
SENATE BILL 5282

State of Washington 58th Legislature 2003 Regular Session

By Senators Hargrove, Mulliken, T. Sheldon, Doumit, Benton and Zarelli

Read first time 01/21/2003. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to growth management hearings; amending RCW
2 36.70A.030, 36.70A.110, 36.70A.130, 36.70A.172, 36.70A.210, 36.70A.250,
3 36.70A.280, 36.70A.290, 36.70A.300, 36.70A.302, 36.70A.310, 36.70A.320,
4 36.70A.330, 36.70A.340, 36.70A.345, 36.70C.030, 34.05.518, 34.12.020,
5 34.12.020, 35.81.060, and 90.58.190; repealing RCW 36.70A.260,
6 36.70A.270, 36.70A.295, and 36.70A.305; providing an effective date;
7 and providing an expiration date.

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

9 **Sec. 1.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Adopt a comprehensive land use plan" means to enact a new
14 comprehensive land use plan or to update an existing comprehensive land
15 use plan.

16 (2) "Agricultural land" means land primarily devoted to the
17 commercial production of horticultural, viticultural, floricultural,
18 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
19 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) "Court" means superior court.

10 (6) "Critical areas" include the following areas and ecosystems:

11 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
12 used for potable water; (c) fish and wildlife habitat conservation
13 areas; (d) frequently flooded areas; and (e) geologically hazardous
14 areas.

15 ~~((+6))~~ (7) "Department" means the department of community, trade,
16 and economic development.

17 ~~((+7))~~ (8) "Development regulations" or "regulation" means the
18 controls placed on development or land use activities by a county or
19 city, including, but not limited to, zoning ordinances, critical areas
20 ordinances, shoreline master programs, official controls, planned unit
21 development ordinances, subdivision ordinances, and binding site plan
22 ordinances together with any amendments thereto. A development
23 regulation does not include a decision to approve a project permit
24 application, as defined in RCW 36.70B.020, even though the decision may
25 be expressed in a resolution or ordinance of the legislative body of
26 the county or city.

27 ~~((+8))~~ (9) "Forest land" means land primarily devoted to growing
28 trees for long-term commercial timber production on land that can be
29 economically and practically managed for such production, including
30 Christmas trees subject to the excise tax imposed under RCW 84.33.100
31 through 84.33.140, and that has long-term commercial significance. In
32 determining whether forest land is primarily devoted to growing trees
33 for long-term commercial timber production on land that can be
34 economically and practically managed for such production, the following
35 factors shall be considered: (a) The proximity of the land to urban,
36 suburban, and rural settlements; (b) surrounding parcel size and the
37 compatibility and intensity of adjacent and nearby land uses; (c) long-

1 term local economic conditions that affect the ability to manage for
2 timber production; and (d) the availability of public facilities and
3 services conducive to conversion of forest land to other uses.

4 ~~((9))~~ (10) "Geologically hazardous areas" means areas that
5 because of their susceptibility to erosion, sliding, earthquake, or
6 other geological events, are not suited to the siting of commercial,
7 residential, or industrial development consistent with public health or
8 safety concerns.

9 ~~((10))~~ (11) "Long-term commercial significance" includes the
10 growing capacity, productivity, and soil composition of the land for
11 long-term commercial production, in consideration with the land's
12 proximity to population areas, and the possibility of more intense
13 uses of the land.

14 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable
15 metallic substances.

16 ~~((12))~~ (13) "Public facilities" include streets, roads, highways,
17 sidewalks, street and road lighting systems, traffic signals, domestic
18 water systems, storm and sanitary sewer systems, parks and recreational
19 facilities, and schools.

20 ~~((13))~~ (14) "Public services" include fire protection and
21 suppression, law enforcement, public health, education, recreation,
22 environmental protection, and other governmental services.

