth area. In
36 conjunction with this review by the county, each city located within an
37 urban growth area shall review the densities permitted within its
38 boundaries, and the extent to which the urban growth occurring within

1 the county has located within each city and the unincorporated portions
2 of the urban growth areas. The county comprehensive plan designating
3 urban growth areas, and the densities permitted in the urban growth
4 areas by the comprehensive plans of the county and each city located
5 within the urban growth areas, shall be revised to accommodate the
6 urban growth projected to occur in the county for the succeeding
7 twenty-year period.

8 **Sec. 132.** RCW 36.70A.280 and 1994 c 249 s 31 are each amended to
9 read as follows:

10 (1) A growth management hearings board shall hear and determine
11 only those petitions alleging either:

12 (a) That a state agency(~~()~~) or any county(~~()~~) or city planning
13 under this chapter is not in compliance with the requirements of this
14 chapter, chapter 90.58 RCW as it relates to the adoption of shoreline
15 master programs or amendments thereto, or chapter 43.21C RCW as it
16 relates to plans, development regulations, or amendments, adopted under
17 RCW 36.70A.040 or chapter 90.58 RCW; or

18 (b) That the twenty-year growth management planning population
19 projections adopted by the office of financial management pursuant to
20 RCW 43.62.035 should be adjusted.

21 (2) A petition may be filed only by the state, a county or city
22 that plans under this chapter, a person who has either appeared before
23 the county or city regarding the matter on which a review is being
24 requested or is certified by the governor within sixty days of filing
25 the request with the board, or a person qualified pursuant to RCW
26 34.05.530.

27 (3) For purposes of this section "person" means any individual,
28 partnership, corporation, association, governmental subdivision or unit
29 thereof, or public or private organization or entity of any character.

30 (4) When considering a possible adjustment to a growth management
31 planning population projection prepared by the office of financial
32 management, a board shall consider the implications of any such
33 adjustment to the population forecast for the entire state.

34 The rationale for any adjustment that is adopted by a board must be
35 documented and filed with the office of financial management within ten
36 working days after adoption.

37 If adjusted by a board, a county growth management planning
38 population projection shall only be used for the planning purposes set

1 forth in this chapter and shall be known as a "board adjusted
2 population projection". None of these changes shall affect the
3 official state and county population forecasts prepared by the office
4 of financial management, which shall continue to be used for state
5 budget and planning purposes.

6 **Sec. 133.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26
7 are each reenacted and amended to read as follows:

8 (1) All requests for review to a growth management hearings board
9 shall be initiated by filing a petition that includes a detailed
10 statement of issues presented for resolution by the board.

11 (2) All petitions relating to whether or not an adopted
12 comprehensive plan, development regulation, or permanent amendment
13 thereto, is in compliance with the goals and requirements of this
14 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days
15 after publication by the legislative bodies of the county or city.

16 (a) Except as provided in (c) of this subsection, the date of
17 publication for a city shall be the date the city publishes the
18 ordinance, or summary of the ordinance, adopting the comprehensive plan
19 or development regulations, or amendment thereto, as is required to be
20 published.

21 (b) Promptly after adoption, a county shall publish a notice that
22 it has adopted the comprehensive plan or development regulations, or
23 amendment thereto.

24 Except as provided in (c) of this subsection, for purposes of this
25 section the date of publication for a county shall be the date the
26 county publishes the notice that it has adopted the comprehensive plan
27 or development regulations, or amendment thereto.

28 (c) For local governments planning under RCW 36.70A.040, promptly
29 after approval or disapproval of a local government s shoreline master
30 program or amendment thereto by the department of ecology as provided
31 in RCW 90.58.090, the local government shall publish a notice that the
32 shoreline master program or amendment thereto has been approved or
33 disapproved by the department of ecology. For purposes of this
34 section, the date of publication for the adoption or amendment of a
35 shoreline master program is the date the local government publishes
36 notice that the shoreline master program or amendment thereto has been
37 approved or disapproved by the department of ecology.

1 (3) Unless the board dismisses the petition as frivolous or finds
2 that the person filing the petition lacks standing, the board shall,
3 within ten days of receipt of the petition, set a time for hearing the
4 matter.

5 (4) The board shall base its decision on the record developed by
6 the city, county, or the state and supplemented with additional
7 evidence if the board determines that such additional evidence would be
8 necessary or of substantial assistance to the board in reaching its
9 decision.

10 (5) The board, shall consolidate, when appropriate, all petitions
11 involving the review of the same comprehensive plan or the same
12 development regulation or regulations.

13 **Sec. 134.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended
14 to read as follows:

15 (1) Except as provided in subsection (2) of this section,
16 comprehensive plans and development regulations, and amendments
17 thereto, adopted under this chapter are presumed valid upon adoption.
18 In any petition under this chapter, the board, after full consideration
19 of the petition, shall determine whether there is compliance with the
20 requirements of this chapter. In making its determination, the board
21 shall consider the criteria adopted by the department under RCW
22 36.70A.190(4). The board shall find compliance unless it finds by a
23 preponderance of the evidence that the state agency, county, or city
24 erroneously interpreted or applied this chapter.

25 (2) The shoreline element of a comprehensive plan and the
26 applicable development regulations adopted by a county or city shall
27 take effect as provided in chapter 90.58 RCW.

28 **Sec. 135.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each
29 amended to read as follows:

30 Unless the context clearly requires otherwise, the following
31 definitions shall apply ~~((in RCW 82.02.050 through 82.02.090))~~
32 throughout this chapter:

33 (1) "Development" means any proposed change in use of land for
34 which review of environmental impacts is required under chapter 43.21C
35 RCW, any proposed construction or expansion of a building, structure,
36 or use, or any proposed change in use of a building or structure.

1 (2) "Development activity" means any construction or expansion of
2 a building, structure, or use, any change in use of a building or
3 structure, or any changes in the use of land, that creates additional
4 demand and need for public facilities.

5 ~~((+2))~~ (3) "Development approval" means any written authorization
6 from a county, city, or town which authorizes the commencement of
7 development activity.

8 ~~((+3))~~ (4) "Environmental analysis" means review under chapter
9 43.21C RCW of environmental impacts of an action required or authorized
10 by chapter 36.70A RCW.

11 (5) "Environmental analysis fees" means a payment of money imposed
12 on development as a condition of development approval to pay for
13 environmental analysis needed to establish the system capacity
14 projected to accommodate implementation of a comprehensive plan adopted
15 under chapter 36.70A RCW.

16 (6) "Impact fee" means a payment of money imposed upon development
17 as a condition of development approval to pay for public facilities
18 needed to serve new growth and development, and that is reasonably
19 related to the new development that creates additional demand and need
20 for public facilities, that is a proportionate share of the cost of the
21 public facilities, and that is used for facilities that reasonably
22 benefit the new development. "Impact fee" does not include a
23 reasonable permit or application fee.

24 ~~((+4))~~ (7) "Owner" means the owner of record of real property,
25 although when real property is being purchased under a real estate
26 contract, the purchaser shall be considered the owner of the real
27 property if the contract is recorded.

28 ~~((+5))~~ (8) "Proportionate share" means that portion of the cost of
29 public facility improvements that are reasonably related to the service
30 demands and needs of new development.

31 ~~((+6))~~ (9) "Project improvements" mean site improvements and
32 facilities that are planned and designed to provide service for a
33 particular development project and that are necessary for the use and
34 convenience of the occupants or users of the project, and are not
35 system improvements. No improvement or facility included in a capital
36 facilities plan approved by the governing body of the county, city, or
37 town shall be considered a project improvement.

38 ~~((+7))~~ (10) "Public facilities" means the following capital
39 facilities owned or operated by government entities: (a) Public

1 streets and roads; (b) publicly owned parks, open space, and recreation
2 facilities; (c) school facilities; and (d) fire protection facilities
3 in jurisdictions that are not part of a fire district.

4 ~~((+8+))~~ (11) "Service area" means a geographic area defined by a
5 county, city, town, or intergovernmental agreement in which a defined
6 set of public facilities provide service to development within the
7 area. Service areas shall be designated on the basis of sound planning
8 or engineering principles.

9 ~~((+9+))~~ (12) "System capacity" means the capacity of a county,
10 city, or town to accommodate new development determined by the limiting
11 capacities of specific natural or built systems identified in the
12 comprehensive plan adopted pursuant to RCW 36.70A.040.

13 (13) "System improvements" mean public facilities that are included
14 in the capital facilities plan and are designed to provide service to
15 service areas within the community at large, in contrast to project
16 improvements.

17 **Sec. 136.** RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 are each
18 amended to read as follows:

19 (1) Except only as expressly provided in RCW 67.28.180 and
20 67.28.190 and the provisions of chapter 82.14 RCW, the state preempts
21 the field of imposing taxes upon retail sales of tangible personal
22 property, the use of tangible personal property, parimutuel wagering
23 authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and
24 no county, town, or other municipal subdivision shall have the right to
25 impose taxes of that nature. Except as provided in ~~((RCW 82.02.050~~
26 ~~through 82.02.090))~~ this chapter, ~~((no))~~ a county, city, town, or other
27 municipal corporation shall not impose any tax, fee, or charge, either
28 direct or indirect, on the construction or reconstruction of
29 residential buildings, commercial buildings, industrial buildings, or
30 on any other building or building space or appurtenance thereto, or on
31 the development, subdivision, classification, or reclassification of
32 land. However, this section does not preclude dedications of land or
33 easements within the proposed development or plat which the county,
34 city, town, or other municipal corporation can demonstrate are
35 reasonably necessary as a direct result of the proposed development or
36 plat to which the dedication of land or easement is to apply.

37 (2) This section does not prohibit voluntary agreements with
38 ~~((counties, cities, towns))~~ a county, city, town, or other municipal

1 corporation(~~s~~) that allows a payment in lieu of a dedication of land
2 or to mitigate a direct impact that has been identified as a
3 consequence of a proposed development, subdivision, or plat. A local
4 government shall not use such voluntary agreements for local off-site
5 transportation improvements within the geographic boundaries of the
6 area or areas covered by an adopted transportation program authorized
7 by chapter 39.92 RCW. Any such voluntary agreement is subject to the
8 following provisions:

9 ~~((1))~~ (a) The payment shall be held in a reserve account and may
10 only be expended to fund a capital improvement agreed upon by the
11 parties to mitigate the identified, direct impact;

12 ~~((2))~~ (b) The payment shall be expended in all cases within five
13 years of collection; and

14 ~~((3))~~ (c) Any payment not so expended shall be refunded with
15 interest at the rate applied to judgments to the property owners of
16 record at the time of the refund; however, if the payment is not
17 expended within five years due to delay attributable to the developer,
18 the payment shall be refunded without interest.

19 ~~((No))~~ (3) A county, city, town, or other municipal corporation
20 shall not require any payment as part of such a voluntary agreement
21 which the county, city, town, or other municipal corporation cannot
22 establish is reasonably necessary as a direct result of the proposed
23 development or plat.

24 (4)(a) Nothing in this section prohibits cities, towns, counties,
25 or other municipal corporations from collecting reasonable fees from an
26 applicant for a permit or other governmental approval to cover the cost
27 to the city, town, county, or other municipal corporation of processing
28 applications, inspecting and reviewing plans, or preparing detailed
29 statements required by chapter 43.21C RCW.

30 (b) This section does not limit the existing authority of any
31 county, city, town, or other municipal corporation to impose special
32 assessments on property specifically benefitted thereby in the manner
33 prescribed by law.

34 (c) Nothing in this section prohibits counties, cities, or towns
35 from imposing or permits counties, cities, or towns to impose water,
36 sewer, natural gas, drainage utility, and drainage system charges(~~(÷~~
37 ~~PROVIDED, That)~~). No such charge (~~shall~~) may exceed the
38 proportionate share of such utility or system's capital costs which the
39 county, city, or town can demonstrate are attributable to the property

1 being charged(~~(: PROVIDED FURTHER, That)~~). These provisions shall not
2 be interpreted to expand or contract any existing authority of
3 counties, cities, or towns to impose such charges.

4 (d) Nothing in this section prohibits a transportation benefit
5 district from imposing fees or charges authorized in RCW 36.73.120 nor
6 prohibits the legislative authority of a county, city, or town from
7 approving the imposition of such fees within a transportation benefit
8 district.

9 (e) Nothing in this section prohibits counties, cities, or towns
10 from imposing transportation impact fees authorized pursuant to chapter
11 39.92 RCW.

12 (f) Nothing in this section prohibits counties, cities, or towns
13 from requiring property owners to provide relocation assistance to
14 tenants under RCW 59.18.440 and 59.18.450.

15 (5) This section does not apply to special purpose districts formed
16 and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the
17 authority conferred by these titles affected.

18 NEW SECTION. **Sec. 137.** (1) A county, city, or town that is
19 required or chooses to plan under RCW 36.70A.040 may impose
20 environmental analysis fees on development to partially finance the
21 environmental analysis upon which the system capacity forecast in the
22 county s, city s, or town s comprehensive plan is based.

23 (2) Environmental analysis fees shall be proportionate to the
24 amount of system capacity or capacities projected to be consumed by the
25 new development.

26 (3) Environmental analysis fees shall be collected and spent only
27 for the costs of environmental analysis upon which the system capacity
28 forecast in a comprehensive plan adopted pursuant to RCW 36.70A.070 is
29 based.

30 (4) Environmental analysis fees shall not be used to recover more
31 than seventy-five percent of the costs previously incurred by a county,
32 city, or town for environmental analysis required to establish the
33 system capacity forecast in a comprehensive plan.

34 NEW SECTION. **Sec. 138.** A county, city, or town in its ordinance
35 establishing environmental analysis fees shall:

1 (1) Include a schedule of environmental analysis fees based upon a
2 formula or other method of calculating such fees. The formula or
3 calculation shall incorporate at least the following:

4 (a) The amount of system capacity to be used by the new
5 development;

6 (b) The total cost of environmental analysis required to establish
7 the system capacity forecast in the comprehensive plan; and

8 (c) The amount of the total cost of environmental analysis
9 allocated to each capacity element used to determine the amount of the
10 fee.

11 (2) Allow the county, city, or town to adjust the standard fee at
12 the time the fee is imposed to consider unusual circumstances in
13 specific cases to ensure that environmental analysis fees are imposed
14 fairly.

15 (3) Not assess or collect environmental analysis fees to recover
16 costs of environmental analysis that have already been fully recovered
17 through environmental impact fees or through other sources.

18 NEW SECTION. **Sec. 139.** (1) The legislature finds that:

19 (a) As of the effective date of this section, twenty-nine counties
20 and two hundred eight cities are conducting comprehensive planning
21 under the growth management act, chapter 36.70A RCW, which together
22 comprise over ninety percent of the state's population;

23 (b) Comprehensive plans for many of the jurisdictions were due by
24 July 1, 1994, and the remaining jurisdictions must complete plans under
25 due dates ranging from October 1994 to September 1997;

26 (c) Concurrently with these comprehensive planning activities,
27 local governments must conduct several other planning requirements
28 under the growth management act, such as the adoption of capital
29 facilities plans, urban growth areas, and development regulations;

30 (d) Local governments must also comply with the state environmental
31 policy act, chapter 43.21C RCW, in the development of comprehensive
32 plans;

33 (e) The combined activities of comprehensive planning and the state
34 environmental policy act present a serious fiscal burden upon local
35 governments;

36 (f) This fiscal burden will be experienced over a relatively short
37 period of time, whereas the benefits of growth management and

1 environmental protection achieved through the comprehensive plans will
2 accrue to each area over a much longer period in the future; and

3 (g) The revenues from fees assessed at the time of local government
4 approval of projects that are consistent with the comprehensive plan
5 may provide the basis for local governments to issue bonds in order to
6 provide the early funding necessary to carry out their comprehensive
7 planning and accompanying environmental analysis responsibilities.

8 (2) Therefore it is the intent of the legislature by adopting
9 section 140 of this act to:

10 (a) Authorize local governments carrying out responsibilities under
11 the growth management act to issue evidence of indebtedness to provide
12 for the financing for such activities, subject to applicable
13 indebtedness limitations; and

14 (b) Authorize local governments to assess a fee at the time of
15 review of projects proposed within the comprehensive plan area, to
16 provide a source of repayment of the revenue bonds.

17 NEW SECTION. **Sec. 140.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 (1) A local government may issue obligations by use of bonds,
20 notes, or other evidence of obligation, including but not limited to,
21 loans from the federal or state governments to fund the development of
22 a comprehensive plan, subarea plan, or development regulations the
23 city, town, or county is required to prepare under the growth
24 management act, chapter 36.70A RCW.

25 (2) A local government may incur obligations pursuant to this
26 section only if it:

27 (a) Prepares an environmental impact statement under the state
28 environmental policy act that is integrated as part of the plan or
29 regulations and addresses impacts and alternatives in sufficient detail
30 to allow the environmental impact statement to be adopted in whole or
31 in part by a nongovernmental applicant for a development within the
32 geographic area covered by the statement;

33 (b) Includes in the comprehensive plan or development regulations
34 mechanisms to monitor the usefulness of the environmental analysis to
35 subsequent development permit applications in areas covered by the plan
36 or regulations; and

37 (c) Provides at least twenty-five percent of the funding for the
38 planning and environmental review from another source of funds.

1 (3) A local government issuing an obligation pursuant to this
2 section may declare the obligation to be:

3 (a) A general obligation which pledges the full faith, credit, and
4 taxing power of the issuer;

5 (b) A revenue obligation payable solely from moneys other than
6 taxes deposited in a special fund for payment of the obligation; or

7 (c) A general obligation that also pledges revenue from a nontax
8 fund.

9 (4) No evidence of indebtedness issued for the purposes of this
10 section shall have a maturity in excess of ten years. The governing
11 body of the city, town, or county shall by resolution determine for
12 each revenue bond issue the amount, date, form, terms, conditions,
13 denominations, maximum fixed or variable interest rate or rates,
14 maturity or maturities, redemption rights, registration privileges,
15 manner of execution, manner of sale, callable provisions, if any, and
16 covenants including the refunding of existing revenue bonds. Facsimile
17 signatures may be used on the bonds and any coupons. Refunding revenue
18 bonds may be issued in the same manner as revenue bonds are issued.

19 **Sec. 141.** RCW 82.46.010 and 1994 c 272 s 1 are each amended to
20 read as follows:

21 (1) The legislative authority of any county or city shall identify
22 in the adopted budget the capital projects funded in whole or in part
23 from the proceeds of the tax authorized in this section, and shall
24 indicate that such tax is intended to be in addition to other funds
25 that may be reasonably available for such capital projects.

26 (2) The legislative authority of any county or any city may impose
27 an excise tax on each sale of real property in the unincorporated areas
28 of the county for the county tax and in the corporate limits of the
29 city for the city tax at a rate not exceeding one-quarter of one
30 percent of the selling price. The revenues from this tax shall be used
31 by any city or county with a population of five thousand or less and
32 any city or county that does not plan under RCW 36.70A.040 for any
33 capital purpose identified in a capital improvements plan and local
34 capital improvements, including those listed in RCW 35.43.040.

35 After April 30, 1992, revenues generated from the tax imposed under
36 this subsection in counties over five thousand population and cities
37 over five thousand population that are required or choose to plan under
38 RCW 36.70A.040 shall be used (~~solely~~):

1 (a) For financing capital projects specified in a capital
2 facilities plan element of a comprehensive plan and housing relocation
3 assistance under RCW 59.18.440 and 59.18.450; or

4 (b) For funding the cost of environmental review required by
5 chapter 43.21C RCW of a comprehensive plan or subarea plan element
6 adopted pursuant to chapter 36.70A RCW consistent with the requirements
7 of section 106 of this act, RCW 43.21C.031, or sections 137, 138, or
8 140(2) of this act.

9 (~~However,~~) (3) Revenues (a) pledged by such counties and cities
10 to debt retirement prior to April 30, 1992, may continue to be used for
11 that purpose until the original debt for which the revenues were
12 pledged is retired, or (b) committed prior to April 30, 1992, by such
13 counties or cities to a project may continue to be used for that
14 purpose until the project is completed.

15 (~~(3)~~) (4) In lieu of imposing the tax authorized in RCW
16 82.14.030(2), the legislative authority of any county or any city may
17 impose an additional excise tax on each sale of real property in the
18 unincorporated areas of the county for the county tax and in the
19 corporate limits of the city for the city tax at a rate not exceeding
20 one-half of one percent of the selling price.

21 (~~(4)~~) (5) Taxes imposed under this section shall be collected
22 from persons who are taxable by the state under chapter 82.45 RCW upon
23 the occurrence of any taxable event within the unincorporated areas of
24 the county or within the corporate limits of the city, as the case may
25 be.

26 (~~(5)~~) (6) Taxes imposed under this section shall comply with all
27 applicable rules, regulations, laws, and court decisions regarding real
28 estate excise taxes as imposed by the state under chapter 82.45 RCW.

29 (~~(6)~~) (7) As used in this section, "city" means any city or town
30 and "capital project" means those public works projects of a local
31 government for planning, acquisition, construction, reconstruction,
32 repair, replacement, rehabilitation, or improvement of streets; roads;
33 highways; sidewalks; street and road lighting systems; traffic signals;
34 bridges; domestic water systems; storm and sanitary sewer systems;
35 parks; recreational facilities; law enforcement facilities; fire
36 protection facilities; trails; libraries; administrative and/or
37 judicial facilities; river and/or waterway flood control projects by
38 those jurisdictions that, prior to June 11, 1992, have expended funds
39 derived from the tax authorized by this section for such purposes; and,

1 until December 31, 1995, housing projects for those jurisdictions that,
2 prior to June 11, 1992, have expended or committed to expend funds
3 derived from the tax authorized by this section or the tax authorized
4 by RCW 82.46.035 for such purposes.

5 NEW SECTION. **Sec. 142.** A new section is added to chapter 36.70A
6 RCW to read as follows:

7 The growth management planning and environmental review loan fund
8 is hereby established in the state treasury. Moneys may be placed in
9 the fund from the proceeds of bond sales, tax revenues, budget
10 transfers, federal appropriations, gifts, or any other lawful source.
11 Moneys in the fund may be spent only after appropriation. Moneys in
12 the fund shall be used to make low-interest loans to local governments
13 for the purposes set forth in section 106 of this act, RCW 43.21C.031,
14 section 137, 138, or 140(2) of this act. Loans from the fund shall be
15 made by loan agreement under chapter 39.69 RCW.

16 NEW SECTION. **Sec. 143.** A new section is added to chapter 36.70A
17 RCW to read as follows:

18 (1) The department of community, trade, and economic development
19 shall provide management services for the fund created by section 142
20 of this act. The department by rule shall establish procedures for
21 fund management.

22 (2) A local government applicant must be making substantial
23 progress towards compliance with the requirements of chapter 36.70A RCW
24 in order to qualify for financial assistance from the fund established
25 pursuant to section 142 of this act. A local government that is more
26 than six months out of compliance with a requirement of this chapter is
27 deemed not to be making substantial progress towards compliance.

28 (3) The department by loan agreement may permit a deferred payment
29 on the principal repayment of any loan for a period not to exceed two
30 years. Interest shall continue to accrue during this period.

31 NEW SECTION. **Sec. 144.** Capitalization of the growth management
32 planning and environmental review loan fund shall be made by:

33 (1) A transfer of four million dollars from the public works
34 assistance account; and

35 (2) A transfer of two million dollars from the transportation
36 fund.

1 **Sec. 145.** RCW 35.21.225 and 1989 c 53 s 2 are each amended to
2 read as follows:

3 The legislative authority of a city may establish one or more
4 transportation benefit districts within a city for the purpose of
5 acquiring, constructing, improving, providing, and funding any city
6 street, county road, or state highway improvement that is (1)
7 consistent with state, regional, and local transportation plans, (2)
8 necessitated by existing or reasonably foreseeable congestion levels
9 attributable to economic growth, and (3) partially funded by local
10 government or private developer contributions, or a combination of such
11 contributions. Such transportation improvements shall be owned by the
12 city of jurisdiction if located in an incorporated area, by the county
13 of jurisdiction if located in an unincorporated area, or by the state
14 in cases where the transportation improvement is or becomes a state
15 highway; and all such transportation improvements shall be administered
16 as other public streets, roads, and highways. The district may include
17 any area within the corporate limits of another city if that city has
18 agreed to the inclusion pursuant to chapter 39.34 RCW. The district
19 may include any unincorporated area if the county legislative authority
20 has agreed to the inclusion pursuant to chapter 39.34 RCW. The
21 agreement shall specify the area and such other powers as may be
22 granted to the benefit district.

23 The members of the city legislative authority, acting ex officio
24 and independently, shall compose the governing body of the district.
25 The city treasurer shall act as the ex officio treasurer of the
26 district: PROVIDED, That where a transportation benefit district
27 includes any unincorporated area or portion of another city, the
28 district may be governed as provided in an interlocal agreement adopted
29 pursuant to chapter 39.34 RCW. The electors of the district shall all
30 be registered voters residing within the district. For the purposes of
31 this section, the term "city" means both cities and towns.

32 A city may contract with an owner or developer of real estate for
33 the construction or improvement of transportation improvements that
34 will be incorporated into or used as a public street, road, or highway,
35 under terms approved by the owner or developer and the legislative
36 authority of the city. Any work, construction, alteration, repair, or
37 improvement, other than ordinary maintenance, that the city causes to
38 be performed by an owner or developer of real estate through a contract
39 under this section shall comply with chapter 39.12 RCW.

1 **Sec. 146.** RCW 35.43.042 and 1969 ex.s. c 258 s 2 are each amended
2 to read as follows:

3 Whenever the legislative authority of any city or town has
4 provided pursuant to law for the acquisition, construction,
5 reconstruction, purchase, condemnation and purchase, addition to,
6 repair, or renewal of the whole or any portion of a:

7 (1) System for providing the city or town and the inhabitants
8 thereof with water, which system includes as a whole or as a part
9 thereof water mains, hydrants or appurtenances which are authorized
10 subjects for local improvements under RCW 35.43.040(13) or other law;
11 or a

12 (2) System for providing the city or town with sewerage and storm
13 or surface water disposal, which system includes as a whole or as a
14 part thereof drains, sewers or sewer appurtenances which are authorized
15 subjects for local improvements under RCW 35.43.040(7) or other law; or

16 (3) Off-street parking facilities; and

17 Has further provided in accordance with any applicable provisions
18 of the Constitution or statutory authority for the issuance and sale of
19 revenue bonds to pay the cost of all or a portion of any such system,
20 such legislative authority shall have the authority to establish
21 utility local improvement districts, and to levy special assessments on
22 all property specially benefited by any such local improvement to pay
23 in whole or in part the damages or costs of any local improvements so
24 provided for.

25 The initiation and formation of such utility local improvement
26 districts and the levying, collection and enforcement of assessments
27 shall be in the manner and subject to the same procedures and
28 limitations as are now or hereafter provided by law for the initiation
29 and formation of local improvement districts in cities and towns and
30 the levying, collection and enforcement of assessments pursuant
31 thereto.

32 It must be specified in any petition or resolution initiating the
33 formation of such a utility local improvement district in a city or
34 town and in the ordinance ordered pursuant thereto, that the
35 assessments shall be for the sole purpose of payment into such revenue
36 bond fund as may be specified by the legislative authority for the
37 payment of revenue bonds issued to defray the cost of such system or
38 facilities or any portion thereof as provided for in this section.

1 Assessments in any such utility local improvement district may be
2 made on the basis of special benefits up to but not in excess of the
3 total cost of the local improvements portion of any system or
4 facilities payable by issuance of revenue bonds. No warrants or bonds
5 shall be issued in any such utility local improvement district, but the
6 collection of interest and principal on all assessments in such utility
7 local improvement district, when collected, shall be paid into any such
8 revenue bond fund.

9 When in the petition or resolution for establishment of a local
10 improvement district and in the ordinance ordered pursuant thereto, it
11 is specified or provided that the assessments shall be for the sole
12 purpose of payment into a revenue bond fund for the payment of revenue
13 bonds, then the local improvement district shall be designated a
14 "utility local improvement district".

15 The provisions of chapters 35.45, 35.47 and 35.48 RCW shall have
16 no application to utility local improvement districts created under
17 authority of this section.

18 A city or town may contract with an owner or developer of real
19 estate for the construction or improvement of systems or facilities
20 that will be used by the general public or incorporated into or used as
21 part of a public utility system under terms approved by the owner or
22 developer and the legislative authority of the city or town. Any work,
23 construction, alteration, repair, or improvement, other than ordinary
24 maintenance, that the city or town causes to be performed by an owner
25 or developer of real estate through a contract under this section shall
26 comply with chapter 39.12 RCW.

27 **Sec. 147.** RCW 35.43.190 and 1987 c 242 s 3 are each amended to
28 read as follows:

29 All local improvements, the funds for the making of which are
30 derived in whole or in part from assessments upon property specially
31 benefited shall be made by contract on competitive bids or by contract
32 made pursuant to section 148 of this act whenever the estimated cost of
33 such improvement including the cost of materials, supplies, labor, and
34 equipment will exceed the sum of five thousand dollars. The city,
35 town, or public corporation may reject any and all bids. The city,
36 town, or public corporation itself may make the local improvements if
37 all the bids received exceed by ten percent preliminary cost estimates
38 prepared by an independent consulting engineer or registered

1 professional engineer retained for that purpose by the city, town, or
2 public corporation.

3 NEW SECTION. **Sec. 148.** A new section is added to chapter 35.43
4 RCW to read as follows:

5 The legislative authority of any city, town, or public corporation
6 may make all or any part of the improvements to be paid for in whole or
7 in part by assessment upon property specifically benefited by contract
8 with any owner or owners of property located within the district,
9 formed in accordance with RCW 35.43.080. The total cost of the
10 improvements under the contract shall not exceed the preliminary cost
11 estimates for such improvements prepared by an independent consulting
12 engineer or registered professional engineer retained for that purpose
13 by the city, town, or public corporation, by more than fifty-three
14 percent. The contract shall be void if the owners of the property
15 within the district subject to fifty percent or more of the total cost
16 of the improvements object in writing within thirty days after written
17 notice by first class mail, postage prepaid, of the terms of the
18 contract and the preliminary costs estimates for such improvements are
19 provided to each owner in the district. The contract may provide for
20 the acquisition by the city or town of the improvement by payment to
21 the owners of the costs of the construction and related costs from the
22 proceeds of bonds issued by the district, from assessments paid to the
23 district as appropriate, or by a credit in the amount of such costs
24 against future assessments assessed against such property under the
25 district. The contract shall provide that all local improvements
26 constructed by owners shall be approved and accepted by the city or
27 town as facilities of the municipality before payment to the owners is
28 authorized. Any work, construction, alteration, repair, or
29 improvement, other than ordinary maintenance, that the city, town, or
30 public corporation causes to be performed by an owner or developer of
31 real estate through a contract under this section shall comply with
32 chapter 39.12 RCW.

33 **Sec. 149.** RCW 35.92.010 and 1991 c 347 s 18 are each amended to
34 read as follows:

35 A city or town may construct, condemn and purchase, purchase,
36 acquire, add to, alter, maintain and operate waterworks, within or
37 without its limits, for the purpose of furnishing the city and its

1 inhabitants, and any other persons, with an ample supply of water for
2 all purposes, public and private, including water power and other power
3 derived therefrom, with full power to regulate and control the use,
4 distribution, and price thereof: PROVIDED, That the rates charged must
5 be uniform for the same class of customers or service. Such waterworks
6 may include facilities for the generation of electricity as a byproduct
7 and such electricity may be used by the city or town or sold to an
8 entity authorized by law to distribute electricity. Such electricity
9 is a byproduct when the electrical generation is subordinate to the
10 primary purpose of water supply.

11 In classifying customers served or service furnished, the city or
12 town governing body may in its discretion consider any or all of the
13 following factors: The difference in cost of service to the various
14 customers; location of the various customers within and without the
15 city or town; the difference in cost of maintenance, operation, repair,
16 and replacement of the various parts of the system; the different
17 character of the service furnished various customers; the quantity and
18 quality of the water furnished; the time of its use; the achievement of
19 water conservation goals and the discouragement of wasteful water use
20 practices; capital contributions made to the system including, but not
21 limited to, assessments; and any other matters which present a
22 reasonable difference as a ground for distinction. No rate shall be
23 charged that is less than the cost of the water and service to the
24 class of customers served.

25 For such purposes any city or town may take, condemn and purchase,
26 purchase, acquire, and retain water from any public or navigable lake
27 or watercourse, surface or ground, and, by means of aqueducts or pipe
28 lines, conduct it to the city or town; and it may erect and build dams
29 or other works across or at the outlet of any lake or watercourse in
30 this state for the purpose of storing and retaining water therein up to
31 and above high water mark; and for all the purposes of erecting such
32 aqueducts, pipe lines, dams, or waterworks or other necessary
33 structures in storing and retaining water, or for any of the purposes
34 provided for by this chapter, the city or town may occupy and use the
35 beds and shores up to the high water mark of any such watercourse or
36 lake, and acquire the right by purchase, or by condemnation and
37 purchase, or otherwise, to any water, water rights, easements or
38 privileges named in this chapter, or necessary for any of said
39 purposes, and the city or town may acquire by purchase or condemnation

1 and purchase any properties or privileges necessary to be had to
2 protect its water supply from pollution. Should private property be
3 necessary for any such purposes or for storing water above high water
4 mark, the city or town may condemn and purchase, or purchase and
5 acquire such private property. For the purposes of waterworks which
6 include facilities for the generation of electricity as a byproduct,
7 nothing in this section may be construed to authorize a city or town
8 that does not own or operate an electric utility system to condemn
9 electric generating, transmission, or distribution rights or facilities
10 of entities authorized by law to distribute electricity, or to acquire
11 such rights or facilities without the consent of the owner.