23 ~~((14))~~ (15) "Rural character" refers to the patterns of land use
24 and development established by a county in the rural element of its
25 comprehensive plan:

26 (a) In which open space, the natural landscape, and vegetation
27 predominate over the built environment;

28 (b) That foster traditional rural lifestyles, rural-based
29 economies, and opportunities to both live and work in rural areas;

30 (c) That provide visual landscapes that are traditionally found in
31 rural areas and communities;

32 (d) That are compatible with the use of the land by wildlife and
33 for fish and wildlife habitat;

34 (e) That reduce the inappropriate conversion of undeveloped land
35 into sprawling, low-density development;

36 (f) That generally do not require the extension of urban
37 governmental services; and

1 (g) That are consistent with the protection of natural surface
2 water flows and ground water and surface water recharge and discharge
3 areas.

4 (~~(15)~~) (16) "Rural development" refers to development outside the
5 urban growth area and outside agricultural, forest, and mineral
6 resource lands designated pursuant to RCW 36.70A.170. Rural
7 development can consist of a variety of uses and residential densities,
8 including clustered residential development, at levels that are
9 consistent with the preservation of rural character and the
10 requirements of the rural element. Rural development does not refer to
11 agriculture or forestry activities that may be conducted in rural
12 areas.

13 (~~(16)~~) (17) "Rural governmental services" or "rural services"
14 include those public services and public facilities historically and
15 typically delivered at an intensity usually found in rural areas, and
16 may include domestic water systems, fire and police protection
17 services, transportation and public transit services, and other public
18 utilities associated with rural development and normally not associated
19 with urban areas. Rural services do not include storm or sanitary
20 sewers, except as otherwise authorized by RCW 36.70A.110(4).

21 (~~(17)~~) (18) "Urban growth" refers to growth that makes intensive
22 use of land for the location of buildings, structures, and impermeable
23 surfaces to such a degree as to be incompatible with the primary use of
24 land for the production of food, other agricultural products, or fiber,
25 or the extraction of mineral resources, rural uses, rural development,
26 and natural resource lands designated pursuant to RCW 36.70A.170. A
27 pattern of more intensive rural development, as provided in RCW
28 36.70A.070(5)(d), is not urban growth. When allowed to spread over
29 wide areas, urban growth typically requires urban governmental
30 services. "Characterized by urban growth" refers to land having urban
31 growth located on it, or to land located in relationship to an area
32 with urban growth on it as to be appropriate for urban growth.

33 (~~(18)~~) (19) "Urban growth areas" means those areas designated by
34 a county pursuant to RCW 36.70A.110.

35 (~~(19)~~) (20) "Urban governmental services" or "urban services"
36 include those public services and public facilities at an intensity
37 historically and typically provided in cities, specifically including
38 storm and sanitary sewer systems, domestic water systems, street

1 cleaning services, fire and police protection services, public transit
2 services, and other public utilities associated with urban areas and
3 normally not associated with rural areas.

4 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
5 inundated or saturated by surface water or ground water at a frequency
6 and duration sufficient to support, and that under normal circumstances
7 do support, a prevalence of vegetation typically adapted for life in
8 saturated soil conditions. Wetlands generally include swamps, marshes,
9 bogs, and similar areas. Wetlands do not include those artificial
10 wetlands intentionally created from nonwetland sites, including, but
11 not limited to, irrigation and drainage ditches, grass-lined swales,
12 canals, detention facilities, wastewater treatment facilities, farm
13 ponds, and landscape amenities, or those wetlands created after July 1,
14 1990, that were unintentionally created as a result of the construction
15 of a road, street, or highway. Wetlands may include those artificial
16 wetlands intentionally created from nonwetland areas created to
17 mitigate conversion of wetlands.

18 **Sec. 2.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to
19 read as follows:

20 (1) Each county that is required or chooses to plan under RCW
21 36.70A.040 shall designate an urban growth area or areas within which
22 urban growth shall be encouraged and outside of which growth can occur
23 only if it is not urban in nature. Each city that is located in such
24 a county shall be included within an urban growth area. An urban
25 growth area may include more than a single city. An urban growth area
26 may include territory that is located outside of a city only if such
27 territory already is characterized by urban growth whether or not the
28 urban growth area includes a city, or is adjacent to territory already
29 characterized by urban growth, or is a designated new fully contained
30 community as defined by RCW 36.70A.350.