12 A city or town may contract with an owner or developer of real
13 estate for the construction or improvement of waterworks that will be
14 incorporated into or used as part of a public utility system under
15 terms approved by the owner or developer and the legislative authority
16 of the city or town. Any work, construction, alteration, repair, or
17 improvement, other than ordinary maintenance, that the city or town
18 causes to be performed by an owner or developer of real estate through
19 a contract under this section shall comply with chapter 39.12 RCW.

20 NEW SECTION. Sec. 150. A new section is added to chapter 36.32
21 RCW to read as follows:

22 RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to contracts
23 with the owner or developer of real estate for the construction or
24 improvement of public facilities or systems that will be incorporated
25 into or used as part of public systems under the county's authority
26 pursuant to RCW 36.73.020, 36.88.010, or 36.94.220.

27 NEW SECTION. Sec. 151. A new section is added to chapter 36.32
28 RCW to read as follows:

29 The county legislative authority may make all or any part of the
30 improvements to be paid for in whole or in part by assessment upon
31 property specifically benefited by contract with any owner or owners of
32 property located within the county benefit or improvement district
33 pursuant to RCW 36.73.020, 36.88.010, or 36.94.220. The total cost of
34 the improvements under the contract shall not exceed the preliminary
35 cost estimates for such improvements prepared by an independent
36 consulting engineer or registered professional engineer retained for
37 that purpose by the county, by more than fifty-three percent. The

1 contract shall be void if the owners of the property within the county
2 benefit or improvement district subject to fifty percent or more of the
3 total cost of the improvements object in writing within thirty days
4 after written notice by first class mail, postage prepaid, of the terms
5 of the contract and the preliminary costs estimates for such
6 improvements are provided to each owner of property specifically
7 benefited in the county benefit or improvement district. The contract
8 may provide for the acquisition by the county of the improvement by
9 payment to the owners of the costs of the construction and related
10 costs from the proceeds of bonds issued by the benefit or improvement
11 district, from assessments paid to the benefit or improvement district
12 as appropriate, or by a credit in the amount of such costs against
13 future assessments assessed against such property under the benefit or
14 improvement district. The contract shall provide that all local
15 improvements constructed by owners shall be approved and accepted by
16 the county as facilities of the county before payment to the owners is
17 authorized. Any work, construction, alteration, repair, or
18 improvement, other than ordinary maintenance, that the county causes to
19 be performed by an owner or developer of real estate through a contract
20 under this section shall comply with chapter 39.12 RCW.

21 **Sec. 152.** RCW 36.73.020 and 1989 c 53 s 1 are each amended to
22 read as follows:

23 The legislative authority of a county may establish one or more
24 transportation benefit districts within the county for the purpose of
25 acquiring, constructing, improving, providing, and funding any city
26 street, county road, or state highway improvement, which may include
27 right of way improvements, including but not limited to landscaping,
28 lighting, irrigation, cable, and power line improvements, within or
29 without the district that is (1) consistent with state, regional, and
30 local transportation plans, (2) necessitated by existing or reasonably
31 foreseeable congestion levels attributable to economic growth, and (3)
32 partially funded by local government or private developer
33 contributions, or a combination of such contributions. Such
34 transportation improvements shall be owned by the county of
35 jurisdiction if located in an unincorporated area, by the city of
36 jurisdiction if located in an incorporated area, or by the state in
37 cases where the transportation improvement is or becomes a state
38 highway; and all such transportation improvements shall be administered

1 and maintained as other public streets, roads, and highways. The
2 district may not include any area within the corporate limits of a city
3 unless the city legislative authority has agreed to the inclusion
4 pursuant to chapter 39.34 RCW. The agreement shall specify the area
5 and such powers as may be granted to the benefit district.

6 The members of the county legislative authority, acting ex officio
7 and independently, shall compose the governing body of the district:
8 PROVIDED, That where a transportation benefit district includes any
9 portion of an incorporated city, town, or another county, the district
10 may be governed as provided in an interlocal agreement adopted pursuant
11 to chapter 39.34 RCW. The county treasurer shall act as the ex officio
12 treasurer of the district. The electors of the district shall all be
13 registered voters residing within the district. For purposes of this
14 section, the term "city" means both cities and towns.

15 A county may contract with an owner or developer of real estate
16 for the construction or improvement of transportation improvements that
17 will be incorporated into or used as part of the public system under
18 terms approved by the owner or developer and the legislative authority
19 of the county. Any work, construction, alteration, repair, or
20 improvement, other than ordinary maintenance, that the county causes to
21 be performed by an owner or developer of real estate through a contract
22 under this section shall comply with chapter 39.12 RCW.

23 **Sec. 153.** RCW 36.88.010 and 1985 c 400 s 3 and 1985 c 369 s 7 are
24 each reenacted and amended to read as follows:

25 All counties have the power to create county road improvement
26 districts for the acquisition of rights of way and improvement of
27 county roads, existing private roads that will become county roads as
28 a result of this improvement district process and, with the approval of
29 the state department of transportation, state highways; for the
30 construction or improvement of necessary drainage facilities,
31 bulkheads, retaining walls, and other appurtenances therefor, bridges,
32 culverts, sidewalks, curbs and gutters, escalators, or moving
33 sidewalks; and for the draining or filling of drainage potholes or
34 swamps. Such counties have the power to levy and collect special
35 assessments against the real property specially benefited thereby for
36 the purpose of paying the whole or any part of the cost of such
37 acquisition of rights of way, construction, or improvement.

1 A county may contract with an owner or developer of real estate
2 for the construction or improvement of roads and related facilities
3 authorized under this section that will be incorporated into or become
4 public roads under terms approved by the owner or developer and the
5 legislative authority of the county. Any work, construction,
6 alteration, repair, or improvement, other than ordinary maintenance,
7 that the county causes to be performed by an owner or developer of real
8 estate through a contract under this section shall comply with chapter
9 39.12 RCW.

10 **Sec. 154.** RCW 36.94.220 and 1981 c 313 s 3 are each amended to
11 read as follows:

12 (1) A county shall have the power to establish utility local
13 improvement districts and local improvement districts within the area
14 of a sewerage and/or water general plan and to levy special assessments
15 under a mode of annual installments extending over a period not
16 exceeding twenty years on all property specially benefited by any local
17 improvement on the basis of the special benefits to pay in whole or in
18 part the damages or costs of any improvements ordered in such county.

19 (2) Utility local improvement districts and local improvement
20 districts may include territory within a city or town only with the
21 written consent of the city or town, but if the local district is
22 formed before such area is included within the city or town, no such
23 consent shall be necessary. Utility local improvement districts and
24 local improvement districts used to provide sewerage disposal systems
25 may include territory within a sewer district or within a water
26 district providing sewerage disposal systems only with the written
27 consent of the sewer district or such a water district, but if the
28 local district is formed before such area is included within the sewer
29 district or such a water district, no consent is necessary. Utility
30 local improvement districts and local improvement districts used to
31 provide water systems may include territory within a water district or
32 within a sewer district providing water systems only with the written
33 consent of the water district or such a sewer district, but if the
34 local district is formed before such area is included within the water
35 district or such a sewer district, no consent is necessary.

36 (3) The levying, collection, and enforcement of all public
37 assessments hereby authorized shall be in the manner now and hereafter
38 provided by law for the levying, collection, and enforcement of local

1 improvement assessments by cities and towns, insofar as the same shall
2 not be inconsistent with the provisions of this chapter. In addition,
3 the county shall file the preliminary assessment roll at the time and
4 in the manner prescribed in RCW 35.50.005. The duties devolving upon
5 the city treasurer under such laws are imposed upon the county
6 treasurer for the purposes of this chapter. The mode of assessment
7 shall be in the manner to be determined by the county legislative
8 authority by ordinance or resolution. As an alternative to equal
9 annual assessment installments of principal provided for cities and
10 towns, a county legislative authority may provide for the payment of
11 such assessments in equal annual installments of principal and
12 interest. Assessments in any local district may be made on the basis
13 of special benefits up to but not in excess of the total cost of any
14 sewerage and/or water improvement made with respect to that local
15 district and the share of any general sewerage and/or water facilities
16 allocable to that district. In utility local improvement districts,
17 assessments shall be deposited into the revenue bond fund or general
18 obligation bond fund established for the payment of bonds issued to pay
19 such costs which bond payments are secured in part by the pledge of
20 assessments, except pending the issuance and sale of such bonds,
21 assessments may be deposited in a fund for the payment of such costs.
22 In local improvement districts, assessments shall be deposited into a
23 fund for the payment of such costs and local improvement bonds issued
24 to finance the same or into the local improvement guaranty fund as
25 provided by applicable statute.

26 A county may contract with an owner or developer of real estate
27 for the construction or improvement of sewer or water systems that will
28 be incorporated into or used as part of a public water or sewer system
29 under terms approved by the owner or developer and the legislative
30 authority of the county. Any work, construction, alteration, repair,
31 or improvement, other than ordinary maintenance, that the county causes
32 to be performed by an owner or developer of real estate through a
33 contract under this section shall comply with chapter 39.12 RCW.

34 **Sec. 155.** RCW 56.08.010 and 1989 c 389 s 2 and 1989 c 308 s 1 are
35 each reenacted and amended to read as follows:

36 A sewer district may acquire by purchase or by condemnation and
37 purchase all lands, property rights, water, and water rights, both
38 within and without the district, necessary for its purposes. A sewer

1 district may lease real or personal property necessary for its purposes
2 for a term of years for which such leased property may reasonably be
3 needed where in the opinion of the board of sewer commissioners such
4 property may not be needed permanently or substantial savings to the
5 district can be effected thereby. The right of eminent domain shall be
6 exercised in the same manner and by the same procedure as provided for
7 cities and towns, insofar as consistent with the provisions of this
8 title, except that all assessments or reassessment rolls required to
9 be filed by eminent domain commissioners or commissioners appointed by
10 the court shall be prepared and filed by the district, and the duties
11 devolving upon the city treasurer shall be imposed upon the county
12 treasurer for the purposes hereof. A sewer district may construct,
13 condemn and purchase, add to, maintain, and operate systems of sewers
14 for the purpose of furnishing the district and inhabitants thereof with
15 an adequate system of sewers for all uses and purposes, public and
16 private, including but not limited to on-site sewage disposal
17 facilities, approved septic tanks or approved septic tank systems,
18 other facilities and systems for the collection, interception,
19 treatment, and disposal of wastewater, and for the control of pollution
20 from wastewater and for the protection, preservation, and
21 rehabilitation of surface and underground waters, facilities for the
22 drainage of storm or surface waters, public highways, streets, and
23 roads with full authority to regulate the use and operation thereof and
24 the service rates to be charged and may construct, acquire, or own
25 buildings and other necessary district facilities. Such sewage
26 facilities may include facilities which result in combined sewage
27 disposal, treatment, or drainage and electric generation, provided that
28 the electricity generated thereby is a byproduct of the system of
29 sewers. Such electricity may be used by the sewer district or sold to
30 any entity authorized by law to distribute electricity. Such
31 electricity is a byproduct when the electrical generation is
32 subordinate to the primary purpose of sewage disposal, treatment, or
33 drainage. For such purposes a district may conduct sewage throughout
34 the district and throughout other political subdivisions within the
35 district, and construct and lay sewer pipe along and upon public
36 highways, roads, and streets, within and without the district, and
37 condemn and purchase or acquire land and rights of way necessary for
38 such sewer pipe. A district may erect sewage treatment plants, within
39 or without the district, and may acquire by purchase or condemnation,

1 properties or privileges necessary to be had to protect any lakes,
2 rivers, or watercourses and also other areas of land from pollution,
3 from its sewers or its sewage treatment plant. For the purposes of
4 sewage facilities which include facilities which result in combined
5 sewage disposal, treatment, or drainage and electric generation where
6 the electric generation is a byproduct, nothing in this section may be
7 construed to authorize a district to condemn electric generating,
8 transmission, or distribution rights or facilities of entities
9 authorized by law to distribute electricity, or to acquire such rights
10 or facilities without the consent of the owner. A district may charge
11 property owners seeking to connect to the district system of sewers, as
12 a condition to granting the right to so connect, in addition to the
13 cost of such connection, such reasonable connection charge as the board
14 of commissioners shall determine to be proper in order that such
15 property owners shall bear their equitable share of the cost of such
16 system. For purposes of calculating a connection charge, the board of
17 commissioners shall determine the pro rata share of the cost of
18 existing facilities and facilities planned for construction within the
19 next ten years and contained in an adopted comprehensive plan and other
20 costs borne by the district which are directly attributable to the
21 improvements required by property owners seeking to connect to the
22 system. The cost of existing facilities shall not include those
23 portions of the system which have been donated or which have been paid
24 for by grants.

25 The connection charge may include interest charges applied from
26 the date of construction of the sewer system until the connection, or
27 for a period not to exceed ten years, whichever is shorter, at a rate
28 commensurate with the rate of interest applicable to the district at
29 the time of construction or major rehabilitation of the sewer system,
30 or at the time of installation of the sewer lines to which the property
31 owner is seeking to connect.

32 A district may permit payment of the cost of connection and the
33 reasonable connection charge to be paid with interest in installments
34 over a period not exceeding fifteen years. The county treasurer may
35 charge and collect a fee of three dollars per parcel for each year for
36 the treasurer's services. Such fees shall be a charge to be included
37 as part of each annual installment, and shall be credited to the county
38 current expense fund by the county treasurer. A district may compel
39 all property owners within the sewer district located within an area

1 served by the district system of sewers to connect their private drain
2 and sewer systems with the district system under such penalty as the
3 sewer commissioners shall prescribe by resolution. The district may
4 for such purpose enter upon private property and connect the private
5 drains or sewers with the district system and the cost thereof shall be
6 charged against the property owner and shall be a lien upon property
7 served.

8 Revenues from connection charges excluding permit fees are to be
9 considered payments in aid of construction as defined by department of
10 revenue rule.

11 A sewer district may contract with an owner or developer of real
12 estate for the construction or improvement of sewer systems that will
13 be incorporated into or used as part of the public sewer system under
14 terms approved by the owner or developer and the board of
15 commissioners. Any work, construction, alteration, repair, or
16 improvement, other than ordinary maintenance, that the sewer district
17 causes to be performed by an owner or developer of real estate through
18 a contract under this section shall comply with chapter 39.12 RCW.

19 NEW SECTION. Sec. 156. A new section is added to chapter 56.08
20 RCW to read as follows:

21 RCW 56.08.070 does not apply to contracts with the owner or
22 developer of real estate for the construction or improvement of sewer
23 systems that will be incorporated into or used as part of the public
24 sewer system pursuant to RCW 56.08.010, so long as the procedures of
25 section 148 of this act are followed.

26 **Sec. 157.** RCW 56.20.015 and 1983 c 167 s 159 are each amended to
27 read as follows:

28 In addition to all of the powers and authorities set forth in
29 Title 56 RCW, any sewer district (~~shall have~~) has all of the powers
30 of cities as set forth in RCW 35.43.184, 35.43.186, and section 148 of
31 this act and chapter 35.44 RCW. Sewer districts may also exercise all
32 of the powers permitted to a water district under Title 57 RCW, except
33 that a sewer district may not exercise water district powers in any
34 area within its boundaries which is part of an existing district which
35 previously shall have been duly authorized to exercise water district
36 powers in such area without the consent by resolution of the board of
37 commissioners of such district.

1 A sewer district shall have the power to issue general obligation
2 bonds for water system purposes: PROVIDED, That a proposition to
3 authorize general obligation bonds payable from excess tax levies for
4 water system purposes pursuant to chapters 57.16 and 57.20 RCW shall be
5 submitted to all of the qualified voters within that part of the sewer
6 district which is not contained within another existing district duly
7 authorized to exercise water district powers, and the taxes to pay the
8 principal of and interest on the bonds approved by such voters shall be
9 levied only upon all of the taxable property within such part of the
10 sewer district. Such bonds may also be issued and sold in accordance
11 with chapter 39.46 RCW.

12 **Sec. 158.** RCW 57.08.010 and 1994 c 81 s 81 are each amended to
13 read as follows:

14 (1)(a) A water district may acquire by purchase or condemnation,
15 or both, all property and property rights and all water and water
16 rights, both within and without the district, necessary for its
17 purposes.

18 (b) A water district may lease real or personal property necessary
19 for its purposes for a term of years for which such leased property may
20 reasonably be needed where in the opinion of the board of water
21 commissioners such property may not be needed permanently or
22 substantial savings to the district can be effected thereby.

23 (c) The right of eminent domain shall be exercised in the same
24 manner and by the same procedure as provided for cities and towns,
25 insofar as consistent with the provisions of this title, except that
26 all assessment rolls to be prepared and filed by eminent domain
27 commissioners or commissioners appointed by the court shall be prepared
28 and filed by the water district, and the duties devolving upon the city
29 treasurer are hereby imposed upon the county treasurer.