31 (2) Based upon the growth management population projection made for
32 the county by the office of financial management, the county and each
33 city within the county shall include areas and densities sufficient to
34 permit the urban growth that is projected to occur in the county or
35 city for the succeeding twenty-year period. Each urban growth area
36 shall permit urban densities and shall include greenbelt and open space
37 areas. An urban growth area determination may include a reasonable

1 land market supply factor and shall permit a range of urban densities
2 and uses. In determining this market factor, cities and counties may
3 consider local circumstances. Cities and counties have discretion in
4 their comprehensive plans to make many choices about accommodating
5 growth.

6 Within one year of July 1, 1990, each county that as of June 1,
7 1991, was required or chose to plan under RCW 36.70A.040, shall begin
8 consulting with each city located within its boundaries and each city
9 shall propose the location of an urban growth area. Within sixty days
10 of the date the county legislative authority of a county adopts its
11 resolution of intention or of certification by the office of financial
12 management, all other counties that are required or choose to plan
13 under RCW 36.70A.040 shall begin this consultation with each city
14 located within its boundaries. The county shall attempt to reach
15 agreement with each city on the location of an urban growth area within
16 which the city is located. If such an agreement is not reached with
17 each city located within the urban growth area, the county shall
18 justify in writing why it so designated the area an urban growth area.
19 A city may object formally with the department over the designation of
20 the urban growth area within which it is located. Where appropriate,
21 the department shall attempt to resolve the conflicts, including the
22 use of mediation services.

23 (3) Urban growth should be located first in areas already
24 characterized by urban growth that have adequate existing public
25 facility and service capacities to serve such development, second in
26 areas already characterized by urban growth that will be served
27 adequately by a combination of both existing public facilities and
28 services and any additional needed public facilities and services that
29 are provided by either public or private sources, and third in the
30 remaining portions of the urban growth areas. Urban growth may also be
31 located in designated new fully contained communities as defined by RCW
32 36.70A.350.

33 (4) In general, cities are the units of local government most
34 appropriate to provide urban governmental services. In general, it is
35 not appropriate that urban governmental services be extended to or
36 expanded in rural areas except in those limited circumstances shown to
37 be necessary to protect basic public health and safety and the

1 environment and when such services are financially supportable at rural
2 densities and do not permit urban development.

3 ~~(5) ((On or before October 1, 1993, each county that was initially
4 required to plan under RCW 36.70A.040(1) shall adopt development
5 regulations designating interim urban growth areas under this chapter.
6 Within three years and three months of the date the county legislative
7 authority of a county adopts its resolution of intention or of
8 certification by the office of financial management, all other counties
9 that are required or choose to plan under RCW 36.70A.040 shall adopt
10 development regulations designating interim urban growth areas under
11 this chapter. Adoption of the interim urban growth areas may only
12 occur after public notice; public hearing; and compliance with the
13 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
14 Such action may be appealed to the appropriate growth management
15 hearings board under RCW 36.70A.280. Final urban growth areas shall be
16 adopted at the time of comprehensive plan adoption under this chapter.~~

17 ~~(6))~~ Each county shall include designations of urban growth areas
18 in its comprehensive plan.

19 **Sec. 3.** RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read
20 as follows:

21 (1)(a) Each comprehensive land use plan and development regulations
22 shall be subject to continuing review and evaluation by the county or
23 city that adopted them. A county or city shall take legislative action
24 to review and, if needed, revise its comprehensive land use plan and
25 development regulations to ensure the plan and regulations comply with
26 the requirements of this chapter according to the time periods
27 specified in subsection (4) of this section. A county or city not
28 planning under RCW 36.70A.040 shall take action to review and, if
29 needed, revise its policies and development regulations regarding
30 critical areas and natural resource lands adopted according to this
31 chapter to ensure these policies and regulations comply with the
32 requirements of this chapter according to the time periods specified in
33 subsection (4) of this section. Legislative action means the adoption
34 of a resolution or ordinance following notice and a public hearing
35 indicating at a minimum, a finding that a review and evaluation has
36 occurred and identifying the revisions made, or that a revision was not
37 needed and the reasons therefore. The review and evaluation required

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

8 (b) Any amendment of or revision to a comprehensive land use plan
9 shall conform to this chapter. Any amendment of or revision to
10 development regulations shall be consistent with and implement the
11 comprehensive plan.