30 (d) A water district may construct, condemn and purchase,
31 purchase, add to, maintain, and supply waterworks to furnish the
32 district and inhabitants thereof, and any city or town therein and any
33 other persons, both within and without the district, with an ample
34 supply of water for all uses and purposes public and private with full
35 authority to regulate and control the use, content, distribution, and
36 price thereof in such a manner as is not in conflict with general law
37 and may construct, acquire, or own buildings and other necessary
38 district facilities. Where a customer connected to the district's

1 system uses the water on an intermittent or transient basis, a district
2 may charge for providing water service to such a customer, regardless
3 of the amount of water, if any, used by the customer.

4 (e) A water district contiguous to Canada may contract with a
5 Canadian corporation for the purchase of water and for the
6 construction, purchase, maintenance, and supply of waterworks to
7 furnish the district and inhabitants thereof and residents of Canada
8 with an ample supply of water under terms approved by the board of
9 commissioners. Such waterworks may include facilities which result in
10 combined water supply and electric generation, provided that the
11 electricity generated thereby is a byproduct of the water supply
12 system.

13 (f) Such electricity may be used by the water district or sold to
14 any entity authorized by law to distribute electricity. Such
15 electricity is a byproduct when the electrical generation is
16 subordinate to the primary purpose of water supply.

17 (g) For such purposes, a water district may take, condemn and
18 purchase, purchase, acquire, and retain water from any public or
19 navigable lake, river, or watercourse, or any underflowing water and,
20 by means of aqueducts or pipe line conduct the same throughout such
21 water district and any city or town therein and carry it along and upon
22 public highways, roads, and streets, within and without such district.

23 (h) For the purpose of constructing or laying aqueducts or pipe
24 lines, dams, or waterworks or other necessary structures in storing and
25 retaining water or for any other lawful purpose such water district may
26 occupy the beds and shores up to the high water mark of any such lake,
27 river, or other watercourse, and may acquire by purchase or
28 condemnation such property or property rights or privileges as may be
29 necessary to protect its water supply from pollution.

30 (i) For the purposes of waterworks which include facilities for
31 the generation of electricity as a byproduct, nothing in this section
32 may be construed to authorize a water district to condemn electric
33 generating, transmission, or distribution rights or facilities of
34 entities authorized by law to distribute electricity, or to acquire
35 such rights or facilities without the consent of the owner.

36 (2) A water district may purchase and take water from any
37 municipal corporation.

38 (3) A water district may fix rates and charges for water supplied
39 and may charge property owners seeking to connect to the district's

1 water supply system, as a condition to granting the right to so
2 connect, in addition to the cost of such connection, such reasonable
3 connection charge as the board of commissioners shall determine to be
4 proper in order that such property owners shall bear their equitable
5 share of the cost of such system.

6 (a) For purposes of calculating a connection charge, the board of
7 commissioners shall determine the pro rata share of the cost of
8 existing facilities and facilities planned for construction within the
9 next ten years and contained in an adopted comprehensive plan and other
10 costs borne by the district which are directly attributable to the
11 improvements required by property owners seeking to connect to the
12 system. The cost of existing facilities shall not include those
13 portions of the system which have been donated or which have been paid
14 for by grants.

15 (b) The connection charge may include interest charges applied
16 from the date of construction of the water system until the connection,
17 or for a period not to exceed ten years, whichever is shorter, at a
18 rate commensurate with the rate of interest applicable to the district
19 at the time of construction or major rehabilitation of the water
20 system, or at the time of installation of the water lines to which the
21 property owner is seeking to connect.

22 (4)(a) A district may permit payment of the cost of connection and
23 the reasonable connection charge to be paid with interest in
24 installments over a period not exceeding fifteen years. The county
25 treasurer may charge and collect a fee of three dollars for each year
26 for the treasurer's services. Such fees shall be a charge to be
27 included as part of each annual installment, and shall be credited to
28 the county current expense fund by the county treasurer.

29 (b) Revenues from connection charges excluding permit fees are to
30 be considered payments in aid of construction as defined by department
31 of revenue rule.

32 (5) A district may operate and maintain a park or recreational
33 facilities on real property that it owns or in which it has an interest
34 that is not immediately necessary for its purposes.

35 If such park or recreational facilities are operated by a person
36 other than the district, including a corporation, partnership, or other
37 business enterprise, the person shall indemnify and hold harmless the
38 district for any injury or damage caused by the action of the person.

1 (6) A water district may contract with an owner or developer of
2 real estate for the construction or improvement of waterworks that will
3 be incorporated into or used as part of the public water system under
4 terms approved by the owner or developer and the board of
5 commissioners. Any work, construction, alteration, repair, or
6 improvement, other than ordinary maintenance, that the water district
7 causes to be performed by an owner or developer of real estate through
8 a contract under this section shall comply with chapter 39.12 RCW.

9 **NEW SECTION. Sec. 159.** A new section is added to chapter 57.08
10 RCW to read as follows:

11 RCW 57.08.050 does not apply to contracts with the owner or
12 developer of real estate for the construction or improvement of
13 waterworks that will be incorporated into or used as part of the public
14 waterworks system pursuant to RCW 57.08.010, so long as the procedures
15 of section 148 of this act are followed.

16 **Sec. 160.** RCW 57.16.050 and 1987 c 169 s 2 are each amended to
17 read as follows:

18 (1) A district may establish local improvement districts within
19 its territory; levy special assessments under the mode of annual
20 installments extending over a period not exceeding twenty years, on all
21 property specially benefited by a local improvement, on the basis of
22 special benefits to pay in whole or in part the damage or costs of any
23 improvements ordered in the district; and issue local improvement bonds
24 in the local improvement district to be repaid by the collection of
25 special assessments. Such bonds may be of any form, including bearer
26 bonds or registered bonds as provided in RCW 39.46.030. The levying,
27 collection and enforcement of such special assessments and issuance of
28 bonds shall be as provided for the levying, collection, and enforcement
29 of special assessments and the issuance of local improvement district
30 bonds by cities and towns insofar as consistent herewith. The duties
31 devolving upon the city or town treasurer are hereby imposed upon the
32 county treasurer of the county in which the real property is located
33 for the purposes hereof. The mode of assessment shall be determined by
34 the water commissioners by resolution. When in the petition or
35 resolution for the establishment of a local improvement district, and
36 in the approved comprehensive plan or approved amendment thereto or
37 plan providing for additions and betterments to the original plan,

1 previously adopted, it is provided that, except as set forth in this
2 section, the special assessments shall be for the sole purpose of
3 payment into the revenue bond fund for the payment of revenue bonds,
4 then the local improvement district shall be designated as a "utility
5 local improvement district." No warrants or bonds shall be issued in
6 a utility local improvement district, but the collection of interest
7 and principal on all special assessments in the utility local
8 improvement district shall be paid into the revenue bond fund, except
9 that special assessments paid before the issuance and sale of bonds may
10 be deposited in a fund for the payment of costs of improvements in the
11 utility local improvement district.

12 (2) Such bonds may also be issued and sold in accordance with
13 chapter 39.46 RCW.

14 (3) A district may contract with an owner or developer of real
15 estate for the construction or improvement of waterworks that will be
16 incorporated into or used as part of the public water system under
17 terms approved by the owner or developer and the board of
18 commissioners. Any work, construction, alteration, repair, or
19 improvement, other than ordinary maintenance, that the district causes
20 to be performed by an owner or developer of real estate through a
21 contract under this section shall comply with chapter 39.12 RCW.

22 (4) In addition to all of the powers and authorities set forth in
23 this title, any water district has all of the powers of cities as set
24 forth in RCW 35.43.184, 35.43.186, and section 148 of this act.

25 NEW SECTION. Sec. 161. Sections 137 and 138 of this act shall
26 constitute a new chapter in Title 36 RCW.

27 NEW SECTION. Sec. 162. RCW 82.02.050, 82.02.060, 82.02.070,
28 82.02.080, 82.02.090, and 82.02.100 are each recodified as sections
29 within the new chapter created in section 161 of this act.

30 NEW SECTION. Sec. 163. RCW 90.58.145 and 1979 ex.s. c 84 s 4 are
31 each repealed.

32 **PART II - PERMITTING**

33 NEW SECTION. Sec. 201. The legislature finds and declares the
34 following:

1 (1) As the number of environmental laws and development
2 regulations has increased for land uses and development, so has the
3 number of required local land use permits, each with its own separate
4 approval process.

5 (2) The increasing number of local and state land use permits and
6 separate environmental review processes required by agencies has
7 generated continuing potential for conflict, overlap, and duplication
8 between the various permit and review processes.

9 (3) This regulatory burden has significantly added to the cost and
10 time needed to obtain local and state land use permits and has made it
11 difficult for the public to know how and when to provide timely
12 comments on land use proposals that require multiple permits and have
13 separate environmental review processes.

14 NEW SECTION. **Sec. 202.** Unless the context clearly requires
15 otherwise, the definitions in this section apply throughout this
16 chapter.

17 (1) "Closed record appeal" means an appeal to a local government
18 body or officer, including the legislative body, following an open
19 record hearing and a decision by the body or officer on a development
20 permit application when the appeal is on the record with no or limited
21 new evidence or information allowed to be submitted and only appeal
22 argument allowed.

23 (2) "Development permit" or "development permit application" means
24 any land use or environmental permit or license required from a local
25 government for a project action, including but not limited to building
26 permits, subdivisions, binding site plans, planned unit developments,
27 conditional uses, shoreline substantial development permits, site-
28 specific rezones not requiring a comprehensive plan amendment, and
29 other land use applications, but does not include proposed amendments
30 to comprehensive plans or the adoption or amendment of development
31 regulations.

32 (3) "Development regulations" means the controls placed on
33 development or land use activities by a local government, including,
34 but not limited to, zoning ordinances, critical areas ordinances,
35 shoreline master programs, official controls, planned unit development
36 ordinances, subdivision ordinances, and binding site plan ordinances,
37 together with any amendments, but does not include decisions to approve
38 a development permit application, even though such decisions may be

1 expressed in a resolution or ordinance of the legislative body of the
2 local government.

3 (4) "Local government" means a county, city, or town.

4 (5) "Open record hearing" means a hearing conducted by a hearing
5 body or officer of the local government that creates a record through
6 testimony and submission of evidence and information, whether the
7 hearing is open to members of the general public for purposes of
8 hearing public comments prior to a decision on a development permit
9 application or is limited to those filing an appeal of a staff
10 decision.

11 NEW SECTION. **Sec. 203.** Not later than December 31, 1996, each
12 local government shall provide by ordinance or resolution for review of
13 development permit applications to achieve the following objectives:

14 (1) Combine the environmental review process, both procedural and
15 substantive, with the procedure for review of development permits;

16 (2) Except as provided in RCW 43.21C.075(3), provide for no more
17 than one open record hearing and one closed record appeal; and

18 (3) Require a uniform twenty-one day appeal period for judicial
19 appeals as provided in section 306 of this act.

20 NEW SECTION. **Sec. 204.** Not later than December 31, 1996, each
21 local government planning under RCW 36.70A.040 shall establish by
22 ordinance, resolution, or rule an integrated and consolidated
23 development permit process that includes the following required
24 elements:

25 (1) A notice of completion to the applicant as required by RCW
26 36.70A.440 (as recodified by this act);

27 (2) A notice of application to the public and agencies with
28 jurisdiction as required by section 208 of this act;

29 (3) With the exception of a determination of significance, which
30 shall be issued in advance of the agency decision or recommendation on
31 the project action as provided in chapter 43.21C RCW, a single report
32 by the decision maker that combines the local government's threshold
33 determination, if required under chapter 43.21C RCW, with the agency's
34 decision or recommendation on all development permits included in the
35 consolidated permit review and also includes any mitigation required
36 pursuant to the development regulations or the agency's authority under
37 RCW 43.21C.060;

1 (4) Except as provided in section 211 of this act, the
2 consolidation into a single review process of all development permits
3 requested by an applicant for part or all of a project action,
4 including no more than one consolidated open record hearing before a
5 single hearing body or officer;

6 (5) Except for the appeal of a determination of significance as
7 provided in RCW 43.21C.075, if a local government elects to provide an
8 appeal of its threshold determinations or development permit decisions,
9 the local government shall provide for no more than one consolidated
10 open record hearing before a single hearing body or officer. The local
11 government need not provide for any further appeal. If a closed record
12 appeal is provided, the appeal shall be on the record before a single
13 decision-making body or officer;

14 (6) A notice of decision as required by section 210 of this act
15 and issued within the time period provided in RCW 36.70A.065 (as
16 recodified by this act) and section 207 of this act; and

17 (7) Any other provisions not inconsistent with the requirements of
18 this chapter or chapter 43.21C RCW.

19 **Sec. 205.** RCW 36.70A.440 and 1994 c 257 s 4 are each amended to
20 read as follows:

21 ~~((Each city and county))~~ (1) Within twenty-eight days after
22 receiving a development permit application, a local government planning
23 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~
24 ~~receiving a development permit application as defined in RCW~~
25 ~~36.70A.030(7),))~~ mail or provide in person a written notice to the
26 applicant, stating either:

27 (a) That the application is complete; or

28 (b) That the application is incomplete and what is necessary to
29 make the application complete.

30 (2)(a) An application shall be deemed complete under this section
31 if the local government does not provide written notice to the
32 applicant that the application is incomplete as provided in subsection
33 (1)(b) of this section.

34 (b) Within ten days after an applicant has submitted to a local
35 government additional information identified by the local government as
36 being necessary for a complete application, the local government shall
37 notify the applicant whether the application is complete or what
38 additional information is necessary.

1 (3) To the extent known by the (~~city or county~~) local
2 government, the (~~notice~~) local government shall identify other
3 agencies of local, state, or federal governments that may have
4 jurisdiction over some aspect of the application.

5 **Sec. 206.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
6 read as follows:

7 Development regulations adopted pursuant to RCW 36.70A.040 shall
8 establish time periods consistent with section 207 of this act for
9 local government actions on specific development permit applications
10 and provide timely and predictable procedures to determine whether a
11 completed development permit application meets the requirements of
12 those development regulations. Such development regulations shall
13 specify the contents of a completed development permit application
14 necessary for the application of such time periods and procedures.

15 NEW SECTION. **Sec. 207.** (1) Except as otherwise provided in
16 subsection (2) of this section, a local government planning under RCW
17 36.70A.040 shall issue its notice of final decision within one hundred
18 twenty days after the local government notifies the applicant for a
19 project that the application is complete, as provided in RCW 36.70A.440
20 (as recodified by this act). In determining the number of days that
21 have elapsed after the local government has notified the applicant that
22 the application is complete, the following periods shall be excluded:

23 (a) Any period during which the applicant has been requested by
24 the local government to correct plans, perform required studies, or
25 provide additional required information. The period shall be
26 calculated from the date the local government notifies the applicant of
27 the need for additional information until the earlier of the date the
28 local government determines whether the additional information
29 satisfies the request for information or ten days after the date the
30 information has been provided to the local government. If the local
31 government determines the information is insufficient, it shall notify
32 the applicant of the deficiencies;

33 (b) Any period during which an environmental impact statement is
34 being prepared following a determination of significance pursuant to
35 chapter 43.21C RCW, if the local government by ordinance or resolution
36 has established time periods for completion of environmental impact
37 statements, or if the local government and the applicant in writing

1 agree to a time period for completion of an environmental impact
2 statement; and

3 (c) A period, not to exceed sixty days, to consider and decide
4 closed record appeals, unless the parties voluntarily agree to extend
5 the period.

6 (2) The time limits established by subsection (1) of this section
7 do not apply if a development permit:

8 (a) Requires an amendment to the comprehensive plan or a
9 development regulation;

10 (b) Involves a new fully contained community as provided in RCW
11 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or
12 the siting of an essential public facility as provided in RCW
13 36.70A.200; or

14 (c) Requires substantial revisions to the project proposal, in
15 which case the time period shall start from the date at which the
16 revised project application is determined to be complete under RCW
17 36.70A.440 (as recodified by this act).

18 (3) A development permit application is complete for purposes of
19 this section when it meets the procedural submission requirements of
20 the local government and is sufficient for continued processing even
21 though additional information may be required or project modifications
22 may be undertaken subsequently. The determination of completeness
23 shall not preclude the local government from requesting additional
24 information or studies either at the time of the notice of completeness
25 or subsequently if new information is required or substantial changes
26 in the proposed action occur.

27 (4) The notice of completeness may include the following as
28 optional information:

29 (a) A preliminary determination of those development regulations
30 that will be used for project mitigation;

31 (b) A preliminary determination of consistency, as provided under
32 section 105 of this act; or

33 (c) Other information the local government chooses to include.

34 (5) A local government may require the applicant for a development
35 permit to designate a single person or entity to receive notice
36 required by this section.

37 NEW SECTION. **Sec. 208.** (1) Not later than December 31, 1996, a
38 local government planning under RCW 36.70A.040 shall provide a notice

1 of application to the public and the departments and agencies with
2 jurisdiction as provided in this section.