12 (2)(a) Each county and city shall establish and broadly disseminate
13 to the public a public participation program consistent with RCW
14 36.70A.035 and 36.70A.140 that identifies procedures and schedules
15 whereby updates, proposed amendments, or revisions of the comprehensive
16 plan are considered by the governing body of the county or city no more
17 frequently than once every year. "Updates" means to review and revise,
18 if needed, according to subsection (1) of this section, and the time
19 periods specified in subsection (4) of this section. Amendments may be
20 considered more frequently than once per year under the following
21 circumstances:

22 (i) The initial adoption of a subarea plan that does not modify the
23 comprehensive plan policies and designations applicable to the subarea;

24 (ii) The adoption or amendment of a shoreline master program under
25 the procedures set forth in chapter 90.58 RCW; and

26 (iii) The amendment of the capital facilities element of a
27 comprehensive plan that occurs concurrently with the adoption or
28 amendment of a county or city budget.

29 (b) Except as otherwise provided in (a) of this subsection, all
30 proposals shall be considered by the governing body concurrently so the
31 cumulative effect of the various proposals can be ascertained.
32 However, after appropriate public participation a county or city may
33 adopt amendments or revisions to its comprehensive plan that conform
34 with this chapter whenever an emergency exists or to resolve an appeal
35 of a comprehensive plan filed (~~((with a growth management hearings board~~
36 ~~or))~~) with the court.

37 (3) Each county that designates urban growth areas under RCW
38 36.70A.110 shall review, at least every ten years, its designated urban

1 growth area or areas, and the densities permitted within both the
2 incorporated and unincorporated portions of each urban growth area. In
3 conjunction with this review by the county, each city located within an
4 urban growth area shall review the densities permitted within its
5 boundaries, and the extent to which the urban growth occurring within
6 the county has located within each city and the unincorporated portions
7 of the urban growth areas. The county comprehensive plan designating
8 urban growth areas, and the densities permitted in the urban growth
9 areas by the comprehensive plans of the county and each city located
10 within the urban growth areas, shall be revised to accommodate the
11 urban growth projected to occur in the county for the succeeding
12 twenty-year period. The review required by this subsection may be
13 combined with the review and evaluation required by RCW 36.70A.215.

14 (4) The department shall establish a schedule for counties and
15 cities to take action to review and, if needed, revise their
16 comprehensive plans and development regulations to ensure the plan and
17 regulations comply with the requirements of this chapter. The schedule
18 established by the department shall provide for the reviews and
19 evaluations to be completed as follows:

20 (a) On or before December 1, 2004, and every seven years
21 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
22 Snohomish, Thurston, and Whatcom counties and the cities within those
23 counties;

24 (b) On or before December 1, 2005, and every seven years
25 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
26 Skamania counties and the cities within those counties;

27 (c) On or before December 1, 2006, and every seven years
28 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
29 Yakima counties and the cities within those counties; and

30 (d) On or before December 1, 2007, and every seven years
31 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,
32 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
33 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
34 within those counties.

35 (5)(a) Nothing in this section precludes a county or city from
36 conducting the review and evaluation required by this section before
37 the time limits established in subsection (4) of this section.

1 Counties and cities may begin this process early and may be eligible
2 for grants from the department, subject to available funding, if they
3 elect to do so.

4 (b) State agencies are encouraged to provide technical assistance
5 to the counties and cities in the review of critical area ordinances,
6 comprehensive plans, and development regulations.

7 (6) A county or city subject to the time periods in subsection
8 (4)(a) of this section that, pursuant to an ordinance adopted by the
9 county or city establishing a schedule for periodic review of its
10 comprehensive plan and development regulations, has conducted a review
11 and evaluation of its comprehensive plan and development regulations
12 and, on or after January 1, 2001, has taken action in response to that
13 review and evaluation shall be deemed to have conducted the first
14 review required by subsection (4)(a) of this section. Subsequent
15 review and evaluation by the county or city of its comprehensive plan
16 and development regulations shall be conducted in accordance with the
17 time periods established under subsection (4)(a) of this section.

18 (7) The requirements imposed on counties and cities under this
19 section shall be considered "requirements of this chapter" under the
20 terms of RCW 36.70A.040(1). Only those counties and cities in
21 compliance with the schedules in this section shall have the requisite
22 authority to receive grants, loans, pledges, or financial guarantees
23 from those accounts established in RCW 43.155.050 and 70.146.030. Only
24 those counties and cities in compliance with the schedules in this
25 section shall receive preference for grants or loans subject to the
26 provisions of RCW 43.17.250.

27 **Sec. 4.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to
28 read as follows:

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

35 ~~(2) ((If it determines that advice from scientific or other experts~~
36 ~~is necessary or will be of substantial assistance in reaching its~~
37 ~~decision, a growth management hearings board may retain)) Scientific or~~

1 other expert advice to assist in reviewing a petition under RCW
2 36.70A.290 that involves critical areas may be retained pursuant to the
3 standard rules of evidence governing superior courts in the state of
4 Washington.

5 **Sec. 5.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
6 as follows:

7 (1) The legislature recognizes that counties are regional
8 governments within their boundaries, and cities are primary providers
9 of urban governmental services within urban growth areas. For the
10 purposes of this section, a "county-wide planning policy" is a written
11 policy statement or statements used solely for establishing a county-
12 wide framework from which county and city comprehensive plans are
13 developed and adopted pursuant to this chapter. This framework shall
14 ensure that city and county comprehensive plans are consistent as
15 required in RCW 36.70A.100. Nothing in this section shall be construed
16 to alter the land-use powers of cities.

17 (2) The legislative authority of a county that plans under RCW
18 36.70A.040 shall adopt a county-wide planning policy in cooperation
19 with the cities located in whole or in part within the county as
20 follows:

21 (a) No later than sixty calendar days from July 16, 1991, the
22 legislative authority of each county that as of June 1, 1991, was
23 required or chose to plan under RCW 36.70A.040 shall convene a meeting
24 with representatives of each city located within the county for the
25 purpose of establishing a collaborative process that will provide a
26 framework for the adoption of a county-wide planning policy. In other
27 counties that are required or choose to plan under RCW 36.70A.040, this
28 meeting shall be convened no later than sixty days after the date the
29 county adopts its resolution of intention or was certified by the
30 office of financial management.

31 (b) The process and framework for adoption of a county-wide
32 planning policy specified in (a) of this subsection shall determine the
33 manner in which the county and the cities agree to all procedures and
34 provisions including but not limited to desired planning policies,
35 deadlines, ratification of final agreements and demonstration thereof,
36 and financing, if any, of all activities associated therewith.

1 (c) If a county fails for any reason to convene a meeting with
2 representatives of cities as required in (a) of this subsection, the
3 governor may immediately impose any appropriate sanction or sanctions
4 on the county from those specified under RCW 36.70A.340.

5 (d) If there is no agreement by October 1, 1991, in a county that
6 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
7 or if there is no agreement within one hundred twenty days of the date
8 the county adopted its resolution of intention or was certified by the
9 office of financial management in any other county that is required or
10 chooses to plan under RCW 36.70A.040, the governor shall first inquire
11 of the jurisdictions as to the reason or reasons for failure to reach
12 an agreement. If the governor deems it appropriate, the governor may
13 immediately request the assistance of the department of community,
14 trade, and economic development to mediate any disputes that preclude
15 agreement. If mediation is unsuccessful in resolving all disputes that
16 will lead to agreement, the governor may impose appropriate sanctions
17 from those specified under RCW 36.70A.340 on the county, city, or
18 cities for failure to reach an agreement as provided in this section.
19 The governor shall specify the reason or reasons for the imposition of
20 any sanction.

21 (e) No later than July 1, 1992, the legislative authority of each
22 county that was required or chose to plan under RCW 36.70A.040 as of
23 June 1, 1991, or no later than fourteen months after the date the
24 county adopted its resolution of intention or was certified by the
25 office of financial management the county legislative authority of any
26 other county that is required or chooses to plan under RCW 36.70A.040,
27 shall adopt a county-wide planning policy according to the process
28 provided under this section and that is consistent with the agreement
29 pursuant to (b) of this subsection, and after holding a public hearing
30 or hearings on the proposed county-wide planning policy.