3 (2) The notice of application shall include the following:

4 (a) The date of application;

5 (b) The proposed project action and the development permits
6 included in the application and, if applicable, any studies requested
7 under RCW 36.70A.065 (as recodified by this act) or section 207 of this
8 act;

9 (c) The identification of other development or related permits not
10 included in the application to the extent known by the local
11 government;

12 (d) A public comment period of not less than fourteen nor more
13 than twenty-eight days following the date of notice of application, and
14 statements of the right of any person to request a copy of the decision
15 once made and any appeal rights;

16 (e) The date for open record hearing, if applicable and scheduled
17 at the date of notice of the application;

18 (f) A statement of the preliminary determination, if one has been
19 made at the time of notice, of those development regulations that will
20 be used for project mitigation and of consistency as provided in
21 section 105 of this act; and

22 (g) Any other information determined appropriate by the local
23 government, including the optional information required in
24 section 207(4) of this act.

25 (3) If an open record hearing is required for the requested
26 development permits, the notice of application shall be provided at
27 least fourteen days prior to the open record hearing.

28 (4) A local government shall use reasonable methods to give the
29 notice of application to the public and agencies with jurisdiction and
30 may use its existing notice procedures. A local government may use
31 different types of notice for different categories of development
32 permits or types or project actions. Examples of reasonable methods to
33 inform the public are:

34 (a) Posting the property for site-specific proposals;

35 (b) Publishing notice in the newspaper of general circulation in
36 the local government or general area where the proposal is located;

37 (c) Notifying public or private groups with known interest in a
38 certain proposal or in the type of proposal being considered;

39 (d) Notifying the news media;

1 (e) Placing notices in appropriate regional or neighborhood
2 newspapers or trade journals;

3 (f) Publishing notice in agency newsletters or sending notice to
4 agency mailing lists, either general lists or lists for specific
5 proposals or subject areas; and

6 (g) Mailing to neighboring property owners.

7 (5) A notice of application shall not be required for development
8 permits that are categorically exempt under chapter 43.21C RCW, unless
9 an open record hearing is required.

10 (6) The local government may not issue its threshold determination
11 or issue a decision or recommendation on a development permit until
12 expiration of the public comment period. Comments shall be as specific
13 as possible. If an agency with jurisdiction or a member of the public
14 does not respond with written comments within the public comment
15 period, the local government shall assume that such agency or person
16 has no objection to the proposed development permit if the procedures
17 of this section have been met.

18 NEW SECTION. Sec. 209. (1) Each local government planning under
19 RCW 36.70A.040 shall establish a permit review process that provides
20 for the integrated and consolidated review and decision on two or more
21 development permits relating to a proposed project action, including a
22 single application review and approval process covering all development
23 permits requested by an applicant for all or part of a project action
24 and a designated permit coordinator. If an applicant elects the
25 consolidated permit review process, the notice of completion, notice of
26 application, and notice of final decision must include all development
27 permits being reviewed through the consolidated permit review process.

28 (2) Consolidated permit review may provide different procedures
29 for different categories of development permits, but if a project
30 action requires development permits from more than one category, the
31 local government shall provide for consolidated permit review with a
32 single open record hearing and no more than one closed record appeal.
33 Each local government shall determine which development permits are
34 subject to an open record hearing and a closed record appeal. Examples
35 of categories of development permits include but are not limited to:

36 (a) Categorically exempt proposals, such as variances, lot
37 boundary adjustments, and certain construction permits, which require
38 no environmental review or public notice;

1 (b) Administrative permits that require environmental review, but
2 no open record hearing except on appeal;

3 (c) Administrative permits that require a threshold determination
4 and an open record hearing; and

5 (d) Permits that require environmental review and a decision by
6 the local government legislative body.

7 (3) A local government is not required to provide for appeals. If
8 provided, an appeal must be filed within fourteen days after notice of
9 the decision being appealed. The applicant for a development permit is
10 deemed to be a participant in any comment period, open record hearing,
11 and closed record appeal.

12 (4) A local government may provide by ordinance or resolution for
13 the same or a different decision maker or hearing body or officer for
14 different categories of development permits. In the case of
15 consolidated development permit review, the local government shall
16 specify which decision makers shall make the decision or
17 recommendation, conduct the hearing, or decide the appeal to ensure
18 that consolidated permit review occurs as provided in this section.
19 The consolidated permit review may combine an open record public
20 hearing with an open record appeal hearing. In such cases, the local
21 government by ordinance or resolution shall specify which development
22 permits, if any, shall be subject to a closed record appeal.

23 (5) Each local government planning under RCW 36.70A.040 shall
24 adopt procedures for administrative interpretation of its development
25 regulations.

26 NEW SECTION. **Sec. 210.** A local government planning under RCW
27 36.70A.040 shall provide a notice of decision, which may be a copy of
28 the report, recommendation, or decision, to the applicant and to any
29 person requesting notice of the decision prior to the rendering of the
30 decision. The local government may publish or otherwise provide for
31 additional notice of its decision.

32 NEW SECTION. **Sec. 211.** A local government by ordinance or
33 resolution may exclude the following development permits from the
34 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065
35 (as recodified by this act), sections 204, and 207 through 210 of this
36 act:

1 (1) Variances, lot line or boundary adjustments, short subdivision
2 approval, building and other construction permits categorically exempt
3 from environmental review or similar administrative approvals; and

4 (2) Landmark designations, street vacations, or other approvals
5 relating to the use of public areas or facilities, or other development
6 permits that the local government by ordinance or resolution has
7 determined present special circumstances that warrant a review process
8 different from that provided in RCW 36.70A.440 (as recodified by this
9 act), 36.70A.065 (as recodified by this act), sections 204, and 207
10 through 210 of this act.

11 NEW SECTION. **Sec. 212.** A local government not planning under RCW
12 36.70A.040 or any other local agency may incorporate some or all of the
13 provisions of sections 204 and 207 through 210 of this act and RCW
14 36.70A.065 and 36.70A.440 (as recodified by this act) into its
15 procedures for review of development permits or other project actions.

16 NEW SECTION. **Sec. 213.** (1) Each local government is encouraged
17 to adopt further project review provisions to provide prompt,
18 coordinated review and ensure accountability to applicants and the
19 public, including expedited review for development permits for projects
20 that are consistent with adopted development regulations and within the
21 capacity of system-wide infrastructure improvements.

22 (2) Nothing in this chapter is intended or shall be construed to
23 prevent a local government from requiring by rule, ordinance, or
24 resolution a preapplication conference or meeting, design review, or
25 hearing on some or all proposed projects to obtain public comments on
26 scoping or a draft environmental impact statement pursuant to chapter
27 43.21C RCW and its applicable rules.

28 (3) Each local government is encouraged to develop a system of
29 professional certification whereby qualified engineers or other
30 professionals certify an application's compliance with adopted
31 development regulations for the purpose of expediting or eliminating
32 certain aspects of agency review of compliance with those regulations.

33 (4) Each local government shall adopt procedures to monitor and
34 enforce permit decisions and conditions.

35 (5) Nothing in this chapter modifies any independent statutory
36 authority for a government agency to appeal a development permit issued
37 by a local government.

1 NEW SECTION. Sec. 214. A new section is added to chapter 64.40
2 RCW to read as follows:

3 A local government is not liable for damages under this chapter
4 due to the local government s failure to make a final decision within
5 the time limits established in section 207 of this act.

6 **Sec. 215.** RCW 58.17.070 and 1981 c 293 s 4 are each amended to
7 read as follows:

8 A preliminary plat of proposed subdivisions and dedications of
9 land shall be submitted for approval to the ((legislative body of the))
10 city, town, or county within which the plat is situated.

11 Unless an applicant for preliminary plat approval requests
12 otherwise, a preliminary plat shall be processed simultaneously with
13 applications for rezones, variances, planned unit developments, site
14 plan approvals, and similar quasi-judicial or administrative actions to
15 the extent that procedural requirements applicable to these actions
16 permit simultaneous processing.

17 **Sec. 216.** RCW 58.17.090 and 1981 c 293 s 5 are each amended to
18 read as follows:

19 (1) Upon receipt of an application for preliminary plat approval
20 the administrative officer charged by ordinance with responsibility for
21 administration of regulations pertaining to platting and subdivisions
22 shall provide public notice and set a date for a public hearing.
23 Except as provided in section 208 of this act, at a minimum, notice of
24 the hearing shall be given in the following manner:

25 ((+1)) (a) Notice shall be published not less than ten days prior
26 to the hearing in a newspaper of general circulation within the county
27 and a newspaper of general circulation in the area where the real
28 property which is proposed to be subdivided is located; and

29 ((+2)) (b) Special notice of the hearing shall be given to
30 adjacent landowners by any other reasonable method local authorities
31 deem necessary. Adjacent landowners are the owners of real property,
32 as shown by the records of the county assessor, located within three
33 hundred feet of any portion of the boundary of the proposed
34 subdivision. If the owner of the real property which is proposed to be
35 subdivided owns another parcel or parcels of real property which lie
36 adjacent to the real property proposed to be subdivided, notice under
37 this subsection (1)(b) shall be given to owners of real property

1 located within three hundred feet of any portion of the boundaries of
2 such adjacently located parcels of real property owned by the owner of
3 the real property proposed to be subdivided.

4 (2) All hearings shall be public. All hearing notices shall
5 include a description of the location of the proposed subdivision. The
6 description may be in the form of either a vicinity location sketch or
7 a written description other than a legal description.

8 **Sec. 217.** RCW 58.17.092 and 1988 c 168 s 12 are each amended to
9 read as follows:

10 Any notice made under chapter 58.17 or 36.--- (sections 201
11 through 204 and 207 through 213 of this act) RCW that identifies
12 affected property may identify this affected property without using a
13 legal description of the property including, but not limited to,
14 identification by an address, written description, vicinity sketch, or
15 other reasonable means.

16 **Sec. 218.** RCW 58.17.100 and 1981 c 293 s 6 are each amended to
17 read as follows:

18 If a city, town or county has established a planning commission or
19 planning agency in accordance with state law or local charter, such
20 commission or agency shall review all preliminary plats and make
21 recommendations thereon to the city, town or county legislative body to
22 assure conformance of the proposed subdivision to the general purposes
23 of the comprehensive plan and to planning standards and specifications
24 as adopted by the city, town or county. Reports of the planning
25 commission or agency shall be advisory only: PROVIDED, That the
26 legislative body of the city, town or county may, by ordinance, assign
27 to such commission or agency, or any department official or group of
28 officials, such administrative functions, powers and duties as may be
29 appropriate, including the holding of hearings, and recommendations for
30 approval or disapproval of preliminary plats of proposed subdivisions.

31 Such recommendation shall be submitted to the legislative body not
32 later than fourteen days following action by the hearing body. Upon
33 receipt of the recommendation on any preliminary plat the legislative
34 body shall at its next public meeting set the date for the public
35 meeting where it shall consider the recommendations of the hearing body
36 and may adopt or reject the recommendations of such hearing body based
37 on the record established at the public hearing. If, after considering

1 the matter at a public meeting, the legislative body deems a change in
2 the planning commission's or planning agency's recommendation approving
3 or disapproving any preliminary plat is necessary, (~~the change of the~~
4 ~~recommendation shall not be made until~~) the legislative body shall
5 (~~conduct a public hearing and thereupon~~) adopt its own
6 recommendations and approve or disapprove the preliminary plat. (~~Such~~
7 ~~public hearing may be held before a committee constituting a majority~~
8 ~~of the legislative body. If the hearing is before a committee, the~~
9 ~~committee shall report its recommendations on the matter to the~~
10 ~~legislative body for final action.~~)

11 Every decision or recommendation made under this section shall be
12 in writing and shall include findings of fact and conclusions to
13 support the decision or recommendation.

14 A record of all public meetings and public hearings shall be kept
15 by the appropriate city, town or county authority and shall be open to
16 public inspection.

17 Sole authority to approve final plats, and to adopt or amend
18 platting ordinances shall reside in the legislative bodies.

19 **Sec. 219.** RCW 58.17.330 and 1994 c 257 s 6 are each amended to
20 read as follows:

21 (1) As an alternative to those provisions of this chapter
22 requiring a planning commission to hear and issue recommendations for
23 plat approval, the county or city legislative body may adopt a hearing
24 examiner system and shall specify by ordinance the legal effect of the
25 decisions made by the examiner. (~~Except as provided in subsection (2)~~
26 ~~of this section,~~) The legal effect of such decisions shall include one
27 of the following:

28 (a) The decision may be given the effect of a recommendation to
29 the legislative body;

30 (b) The decision may be given the effect of an administrative
31 decision appealable within a specified time limit to the legislative
32 body; or

33 (c) The decision may be given the effect of a final decision of
34 the legislative body.

35 The legislative authority shall prescribe procedures to be followed by
36 a hearing examiner.

37 (2) (~~The legislative body shall specify the legal effect of a~~
38 ~~hearing examiner's procedural determination under the state~~

1 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
2 ~~have the effect under subsection (1) (a) or (b) of this section, or may~~
3 ~~be given the effect of a final decision of the legislative body.~~

4 (3)) Each final decision of a hearing examiner shall be in
5 writing and shall include findings and conclusions, based on the
6 record, to support the decision. Each final decision of a hearing
7 examiner, unless a longer period is mutually agreed to by the applicant
8 and the hearing examiner, shall be rendered within ten working days
9 following conclusion of all testimony and hearings.

10 NEW SECTION. Sec. 220. The legislature finds that the lack of
11 certainty in the approval of development projects can result in a waste
12 of public and private resources, escalate housing costs for consumers
13 and discourage the commitment to comprehensive planning which would
14 make maximum efficient use of resources at the least economic cost to
15 the public. Assurance to a development project applicant that upon
16 government approval the project may proceed in accordance with existing
17 policies and regulations, and subject to conditions of approval, all as
18 set forth in a development agreement, will strengthen the public
19 planning process, encourage private participation and comprehensive
20 planning, and reduce the economic costs of development. Further, the
21 lack of public facilities and services is a serious impediment to
22 development of new housing and commercial uses. Project applicants and
23 local governments may include provisions and agreements whereby
24 applicants are reimbursed over time for financing public facilities.
25 It is the intent of the legislature by sections 221 through 225 of this
26 act to allow local governments and owners and developers of real
27 property to enter into development agreements.

28 NEW SECTION. Sec. 221. A new section is added to chapter 36.70A
29 RCW to read as follows:

30 (1) A county or city may enter into a development agreement with
31 a person having ownership or control of real property within its
32 jurisdiction. A city may enter into a development agreement for real
33 property outside its boundaries as part of a proposed annexation or a
34 service agreement. A development agreement must set forth the
35 development standards and other provisions that shall apply to and
36 govern and vest the development, use, and mitigation of the development
37 of the real property for the duration specified in the agreement.

1 (2) Sections 220 through 223 of this act do not affect the
2 validity of a contract rezone, concomitant agreement, annexation
3 agreement, or other agreement in existence on the effective date of
4 sections 220 through 223 of this act, or adopted under separate
5 authority, that includes some or all of the development standards
6 provided in subsection (3) of this section.

7 (3) For the purposes of this section, "development standards"
8 includes, but is not limited to:

9 (a) Project elements such as permitted uses, residential
10 densities, and nonresidential densities and intensities or building
11 sizes;

12 (b) The amount and payment of impact fees imposed or agreed to in
13 accordance with chapter 36.-- RCW (sections 137 and 138 of this act) or
14 any other applicable provisions of state law, other financial
15 contributions by the property owner, inspection fees, or dedications;

16 (c) Mitigation measures, development conditions, and other
17 requirements under chapter 43.21C RCW;

18 (d) Design standards such as maximum heights, setbacks, drainage
19 and water quality requirements, landscaping, and other development
20 features;

21 (e) Affordable housing;

22 (f) Parks and open space preservation;

23 (g) Phasing;

24 (h) Review procedures and standards for implementing decisions;

25 (i) A build-out or vesting period for applicable standards; and

26 (j) Any other appropriate development requirement or procedure.

27 (4) The execution of a development agreement is a proper exercise
28 of county and city police power and contract authority. A development
29 agreement may obligate a party to fund or provide services,
30 infrastructure, or other facilities. A development agreement shall
31 reserve authority to impose new or different regulations to the extent
32 required by a serious threat to public health and safety.

33 NEW SECTION. **Sec. 222.** A new section is added to chapter 36.70A
34 RCW to read as follows:

35 Unless amended or terminated, a development agreement is
36 enforceable during its term by a party. A development agreement and
37 the development standards in the agreement govern during the term of
38 the agreement, or for all or that part of the build-out period

1 specified in the agreement, and may not be subject to an amendment to
2 a zoning ordinance or development standard or regulation or a new
3 zoning ordinance or development standard or regulation adopted after
4 the effective date of the agreement. A permit or approval issued by
5 the county or city after the execution of the development agreement
6 must be consistent with the development agreement.