31 (3) A county-wide planning policy shall at a minimum, address the
32 following:

33 (a) Policies to implement RCW 36.70A.110;

34 (b) Policies for promotion of contiguous and orderly development
35 and provision of urban services to such development;

36 (c) Policies for siting public capital facilities of a county-wide
37 or statewide nature, including transportation facilities of statewide
38 significance as defined in RCW 47.06.140;

1 (d) Policies for county-wide transportation facilities and
2 strategies;

3 (e) Policies that consider the need for affordable housing, such as
4 housing for all economic segments of the population and parameters for
5 its distribution;

6 (f) Policies for joint county and city planning within urban growth
7 areas;

8 (g) Policies for county-wide economic development and employment;
9 and

10 (h) An analysis of the fiscal impact.

11 (4) Federal agencies and Indian tribes may participate in and
12 cooperate with the county-wide planning policy adoption process.
13 Adopted county-wide planning policies shall be adhered to by state
14 agencies.

15 (5) Failure to adopt a county-wide planning policy that meets the
16 requirements of this section may result in the imposition of a sanction
17 or sanctions on a county or city within the county, as specified in RCW
18 36.70A.340. In imposing a sanction or sanctions, the governor shall
19 specify the reasons for failure to adopt a county-wide planning policy
20 in order that any imposed sanction or sanctions are fairly and
21 equitably related to the failure to adopt a county-wide planning
22 policy.

23 (6) Cities and the governor may appeal an adopted county-wide
24 planning policy to (~~the growth management hearings board~~) a superior
25 court within sixty days of the adoption of the county-wide planning
26 policy.

27 (7) Multicounty planning policies shall be adopted by two or more
28 counties, each with a population of four hundred fifty thousand or
29 more, with contiguous urban areas and may be adopted by other counties,
30 according to the process established under this section or other
31 processes agreed to among the counties and cities within the affected
32 counties throughout the multicounty region.

33 **Sec. 6.** RCW 36.70A.250 and 1994 c 249 s 29 are each amended to
34 read as follows:

35 (~~(1) There are hereby created three growth management hearings~~
36 ~~boards for the state of Washington. The boards shall be established as~~
37 ~~follows:~~

1 ~~(a) An Eastern Washington board with jurisdictional boundaries~~
2 ~~including all counties that are required to or choose to plan under RCW~~
3 ~~36.70A.040 and are located east of the crest of the Cascade mountains;~~

4 ~~(b) A Central Puget Sound board with jurisdictional boundaries~~
5 ~~including King, Pierce, Snohomish, and Kitsap counties; and~~

6 ~~(c) A Western Washington board with jurisdictional boundaries~~
7 ~~including all counties that are required or choose to plan under RCW~~
8 ~~36.70A.040 and are located west of the crest of the Cascade mountains~~
9 ~~and are not included in the Central Puget Sound board jurisdictional~~
10 ~~boundaries. Skamania county, should it be required or choose to plan~~
11 ~~under RCW 36.70A.040, may elect to be included within the~~
12 ~~jurisdictional boundaries of either the Western or Eastern board.~~

13 ~~(2) Each board shall only hear matters pertaining to the cities and~~
14 ~~counties located within its jurisdictional boundaries.)~~

15 (1) The existence of growth management hearings boards in the state
16 of Washington shall terminate on the effective date of this section.

17 (2) On and after the effective date of this section, all matters
18 that previously fell within the jurisdiction of a growth management
19 hearings board shall be heard by a superior court of the state of
20 Washington.

21 (3) All matters pending before a growth management hearings board
22 as of the effective date of this section must be refiled with a
23 superior court.

24 **Sec. 7.** RCW 36.70A.280 and 1996 c 325 s 2 are each amended to read
25 as follows:

26 (1) The superior court shall have exclusive jurisdiction over all
27 petitions for review.

28 (2) A ((growth management hearings board)) superior court shall
29 hear and determine only those petitions alleging either:

30 (a) That a state agency, county, or city planning under this
31 chapter is not in compliance with the requirements of this chapter,
32 chapter 90.58 RCW as it relates to the adoption of shoreline master
33 programs or amendments thereto, or chapter 43.21C RCW as it relates to
34 plans, development regulations, or amendments, adopted under RCW
35 36.70A.040 or chapter 90.58 RCW; or

36 (b) That the twenty-year growth management planning population

1 projections adopted by the office of financial management pursuant to
2 RCW 43.62.035 should be adjusted.