7 NEW SECTION. **Sec. 223.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 A development agreement may be recorded with the real property
10 records of the county in which the property is located. During the
11 term of the development agreement, the agreement is binding on and will
12 inure to the benefit of the parties and their successors, including a
13 city that assumes jurisdiction through incorporation or annexation of
14 the area covering the property covered by the development agreement.

15 NEW SECTION. **Sec. 224.** A new section is added to chapter 36.70A
16 RCW to read as follows:

17 A county or city shall only approve a development agreement by
18 ordinance or resolution after a public hearing. The county or city
19 legislative body or a planning commission, hearing examiner, or other
20 body designated by the legislative body to conduct the public hearing
21 may conduct the hearing. If the development agreement relates to a
22 development permit application, the provisions of chapter 36.-- RCW
23 (sections 301 through 314 of this act) shall apply to the appeal of the
24 decision on the development agreement.

25 NEW SECTION. **Sec. 225.** Nothing in sections 220 through 224 of
26 this act is intended to authorize local governments to impose impact
27 fees, inspection fees, or dedications or to require any other financial
28 contributions or mitigation measures except as expressly authorized by
29 other applicable provisions of state law.

30 **Sec. 226.** RCW 35.63.130 and 1994 c 257 s 8 are each amended to
31 read as follows:

32 (1) As an alternative to those provisions of this chapter relating
33 to powers or duties of the planning commission to hear and report on
34 any proposal to amend a zoning ordinance, the legislative body of a
35 city or ((county)) town may adopt a hearing examiner system under which

1 a hearing examiner or hearing examiners may hear and decide
2 applications for amending the zoning ordinance when the amendment which
3 is applied for is not of general applicability. In addition, the
4 legislative body may vest in a hearing examiner the power to hear and
5 decide those issues it believes should be reviewed and decided by a
6 hearing examiner, including but not limited to:

7 (a) Applications for conditional uses, variances, subdivisions,
8 shoreline permits, or any other class of applications for or pertaining
9 to development of land or land use((s which the legislative body
10 believes should be reviewed and decided by a hearing examiner))i

11 (b) Appeals of administrative decisions or determinations; and

12 (c) Appeals of administrative decisions or determinations pursuant
13 to chapter 43.21C RCW.

14 The legislative body shall prescribe procedures to be followed by
15 the hearing examiner.

16 (2) Each city or ((county)) town legislative body electing to use
17 a hearing examiner pursuant to this section shall by ordinance specify
18 the legal effect of the decisions made by the examiner. ((Except as
19 provided in subsection (2) of this section,)) The legal effect of such
20 decisions may vary for the different classes of applications decided by
21 the examiner but shall include one of the following:

22 (a) The decision may be given the effect of a recommendation to
23 the legislative body;

24 (b) The decision may be given the effect of an administrative
25 decision appealable within a specified time limit to the legislative
26 body((-

27 (2) ~~The legislative body may specify the legal effect of a hearing~~
28 ~~examiner's procedural determination under the state environmental~~
29 ~~policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect~~
30 ~~under subsection (1) (a) or (b) of this section, or))i or~~

31 (c) The decision may be given the effect of a final decision of
32 the legislative body.

33 (3) Each final decision of a hearing examiner shall be in writing
34 and shall include findings and conclusions, based on the record, to
35 support the decision. Such findings and conclusions shall also set
36 forth the manner in which the decision would carry out and conform to
37 the city's or ((county's)) town's comprehensive plan and the city's or
38 ((county's)) town's development regulations. Each final decision of a
39 hearing examiner, unless a longer period is mutually agreed to in

1 writing by the applicant and the hearing examiner, shall be rendered
2 within ten working days following conclusion of all testimony and
3 hearings.

4 **Sec. 227.** RCW 35A.63.170 and 1994 c 257 s 7 are each amended to
5 read as follows:

6 (1) As an alternative to those provisions of this chapter relating
7 to powers or duties of the planning commission to hear and report on
8 any proposal to amend a zoning ordinance, the legislative body of a
9 city may adopt a hearing examiner system under which a hearing examiner
10 or hearing examiners may hear and decide applications for amending the
11 zoning ordinance when the amendment which is applied for is not of
12 general applicability. In addition, the legislative body may vest in
13 a hearing examiner the power to hear and decide those issues it
14 believes should be reviewed and decided by a hearing examiner,
15 including but not limited to:

16 (a) Applications for conditional uses, variances, subdivisions,
17 shoreline permits, or any other class of applications for or pertaining
18 to development of land or land use~~((s which the legislative body~~
19 ~~believes should be reviewed and decided by a hearing examiner));~~

20 (b) Appeals of administrative decisions or determinations; and

21 (c) Appeals of administrative decisions or determinations pursuant
22 to chapter 43.21C RCW.

23 The legislative body shall prescribe procedures to be followed by
24 a hearing examiner. If the legislative authority vests in a hearing
25 examiner the authority to hear and decide variances, then the
26 provisions of RCW 35A.63.110 shall not apply to the city.

27 (2) Each city legislative body electing to use a hearing examiner
28 pursuant to this section shall by ordinance specify the legal effect of
29 the decisions made by the examiner. ~~((Except as provided in subsection~~
30 ~~(2) of this section,)) The legal effect of such decisions may vary for
31 the different classes of applications decided by the examiner but shall
32 include one of the following:~~

33 (a) The decision may be given the effect of a recommendation to
34 the legislative body;

35 (b) The decision may be given the effect of an administrative
36 decision appealable within a specified time limit to the legislative
37 body(~~-~~

1 ~~(2) The legislative body shall specify the legal effect of a~~
2 ~~hearing examiner's procedural determination under the state~~
3 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
4 ~~have the effect under subsection (1) (a) or (b) of this section, or))i~~
5 or

6 (c) The decision may be given the effect of a final decision of
7 the legislative body.

8 (3) Each final decision of a hearing examiner shall be in writing
9 and shall include findings and conclusions, based on the record, to
10 support the decision. Such findings and conclusions shall also set
11 forth the manner in which the decision would carry out and conform to
12 the city's comprehensive plan and the city's development regulations.
13 Each final decision of a hearing examiner, unless a longer period is
14 mutually agreed to in writing by the applicant and the hearing
15 examiner, shall be rendered within ten working days following
16 conclusion of all testimony and hearings.

17 **Sec. 228.** RCW 36.70.970 and 1994 c 257 s 9 are each amended to
18 read as follows:

19 (1) As an alternative to those provisions of this chapter relating
20 to powers or duties of the planning commission to hear and issue
21 recommendations on applications for plat approval and applications for
22 amendments to the zoning ordinance, the county legislative authority
23 may adopt a hearing examiner system under which a hearing examiner or
24 hearing examiners may hear and issue decisions on proposals for plat
25 approval and for amendments to the zoning ordinance when the amendment
26 which is applied for is not of general applicability. In addition, the
27 legislative authority may vest in a hearing examiner the power to hear
28 and decide those issues it believes should be reviewed and decided by
29 a hearing examiner, including but not limited to:

30 (a) Applications for conditional uses ((applications)), variances
31 ((applications)), ((applications for)) shoreline permits, or any other
32 class of applications for or pertaining to development of land or land
33 use((s))i

34 (b) Appeals of administrative decisions or determinations; and

35 (c) Appeals of administrative decisions or determinations pursuant
36 to chapter 43.21C RCW.

37 The legislative authority shall prescribe procedures to be
38 followed by a hearing examiner.

1 Any county which vests in a hearing examiner the authority to hear
2 and decide conditional uses and variances shall not be required to have
3 a zoning adjuster or board of adjustment.

4 (2) Each county legislative authority electing to use a hearing
5 examiner pursuant to this section shall by ordinance specify the legal
6 effect of the decisions made by the examiner. (~~Except as provided in~~
7 ~~subsection (2) of this section,~~) Such legal effect may vary for the
8 different classes of applications decided by the examiner but shall
9 include one of the following:

10 (a) The decision may be given the effect of a recommendation to
11 the legislative authority;

12 (b) The decision may be given the effect of an administrative
13 decision appealable within a specified time limit to the legislative
14 authority(~~(-~~

15 ~~(2) The legislative authority may specify the legal effect of a~~
16 ~~hearing examiner's procedural determination under the state~~
17 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
18 ~~have the effect under subsection (1) (a) or (b) of this section, or))
19 or~~

20 (c) The decision may be given the effect of a final decision of
21 the legislative authority.

22 (3) Each final decision of a hearing examiner shall be in writing
23 and shall include findings and conclusions, based on the record, to
24 support the decision. Such findings and conclusions shall also set
25 forth the manner in which the decision would carry out and conform to
26 the county's comprehensive plan and the county's development
27 regulations. Each final decision of a hearing examiner, unless a
28 longer period is mutually agreed to in writing by the applicant and the
29 hearing examiner, shall be rendered within ten working days following
30 conclusion of all testimony and hearings.

31 NEW SECTION. **Sec. 229.** The legislature hereby finds and
32 declares:

33 (1) Washington's environmental protection programs have
34 established strict standards to reduce pollution and protect the public
35 health and safety and the environment. The single-purpose programs
36 instituted to achieve these standards have been successful in many
37 respects, and have produced significant gains in protecting
38 Washington's environment in the face of substantial population growth.

1 (2) Continued progress to achieve the environmental standards in
2 the face of continued population growth will require greater
3 coordination between the single-purpose environmental programs and more
4 efficient operation of these programs overall. Pollution must be
5 prevented and controlled and not simply transferred to another media or
6 another place. This goal can only be achieved by maintaining the
7 current environmental protection standards and by greater integration
8 of the existing programs.

9 (3) As the number of environmental laws and regulations have grown
10 in Washington, so have the number of permits required of business and
11 government. This regulatory burden has significantly added to the cost
12 and time needed to obtain essential permits in Washington. The
13 increasing number of individual permits and permit authorities has
14 generated the continuing potential for conflict, overlap, and
15 duplication between the various state, local, and federal permits.

16 (4) To ensure that local needs and environmental conditions
17 receive the proper attention, the issuance and renewal of permits
18 should continue to be made, to the extent feasible, at the regional and
19 local levels of the environmental programs.

20 (5) The purpose of this chapter is to require the department of
21 ecology to institute new, efficient procedures that will assist
22 businesses and public agencies in complying with the environmental
23 quality laws in an expedited fashion, without reducing protection of
24 public health and safety and the environment.

25 (6) Those procedures need to provide a permit process that
26 promotes effective dialogue and ensures ease in the transfer and
27 clarification of technical information, while preventing duplication.
28 It is necessary that the procedures establish a process for preliminary
29 and ongoing meetings between the applicant, the consolidated permit
30 agency, and the participating permit agencies, but do not preclude the
31 applicant or participating permit agencies from individually
32 coordinating with each other.

33 (7) It is necessary, to the maximum extent practicable, that the
34 procedures established in this chapter ensure that the consolidated
35 permit agency process and applicable permit requirements and criteria
36 are integrated and run concurrently, rather than consecutively.

37 (8) It is necessary to provide a reliable and consolidated source
38 of information concerning the environmental and land use laws and
39 procedures that apply to any given proposal. This information is to be

1 current and encompass all state and local jurisdictions. To the extent
2 possible, it is to encompass federal jurisdictions and functions, as
3 well.

4 (9) The process shall provide an optional process by which a
5 project proponent may obtain active coordination of all applicable
6 regulatory and land-use permitting procedures. This process is not to
7 replace individual laws, or diminish the substantive decision-making
8 role of individual jurisdictions. Rather it is to provide
9 predictability, administrative consolidation, and, where possible,
10 consolidation of appeal processes.

11 (10) The process shall provide consolidated, effective, and easier
12 opportunities for members of the public to receive information and
13 present their views about proposed projects.

14 NEW SECTION. **Sec. 230.** Unless the context clearly requires
15 otherwise, the definitions in this section apply throughout this
16 chapter.

17 (1) "Center" means the permit assistance center established in the
18 department by section 231 of this act.

19 (2) "Consolidated permit agency" means the permit agency that has
20 the greatest overall jurisdiction over a project.

21 (3) "Department" means the department of ecology.

22 (4) "Participating permit agency" means a permit agency, other
23 than the consolidated permit agency, that is responsible for the
24 issuance of a permit for a project.

25 (5) "Permit" means any license, certificate, registration, permit,
26 or other form of authorization required by a permit agency to engage in
27 a particular activity.

28 (6) "Permit agency" means:

29 (a) The department of ecology, an air pollution control authority,
30 the department of natural resources, the department of fish and
31 wildlife, and the department of health; and

32 (b) Any other state, regional, or local agency for the project
33 that participates at the request of the permit applicant and upon the
34 agency's agreement to be subject to this chapter.

35 (7) "Project" means an activity, the conduct of which requires a
36 permit from two or more permit agencies.

1 NEW SECTION. **Sec. 231.** The permit assistance center is

2 established within the department. The center shall:

3 (1) Publish and keep current one or more handbooks containing
4 lists and explanations of all permit laws. The center shall coordinate
5 with the business assistance center in providing and maintaining this
6 information to applicants and others. To the extent possible, the
7 handbook shall include relevant federal laws. A state agency or local
8 government shall provide a reasonable number of copies of application
9 forms, statutes, ordinances, rules, handbooks, and other informational
10 material requested by the center and shall otherwise fully cooperate
11 with the center. The center shall seek the cooperation of relevant
12 federal agencies;

13 (2) Establish, and make known, a point of contact for distribution
14 of the handbook and advice to the public as to its interpretation in
15 any given case;

16 (3) Work closely and cooperatively with the business license
17 center and the business assistance center in providing efficient and
18 nonduplicative service to the public; and

19 (4) Provide a permit coordination training program designed to:

20 (a) Educate project facilitators as to the role and requirements
21 of all jurisdictions;

22 (b) Share permit coordination experiences;

23 (c) Improve the quality and efficiency of project facilitation;
24 and

25 (d) Certify project facilitators.

26 NEW SECTION. **Sec. 232.** (1) Not later than January 1, 1996, the
27 center shall establish by rule an administrative process for the
28 designation of a consolidated permit agency for a project.

29 (2) The administrative process shall consist of the establishment
30 of guidelines for designating the consolidated permit agency for a
31 project. If a permit agency is the lead agency for purposes of chapter
32 43.21C RCW, that permit agency shall be the consolidated permit agency.
33 In other cases, the guidelines shall require that at least the
34 following factors be considered in determining which permit agency has
35 the greatest overall jurisdiction over the project:

36 (a) The types of facilities or activities that make up the
37 project;

1 (b) The types of public health and safety and environmental
2 concerns that should be considered in issuing permits for the project;

3 (c) The environmental medium that may be affected by the project,
4 the extent of those potential effects, and the environmental protection
5 measures that may be taken to prevent the occurrence of, or to
6 mitigate, those potential effects;

7 (d) The regulatory activity that is of greatest importance in
8 preventing or mitigating the effects that the project may have on
9 public health and safety or the environment; and

10 (e) The statutory and regulatory requirements that apply to the
11 project and the complexity of those requirements.

12 NEW SECTION. Sec. 233. Upon the request of a project applicant,
13 the center shall appoint a project facilitator to assist the applicant
14 in determining which regulatory requirements, processes, and permits
15 may be required for development and operation of the proposed project.
16 The project facilitator shall provide the information to the applicant
17 and explain the options available to the applicant in obtaining the
18 required permits. If the applicant requests, the center shall
19 designate a coordinating permit agency as provided in section 234 of
20 this act.

21 NEW SECTION. Sec. 234. (1) A permit applicant who requests the
22 designation of a consolidated permit agency shall provide the center
23 with a description of the project, a preliminary list of the permits
24 that the project may require, the identity of any public agency that
25 has been designated the lead agency for the project pursuant to chapter
26 43.21C RCW, and the identity of the participating permit agencies. The
27 center may request any information from the permit applicant that is
28 necessary to make the designation under this section, and may convene
29 a scoping meeting of the likely consolidated permit agency and
30 participating permit agencies in order to make that designation.

31 (2) The consolidated permit agency shall serve as the main point
32 of contact for the permit applicant with regard to the processing of
33 the consolidated permit process for the project and shall manage the
34 procedural aspects of that processing consistent with existing laws
35 governing the consolidated permit agency and participating permit
36 agencies, and with the procedures agreed to by those agencies in
37 accordance with section 235 of this act. In carrying out these

1 responsibilities, the consolidated permit agency shall ensure that the
2 permit applicant has all the information needed to apply for all the
3 component permits that are incorporated in the consolidated permit
4 process for the project, coordinate the review of those permits by the
5 respective participating permit agencies, ensure that timely permit
6 decisions are made by the participating permit agencies, and assist in
7 resolving any conflict or inconsistency among the permit requirements
8 and conditions that are to be imposed by the participating permit
9 agencies with regard to the project. The coordinating permit agency
10 shall keep in contact with the applicant as well as other permit
11 agencies in order to assure that the process is progressing as
12 scheduled. The coordinating permit agency shall recommend appropriate
13 alternatives that may be more efficient and identify potential problems
14 to successful completion of the process.

15 (3) This chapter shall not be construed to limit or abridge the
16 powers and duties granted to a participating permit agency under the
17 law that authorizes or requires the agency to issue a permit for a
18 project. Each participating permit agency shall retain its authority
19 to make all decisions on all nonprocedural matters with regard to the
20 respective component permit that is within its scope of its
21 responsibility, including, but not limited to, the determination of
22 permit application completeness, permit approval or approval with
23 conditions, or permit denial. The consolidated permit agency may not
24 substitute its judgment for that of a participating permit agency on
25 any such nonprocedural matters.

26 NEW SECTION. **Sec. 235.** (1) Within twenty-one days of the date
27 that the consolidated permit agency is designated, it shall convene a
28 meeting with the permit applicant for the project and the participating
29 permit agencies. The meeting agenda shall include at least all of the
30 following matters:

31 (a) A determination of the permits that are required for the
32 project;

33 (b) A review of the permit application forms and other application
34 requirements of the agencies that are participating in the consolidated
35 permit process;

36 (c)(i) A determination of the timelines that will be used by the
37 consolidated permit agency and each participating permit agency to make
38 permit decisions, including the time periods required to determine if

1 the permit applications are complete, to review the application or
2 applications, and to process the component permits, and the timelines
3 that will be used by the consolidated permit agency to aggregate the
4 component permits into, and to issue the consolidated permit process.
5 In the development of this time line, full attention shall be given to
6 achieving the maximum efficiencies possible through concurrent studies,
7 consolidated applications, hearings, and comment periods. Except as
8 provided in (c)(ii) of this subsection, the timelines established under
9 this subsection, with the assent of the consolidated permit agency and
10 each participating permit agency, shall commit the consolidated permit
11 agency and each participating permit agency to act on the component
12 permit within time periods that are different than those required by
13 other applicable provisions of law.

14 (ii) An accelerated time period for the consideration of a permit
15 application may not be set if that accelerated time period would be
16 inconsistent with, or in conflict with, any time period or series of
17 time periods set by statute for that consideration, or with any
18 statute, rule, or regulation, or adopted state policy, standard, or
19 guideline that requires any of the following:

20 (A) Other agencies, interested persons, federally recognized
21 Indian tribes, or the public to be given adequate notice of the
22 application;

23 (B) Other agencies to be given a role in, or be allowed to
24 participate in, the decision to approve or disapprove the application;
25 or

26 (C) Interested persons or the public to be provided the
27 opportunity to challenge, comment on, or otherwise voice their concerns
28 regarding the application;

29 (d) The scheduling of any public hearings that are required to
30 issue permits for the project and a determination of the feasibility of
31 coordinating or consolidating any of those required public hearings;
32 and

33 (e) A discussion of fee arrangements for the consolidated permit
34 process, including an estimate of the costs allowed under section 238
35 of this act and the billing schedule.

36 (2) Each agency shall send at least one representative qualified
37 to make decisions concerning the applicability and timelines associated
38 with all permits administered by that jurisdiction. At the request of
39 the applicant, the consolidated permit agency shall notify any relevant

1 federal agency of the date of the meeting and invite that agency's
2 participation in the process.

3 (3) If a permit agency or the applicant foresees, at any time,
4 that it will be unable to meet its obligations under the agreement, it
5 shall notify the consolidated permit agency of the problem. The
6 coordinating permit agency shall notify the permit agencies and the
7 applicant and, upon agreement of all parties, adjust the schedule, or,
8 if necessary, schedule another work plan meeting.

9 (4) The consolidated permit agency may request any information
10 from the applicant that is necessary to comply with its obligations
11 under this section, consistent with the timelines set pursuant to this
12 section.

13 (5) A summary of the decisions made under this section shall be
14 made available for public review upon the filing of the consolidated
15 permit process application or permit applications.

16 NEW SECTION. **Sec. 236.** (1) The permit applicant may withdraw
17 from the consolidated permit process by submitting to the consolidated
18 permit agency a written request that the process be terminated. Upon
19 receipt of the request, the consolidated permit agency shall notify the
20 center and each participating permit agency that a consolidated permit
21 process is no longer applicable to the project.

22 (2) The permit applicant may submit a written request to the
23 consolidated permit agency that the permit applicant wishes a
24 participating permit agency to withdraw from participation on the basis
25 of a reasonable belief that the issuance of the consolidated permit
26 process would be accelerated if the participating permit agency
27 withdraws. In that event, the participating permit agency shall
28 withdraw from participation if the consolidated permit agency approves
29 the request.

30 NEW SECTION. **Sec. 237.** The consolidated permit agency shall
31 ensure that the participating permit agencies make all the permit
32 decisions that are necessary for the incorporation of the permits into
33 the consolidated permit process and act on the component permits within
34 the time periods established pursuant to section 235 of this act.

35 NEW SECTION. **Sec. 238.** (1) The consolidated permit agency may
36 enter into a written agreement with the applicant to recover from the

1 applicant the reasonable costs incurred by the consolidated permit
2 agency in carrying out the requirements of this chapter.

3 (2) The consolidated permit agency may recover only the costs of
4 performing those consolidated permit services and shall be negotiated
5 with the permit applicant in the meeting required pursuant to section
6 235 of this act. The billing process shall provide for accurate time
7 and cost accounting and may include a billing cycle that provides for
8 progress payments.

9 NEW SECTION. **Sec. 239.** A petition by the permit applicant for
10 review of an agency action in issuing, denying, or amending a permit,
11 or any portion of a consolidated permit agency permit, shall be
12 submitted by the permit applicant to the consolidated permit agency or
13 the participating permit agency having jurisdiction over that permit
14 and shall be processed in accordance with the procedures of that permit
15 agency. Within thirty days of receiving the petition, the consolidated
16 permit agency shall notify the other environmental agencies
17 participating in the original consolidated permit process.

18 NEW SECTION. **Sec. 240.** If an applicant petitions for a
19 significant amendment or modification to a consolidated permit process
20 application or any of its component permit applications, the
21 consolidated permit agency shall reconvene a meeting of the
22 participating permit agencies, conducted in accordance with section 235
23 of this act.

24 NEW SECTION. **Sec. 241.** If an applicant fails to provide
25 information required for the processing of the component permit
26 applications for a consolidated permit process or for the designation
27 of a consolidated permit agency, the time requirements of this chapter
28 shall be tolled until such time as the information is provided.

29 NEW SECTION. **Sec. 242.** (1) The center, by rule, shall establish
30 an expedited appeals process by which a petitioner or applicant may
31 appeal any failure by a permit agency to take timely action on the
32 issuance or denial of a permit in accordance with the time limits
33 established under this chapter.

34 (2) If the center finds that the time limits under appeal have
35 been violated without good cause, it shall establish a date certain by

1 which the permit agency shall act on the permit application with
2 adequate provision for the requirements of section 235(1)(c)(ii) (A)
3 through (C) of this act, and provide for the full reimbursement of any
4 filing or permit processing fees paid by the applicant to the permit
5 agency for the permit application under appeal.

6 NEW SECTION. **Sec. 243.** By December 1, 1997, the center shall
7 submit a report to the appropriate committees of both houses of the
8 legislature detailing the following information:

9 (1) The number of instances in which a consolidated permit agency
10 has been requested and used, and the disposition of those cases;

11 (2) The amount of time elapsed between an initial request by a
12 permit applicant for a consolidated permit process and the ultimate
13 approval or disapproval of the permits included in the process; and

14 (3) The number of instances in which the expedited appeals process
15 was requested, and the disposition of those cases.

16 NEW SECTION. **Sec. 244.** The sum of seventy thousand dollars, or
17 as much thereof as may be necessary, is appropriated for the biennium
18 ending June 30, 1997, from the general fund; the sum of ninety thousand
19 dollars, or as much thereof as may be necessary, is appropriated for
20 the biennium ending June 30, 1997, from the state toxics account; the
21 sum of one hundred sixty thousand dollars, or as much thereof as may be
22 necessary, is appropriated for the biennium ending June 30, 1997, from
23 the water quality permit fee account; and the sum of fifty-five
24 thousand dollars, or as much thereof as may be necessary, is
25 appropriated for the biennium ending June 30, 1997, from the air
26 operating permit fee account to the department of ecology for the
27 purposes of sections 229 through 243 of this act.

28 NEW SECTION. **Sec. 245.** A new section is added to chapter 43.131
29 RCW to read as follows:

30 The permit assistance center and its powers and duties shall be
31 terminated June 30, 1999, as provided in section 246 of this act.

32 NEW SECTION. **Sec. 246.** A new section is added to chapter 43.131
33 RCW to read as follows:

34 The following acts or parts of acts, as now existing or hereafter
35 amended, are each repealed, effective June 30, 2000:

- 1 (1) RCW 90.---.--- and 1995 c -- s 229 (section 229 of this act);
- 2 (2) RCW 90.---.--- and 1995 c -- s 230 (section 230 of this act);
- 3 (3) RCW 90.---.--- and 1995 c -- s 231 (section 231 of this act);
- 4 (4) RCW 90.---.--- and 1995 c -- s 232 (section 232 of this act);
- 5 (5) RCW 90.---.--- and 1995 c -- s 233 (section 233 of this act);
- 6 (6) RCW 90.---.--- and 1995 c -- s 234 (section 234 of this act);
- 7 (7) RCW 90.---.--- and 1995 c -- s 235 (section 235 of this act);
- 8 (8) RCW 90.---.--- and 1995 c -- s 236 (section 236 of this act);
- 9 (9) RCW 90.---.--- and 1995 c -- s 237 (section 237 of this act);
- 10 (10) RCW 90.---.--- and 1995 c -- s 238 (section 238 of this act);
- 11 (11) RCW 90.---.--- and 1995 c -- s 239 (section 239 of this act);
- 12 (12) RCW 90.---.--- and 1995 c -- s 240 (section 240 of this act);
- 13 (13) RCW 90.---.--- and 1995 c -- s 241 (section 241 of this act);
- 14 and
- 15 (14) RCW 90.---.--- and 1995 c -- s 242 (section 242 of this act).

16 NEW SECTION. **Sec. 247.** The following acts or parts of acts are
17 each repealed:

- 18 (1) RCW 90.62.010 and 1982 c 179 s 1, 1977 c 54 s 1, & 1973 1st
19 ex.s. c 185 s 1;
- 20 (2) RCW 90.62.020 and 1994 c 264 s 96, 1988 c 36 s 71, 1977 c 54
21 s 2, & 1973 1st ex.s. c 185 s 2;
- 22 (3) RCW 90.62.030 and 1973 1st ex.s. c 185 s 3;
- 23 (4) RCW 90.62.040 and 1990 c 137 s 1, 1977 c 54 s 3, & 1973 1st
24 ex.s. c 185 s 4;
- 25 (5) RCW 90.62.050 and 1977 c 54 s 4 & 1973 1st ex.s. c 185 s 5;
- 26 (6) RCW 90.62.060 and 1982 c 179 s 2, 1977 c 54 s 5, & 1973 1st
27 ex.s. c 185 s 6;
- 28 (7) RCW 90.62.070 and 1973 1st ex.s. c 185 s 7;
- 29 (8) RCW 90.62.080 and 1987 c 109 s 156, 1977 c 54 s 6, & 1973 1st
30 ex.s. c 185 s 8;
- 31 (9) RCW 90.62.090 and 1977 c 54 s 7 & 1973 1st ex.s. c 185 s 9;
- 32 (10) RCW 90.62.100 and 1977 c 54 s 8 & 1973 1st ex.s. c 185 s 10;
- 33 (11) RCW 90.62.110 and 1973 1st ex.s. c 185 s 11;
- 34 (12) RCW 90.62.120 and 1973 1st ex.s. c 185 s 12;
- 35 (13) RCW 90.62.130 and 1977 c 54 s 9;
- 36 (14) RCW 90.62.900 and 1973 1st ex.s. c 185 s 13;
- 37 (15) RCW 90.62.901 and 1973 1st ex.s. c 185 s 14;
- 38 (16) RCW 90.62.904 and 1973 1st ex.s. c 185 s 15;

- 1 (17) RCW 90.62.905 and 1973 1st ex.s. c 185 s 16;
2 (18) RCW 90.62.906 and 1973 1st ex.s. c 185 s 18;
3 (19) RCW 90.62.907 and 1973 1st ex.s. c 185 s 19; and
4 (20) RCW 90.62.908 and 1977 c 54 s 10.

5 NEW SECTION. **Sec. 248.** Sections 201 through 204 and 207 through
6 213 of this act shall constitute a new chapter in Title 36 RCW.

7 NEW SECTION. **Sec. 249.** Sections 229 through 242 of this act
8 shall constitute a new chapter in Title 90 RCW.

9 NEW SECTION. **Sec. 250.** RCW 36.70A.065 and 36.70A.440 are
10 recodified as sections within the new chapter created in section 248 of
11 this act.

12 NEW SECTION. **Sec. 251.** The department of community, trade, and
13 economic development shall provide training and technical assistance to
14 counties and cities to assist them in fulfilling the requirements of
15 chapter 36.-- RCW (sections 201 through 204 and 207 through 213 of this
16 act). The land use study commission created by section 401 of this act
17 shall monitor local government consolidated permit procedures and the
18 effectiveness of the timelines established by section 207 of this act.
19 The commission shall include in its report submitted to the governor
20 and the legislature on November 30, 1997, its recommendation about what
21 timelines, if any, should be imposed on the local government
22 consolidated permit process required by chapter 36.-- RCW (sections 201
23 through 204 and 207 through 213 of this act).

24 **PART III - APPEALS**

25 NEW SECTION. **Sec. 301.** This chapter may be known and cited as
26 the land use petition act. A petition brought under this chapter must
27 be called a land use petition.

28 NEW SECTION. **Sec. 302.** The purpose of this chapter is to reform
29 the process for judicial review of land use decisions made by local
30 jurisdictions, by establishing uniform, expedited appeal procedures and
31 uniform criteria for reviewing such decisions, in order to provide
32 consistent, predictable, and timely judicial review.

1 NEW SECTION. **Sec. 303.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Land use decision" means a final determination by a local
5 jurisdiction's body or officer with the highest level of authority to
6 make the determination, including those with authority to hear appeals,
7 on:

8 (a) An application for a development permit or other governmental
9 approval required by law before real property may be improved,
10 developed, modified, sold, transferred, or used, but excluding
11 applications for permits or approvals to use streets, parks, and
12 similar types of public property and excluding applications for
13 legislative approvals such as area-wide rezones and annexations;

14 (b) An interpretative or declaratory decision regarding the
15 application to a specific property of zoning or other ordinances or
16 rules regulating the development, modification, maintenance, or use of
17 real property; and

18 (c) The enforcement of ordinances regulating the development,
19 modification, maintenance, or use of real property. However, when a
20 local jurisdiction is required by law to enforce the ordinances in a
21 court of limited jurisdiction, a petition may not be brought under this
22 chapter.

23 (2) "Local jurisdiction" means a county, city, or town, or special
24 purpose district as defined in RCW 36.96.010.

25 (3) "Person" means an individual, partnership, corporation,
26 association, public or private organization, or governmental agency.

27 NEW SECTION. **Sec. 304.** (1) This chapter replaces the writ of
28 certiorari for judicial review of local jurisdictions' land use
29 decisions.

30 (2) This chapter does not apply to judicial review procedures
31 established by other laws, including, but not limited to judicial
32 review of:

33 (a) Land use decisions made by bodies that are not part of a local
34 jurisdiction;

35 (b) Land use decisions of a local jurisdiction that are subject to
36 review by a quasi-judicial body created by state law, such as the
37 shorelines hearings board or the growth management hearings board;

1 (c) Claims provided by any law for monetary damages or
2 compensation; or

3 (d) Applications for a writ of certiorari or mandamus.

4 (3) If one or more claims for damages or compensation are set
5 forth in the same complaint with a land use petition brought under this
6 chapter, the procedures and standards, including deadlines, provided in
7 this chapter for review of the petition do not apply to the claims for
8 damages or compensation. The judge who hears the land use petition
9 may, if appropriate, preside at a trial for damages or compensation.

10 (4) The court rules govern procedural matters under this chapter
11 to the extent that the rules are consistent with this chapter.

12 NEW SECTION. **Sec. 305.** (1) A party's agreement is a waiver of
13 the right to petition under this chapter for judicial review of the
14 matters agreed to, when:

15 (a) The agreement is made as provided in RCW 82.02.020; or

16 (b) For matters outside the scope of RCW 82.02.020, the agreement
17 is made as part of a written contract with the local jurisdiction.

18 (2) In all other instances, waiver is determined in accordance
19 with common law principles.

20 NEW SECTION. **Sec. 306.** (1) Proceedings for review under this
21 chapter must be commenced by filing a land use petition in superior
22 court.

23 (2) A land use petition is barred, and the court may not grant
24 review, unless the petition is timely filed with the court and timely
25 served on the following parties:

26 (a) The local jurisdiction, which for purposes of the petition
27 shall be the jurisdiction's corporate entity and not an individual
28 decision maker or department; and

29 (b) Each of the following, if not the petitioner:

30 (i) Any person identified by name and address in the local
31 jurisdiction's written decision as an applicant for the permit or
32 approval at issue or as a property owner of the property at issue;

33 (ii) If no person is named in the decision as provided in (b)(i)
34 of this subsection, any such person identified in the application for
35 a permit or approval at issue; and

36 (iii) Any person who filed an appeal to a quasi-judicial decision
37 maker regarding the land use decision at issue, unless the person has

1 abandoned the appeal or the person's claims were dismissed before the
2 quasi-judicial decision was rendered. Any person who later intervened
3 or joined in the appeal is not required to be made a party under this
4 subsection.

5 (3) The petition is timely if it is filed and served on all
6 parties listed in subsection (2) of this section within twenty-one days
7 of the issuance of the land use decision.

8 (4) For the purposes of this section, a land use decision is
9 issued on the date on which a written decision is mailed or if not
10 mailed, the date on which the local jurisdiction provides notice that
11 a written decision is publicly available. However, if written
12 notification is not required to be provided, the decision is issued on
13 the later of:

14 (a) The date that the decision is made at a public meeting; or

15 (b) The date that the decision is entered into the public record.

16 (5) Service on the local jurisdiction must be by delivery of a
17 copy of the petition to the agent designated by the local jurisdiction
18 pursuant to RCW 4.28.080 to receive service of process. Service on
19 other parties must be in accordance with the civil rules or, for
20 parties who provided an address to the local jurisdiction during a
21 quasi-judicial proceeding regarding the land use decision at issue,
22 service may be by deposit in the United States mail to the address.
23 Service by mail is effective on the date of mailing. Proof of service
24 must be evidence by affidavit.

25 NEW SECTION. **Sec. 307.** Standing to bring a land use petition
26 under this chapter, and to intervene in a proceeding under this
27 chapter, is limited to the following parties:

28 (1) The applicant and the owner of property to which the land use
29 decision is directed;

30 (2) Another person aggrieved or adversely affected by the land use
31 decision, or who would be aggrieved or adversely affected by a reversal
32 or modification of the land use decision, and who will suffer direct
33 and substantial impacts from the decision, reversal, or modification.

34 NEW SECTION. **Sec. 308.** (1) A petitioner shall set forth in a
35 land use petition:

36 (a) The name and mailing address of the petitioner;

1 (b) The name and mailing address of the petitioner's attorney, if
2 any;

3 (c) The name and mailing address of the local jurisdiction whose
4 land use decision is at issue;

5 (d) Identification of the decision-making body or officer,
6 together with a duplicate copy of the decision, or if not a written
7 decision, a summary or brief description of it;

8 (e) Identification of persons who were named petitioners or
9 appellants in any quasi-judicial proceedings regarding the land use
10 decision at issue;

11 (f) Facts demonstrating that the petitioner is entitled to seek
12 judicial review;

13 (g) A separate and concise statement of each error alleged to have
14 been committed;

15 (h) A concise statement of facts upon which the petitioner relies
16 to sustain the statement of error; and

17 (i) A request for relief, specifying the type and extent of relief
18 requested.

19 (2) Along with the petition, the petitioner shall file and serve
20 an order to show cause why the petition should not be granted. The
21 order must set the date for hearing no sooner than ten days, and no
22 later than twenty days, after filing and service of the petition on all
23 parties is completed.

24 (3) At the hearing on the order to show cause, the court shall:

25 (a) Determine:

26 (i) Whether the petition was timely filed and served. If the
27 court finds it was untimely, the court shall deny judicial review;

28 (ii) Whether there are reasons why review should not be granted,
29 including, but not limited to: Improper service; lack of standing;
30 failure to join an indispensable party; and failure of the petition to
31 comply with subsection (1) of this section. However, the defenses of
32 lack of standing and failure to join an indispensable party may be
33 raised later, as provided by the court rules; and

34 (iii) The estimated cost of preparing the record;

35 (b) Enter an order:

36 (i) Setting the date by which the petitioner shall pay the
37 estimated cost of preparing the record to the local jurisdiction;

38 (ii) Setting a later date by which the local jurisdiction's
39 record, including the transcript, must be submitted;

- 1 (iii) Framing the factual and legal issues to be decided;
2 (iv) Setting the date for hearing the matter; and
3 (v) Resolving other issues that may be resolved at this stage of
4 the proceeding in order to provide for expeditious and orderly review.

5 The parties may waive the hearing on the order to show cause by
6 filing a stipulated order setting forth the matters listed in this
7 subsection.

8 NEW SECTION. Sec. 309. The court shall provide expedited review
9 of petitions filed under this chapter. If judicial review is granted,
10 the matter must be set for hearing within sixty days of the date set
11 for submitting the local jurisdiction's record, absent a showing of
12 compelling reasons for a different date or a stipulation of the
13 parties.

14 NEW SECTION. Sec. 310. (1) A petitioner for judicial review of
15 a land use decision may request the court to stay or suspend an action
16 by the local jurisdiction or another party to implement the decision
17 under review, by including the request in the petition. The request
18 must set forth a statement of grounds for the stay and the factual
19 basis for the request. The court shall rule on the request at the
20 hearing on the order to show cause.

21 (2) Another party to the judicial review proceedings may request
22 a stay by making a motion in accordance with the court rules. The
23 motion must be filed with the party's first pleading in the matter.

24 (3) The court shall deny a request for a stay that is made after
25 the times required by subsections (1) and (2) of this section unless
26 the party requesting the stay establishes that the reasons justifying
27 the stay did not exist, or could not have been discovered, at the times
28 set forth in subsections (1) and (2) of this section.

29 (4) A court may grant a stay only if the court finds that:

30 (a) The party requesting the stay is likely to prevail on the
31 merits;

32 (b) Without the stay the party requesting it will suffer
33 irreparable harm; and

34 (c) The grant of a stay will not substantially harm other parties
35 to the proceedings or the public.

1 (5) The court may grant the request for a stay upon such terms and
2 conditions, such as the filing of security, as are necessary to prevent
3 harm to other parties from the stay.

4 NEW SECTION. Sec. 311. (1) Within forty-five days after entry of
5 an order to submit the record, or within such a further time as the
6 court allows or as the parties agree, the local jurisdiction shall
7 submit to the court a certified copy of the record for judicial review
8 of the land use decision, except that the petitioner shall prepare and
9 submit a verbatim transcript of any hearings held on the matter.

10 (2) The petitioner shall pay the local jurisdiction the estimated
11 costs of preparing the record as determined by the court at the show
12 cause hearing. A failure by the petitioner to timely pay the local
13 jurisdiction as ordered relieves the local jurisdiction of the
14 responsibility to prepare and submit the record and is grounds for
15 dismissal of the petition.

16 (3) The court in its final judgment may assess the actual costs of
17 preparing the record against the petitioner if the relief sought by the
18 petitioner is substantially denied, and may assess the costs against
19 and among the local jurisdiction and other parties of record if the
20 relief sought by the petitioner is substantially granted.

21 (4) The court may require or permit corrections of errors or
22 omissions in the record.

23 NEW SECTION. Sec. 312. (1) If the land use decision being
24 reviewed was made by a quasi-judicial body or officer who was making
25 factual determinations and the parties had the opportunity to make a
26 record on the factual issues, judicial review of factual issues, and
27 the conclusions drawn from the factual issues, must be confined to the
28 record created by the quasi-judicial body or officer, except as
29 provided in this section.

30 (2) For decisions described in subsection (1) of this section, the
31 record may be supplemented by additional evidence only if the
32 additional evidence relates to:

33 (a) Disputed factual issues regarding the authority or
34 jurisdiction of the body or officer that made the land use decision;

35 (b) Grounds for disqualification of a member of the body or of the
36 officer that made the land use decision;

37 (c) Unlawfulness of the procedure used to make the decision;

1 (d) Matters that were improperly excluded from the record after
2 being offered by a party to the quasi-judicial proceeding; or

3 (e) Matters that were outside the jurisdiction of the body or
4 officer that made the land use decision.

5 (3) For land use decisions other than those described in
6 subsection (1) of this section, the record for judicial review may be
7 supplemented by evidence of material facts that were not required to be
8 made part of the local jurisdiction's record.

9 (4) The parties may not conduct civil discovery except with the
10 prior permission of the court. The court may not grant permission
11 unless the party requesting it makes a prima facie showing of need.
12 The court shall strictly limit discovery to what is necessary for
13 equitable and timely review under this chapter. Requests made under
14 chapter 42.17 RCW for records relating to the matters at issue must be
15 treated as requests for civil discovery and must meet the requirements
16 of this section and the court rules.

17 NEW SECTION. **Sec. 313.** (1) The superior court, acting without a
18 jury, shall review the record and such supplemental evidence as is
19 permitted under RCW 36.70B.100. The court may grant relief only if the
20 party seeking relief has carried the burden of establishing that one of
21 the standards set forth in (a), (b), and (c) of this subsection have
22 been met. The standards are:

23 (a) The party seeking relief has been substantially prejudiced as
24 a result of the claimed error or errors, and:

25 (i) The body or officer that made the land use decision engaged in
26 unlawful procedure or failed to follow a prescribed process;

27 (ii) The land use decision under review is a clearly erroneous
28 interpretation or application of the law, in light of the law's
29 purpose; or

30 (iii) The land use decision under review is not supported by
31 substantial evidence;

32 (b) The land use decision under review was outside the authority
33 or jurisdiction of the body or officer making the decision; and

34 (c) The land use decision violates the constitutional rights of
35 the party seeking relief.

36 (2) In order to grant relief under this chapter, it is not
37 necessary for the court to find that the local jurisdiction engaged in

1 arbitrary and capricious conduct. A grant of relief is not equivalent
2 to a finding of liability for monetary damages or compensation.

3 NEW SECTION. **Sec. 314.** The court may affirm or reverse the land
4 use decision under review, modify it, or remand it for modification or
5 further proceedings. If the decision is remanded for modification or
6 further proceedings, the court may make the order as it finds necessary
7 to preserve the interests of the parties and the public, pending
8 further proceedings or action by the local jurisdiction.

9 **Sec. 315.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to
10 read as follows:

11 This chapter does not apply to state agency action reviewable
12 under chapter 34.05 RCW or the land use decisions of local
13 jurisdictions reviewable under chapter 36.-- RCW (sections 301 through
14 314 of this act).

15 **Sec. 316.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to
16 read as follows:

17 Any decision approving or disapproving any plat shall be
18 reviewable for ~~((unlawful, arbitrary, capricious or corrupt action or~~
19 ~~nonaction by writ of review before))~~ under chapter 36.-- RCW (sections
20 301 through 314 of this act) by the superior court of the county in
21 which such matter is pending. ((Standing to bring the action is
22 limited to the following parties:

23 ~~(1) The applicant or owner of the property on which the~~
24 ~~subdivision is proposed;~~

25 ~~(2) Any property owner entitled to special notice under RCW~~
26 ~~58.17.090;~~

27 ~~(3) Any property owner who deems himself aggrieved thereby and who~~
28 ~~will suffer direct and substantial impacts from the proposed~~
29 ~~subdivision.~~

30 ~~Application for a writ of review shall be made to the court within~~
31 ~~thirty days from any decision so to be reviewed. The cost of~~
32 ~~transcription of all records ordered certified by the court for such~~
33 ~~review shall be borne by the appellant.))~~

34 NEW SECTION. **Sec. 317.** A new section is added to chapter 4.84
35 RCW to read as follows:

1 (1) Notwithstanding any other provisions of this chapter,
2 reasonable attorneys fees and costs shall be awarded to the prevailing
3 party or substantially prevailing party on appeal before the court of
4 appeals or the supreme court of a decision by a county, city, or town
5 to issue, condition, or deny a development permit involving a site-
6 specific rezone, zoning, plat, conditional use, variance, shoreline
7 permit, building permit, site plan, or similar land use approval or
8 decision. The court shall award and determine the amount of reasonable
9 attorneys fees and costs under this section if:

10 (a) The prevailing party on appeal was the prevailing or
11 substantially prevailing party before the local government, or in a
12 decision involving a substantial development permit under chapter 90.58
13 RCW, the prevailing party on appeal was the prevailing party or the
14 substantially prevailing party before the shoreline hearings board; and

15 (b) The prevailing party on appeal was the prevailing party or
16 substantially prevailing party in all prior judicial proceedings.

17 (2) In addition to the prevailing party under subsection (1) of
18 this section, the county, city, or town whose decision is on appeal is
19 considered a prevailing party if its decision is upheld at superior
20 court and on appeal.

21 NEW SECTION. **Sec. 318.** Sections 301 through 314 of this act
22 constitute a new chapter in Title 36 RCW.

23 **PART IV - STUDY**

24 NEW SECTION. **Sec. 401.** The land use study commission is hereby
25 established. The commission's goal shall be the integration and
26 consolidation of the state's land use and environmental laws into a
27 single, manageable statute. In fulfilling its responsibilities, the
28 commission shall evaluate the effectiveness of the growth management
29 act, the state environmental policy act, the shoreline management act,
30 and other state land use, planning, environmental, and permitting
31 statutes.

32 NEW SECTION. **Sec. 402.** The commission shall consist of not more
33 than thirteen members. Eleven members of the commission shall be
34 appointed by the governor. Membership shall reflect the interests of
35 business, agriculture, labor, the environment, other citizens, the

1 legislature, cities, counties, federally recognized Indian tribes, and
2 state agencies. The director of the department of community, trade,
3 and economic development, or the director's designee, shall serve as
4 chair of the commission. The director of the department of ecology, or
5 the director's designee, shall also be a member of the commission.
6 Staff for the commission shall be provided by the department of
7 community, trade, and economic development, with additional staff to be
8 provided by other state agencies and the legislature, as may be
9 required. State agencies shall provide the commission with information
10 and assistance as needed.

11 NEW SECTION. **Sec. 403.** The commission shall convene commencing
12 June 1, 1995, and shall complete its work by June 30, 1998. The
13 commission shall submit a report to the governor and the legislature
14 stating its findings, conclusions, and recommendations not later than
15 November 1 of each year. The commission shall submit its final report
16 to the governor and the legislature not later than November 1, 1997.

17 NEW SECTION. **Sec. 404.** The commission shall:

18 (1) Consider the effectiveness of state and local government
19 efforts to consolidate and integrate the growth management act, the
20 state environmental policy act, the shoreline management act, and other
21 land use, planning, environmental, and permitting laws.

22 (2) Identify the revisions and modifications needed in state land
23 use, planning, and environmental law and practice to adequately plan
24 for growth, to adequately assess environmental impacts of comprehensive
25 plans, development regulations, and growth, and to reduce the time and
26 cost of obtaining project permits.

27 (3) Draft a consolidated land use procedure, following these
28 guidelines:

29 (a) Conduct land use planning through the comprehensive planning
30 process under chapter 36.70A RCW rather than through review of
31 individual projects;

32 (b) Involve diverse sectors of the public in the planning process.
33 Early and informal environmental analysis should be incorporated into
34 planning and decision making;

35 (c) Recognize that different questions need to be answered and
36 different levels of detail applied at each planning phase, from the

1 initial development of plan concepts or plan elements to implementation
2 programs;

3 (d) Integrate and combine to the fullest extent possible the
4 processes, analysis, and documents currently required under chapters
5 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent
6 implementation will incorporate measures to promote the environmental,
7 economic, and other goals and to mitigate undesirable or unintended
8 adverse impacts on a community's quality of life;

9 (e) Focus environmental review and the level of detail needed for
10 different stages of plan and project decisions on the environmental
11 considerations most relevant to that stage of the process;

12 (f) Avoid duplicating review that has occurred for plan decisions
13 when specific projects are proposed;

14 (g) Use environmental review on projects to: (i) Review and
15 document consistency with comprehensive plans and development
16 regulations; (ii) provide prompt and coordinated review by agencies,
17 tribes, and the public on compliance with applicable environmental laws
18 and plans, including mitigation for site specific project impacts that
19 have not been considered and addressed at the plan or development
20 regulation level; and (iii) ensure accountability by local government
21 to applicants and the public for requiring and implementing mitigation
22 measures;

23 (h) Maintain or improve the quality of environmental analysis both
24 for plan and for project decisions, while integrating these analyses
25 with improved state and local planning and permitting processes;

26 (i) Examine existing land use and environmental permits for
27 necessity and utility. To the extent possible, existing permits should
28 be combined into fewer permits, assuring that the values and principles
29 intended to be protected by those permits remain protected; and

30 (j) Consolidate local government appeal processes to allow a
31 single appeal of permits at local government levels, a single state
32 level administrative appeal, and a final judicial appeal.

33 (4) These guidelines are intended to guide the work of the
34 commission, without limiting its charge to integrate and consolidate
35 Washington's land use and environmental laws into a single, manageable
36 code.