3 ~~((+2))~~ (3) A petition may be filed only by: (a) The state, or a
4 county or city that plans under this chapter; (b) a person who has
5 participated orally or in writing before the county or city regarding
6 the matter on which a review is being requested; (c) a person who is
7 certified by the governor within sixty days of filing the request with
8 the ~~((board))~~ court; or (d) a person qualified pursuant to RCW
9 34.05.530.

10 ~~((+3))~~ (4) For purposes of this section "person" means any
11 individual, partnership, corporation, association, state agency,
12 governmental subdivision or unit thereof, or public or private
13 organization or entity of any character.

14 ~~((+4))~~ (5) When considering a possible adjustment to a growth
15 management planning population projection prepared by the office of
16 financial management, a ~~((board))~~ court shall consider the implications
17 of any such adjustment to the population forecast for the entire state.

18 The rationale for any adjustment that is adopted by a ~~((board))~~
19 court must be documented and filed with the office of financial
20 management within ten working days after adoption.

21 If adjusted by a ~~((board))~~ court, a county growth management
22 planning population projection shall only be used for the planning
23 purposes set forth in this chapter and shall be known as a "~~((board))~~
24 judicially adjusted population projection". None of these changes
25 shall affect the official state and county population forecasts
26 prepared by the office of financial management, which shall continue to
27 be used for state budget and planning purposes.

28 (6) Except as otherwise provided in (a) and (b) of this subsection,
29 the provisions of RCW 36.70A.280 through 36.70A.330 specify the nature
30 and extent of judicial review by a superior court.

31 (a) The superior court:

32 (i) Shall have jurisdiction to directly review or modify an office
33 of financial management population projection; and

34 (ii) Shall give a compliance hearing under RCW 36.70A.330(2) the
35 highest priority of all civil matters before the court.

36 (b) An aggrieved party may secure appellate review of a final
37 judgment of the superior court under this section by the supreme court

1 or the court of appeals. The review shall be secured in the manner
2 provided by law for review of superior court decisions in other civil
3 cases.

4 (7) If, following a compliance hearing, the superior court finds
5 that the state agency, county, or city is not in compliance with the
6 court's prior order, the superior court must issue a final judgment as
7 provided in RCW 36.70A.300.

8 (8) The superior court shall transmit a copy of its decision and
9 order on review to the department and the governor. If the court has
10 determined that a county or city is not in compliance with the
11 provisions of this chapter, the governor may impose sanctions against
12 the county or city.

13 (9) After the court has assumed jurisdiction over a petition for
14 review under this section, the superior court civil rules shall govern
15 a request for intervention and all other procedural matters not
16 specifically provided for in this section.

17 **Sec. 8.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to
18 read as follows:

19 (1) All requests for review to a ~~((growth management hearings~~
20 ~~board))~~ superior court shall be initiated by filing a petition with the
21 superior court that includes a detailed statement of issues presented
22 for resolution by the ~~((board))~~ court. ~~((The board shall render~~
23 ~~written decisions articulating the basis for its holdings. The board~~
24 ~~shall not issue advisory opinions on issues not presented to the board~~
25 ~~in the statement of issues, as modified by any prehearing order.))~~

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

31 (a) Except as provided in (c) of this subsection, the date of
32 publication for a city shall be the date the city publishes the
33 ordinance, or summary of the ordinance, adopting the comprehensive plan
34 or development regulations, or amendment thereto, as is required to be
35 published.

36 (b) Promptly after adoption, a county shall publish a notice that

1 it has adopted the comprehensive plan or development regulations, or
2 amendment thereto.

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

7 (c) For local governments planning under RCW 36.70A.040, promptly
8 after approval or disapproval of a local government's shoreline master
9 program or amendment thereto by the department of ecology as provided
10 in RCW 90.58.090, the local government shall publish a notice that the
11 shoreline master program or amendment thereto has been approved or
12 disapproved by the department of ecology. For purposes of this
13 section, the date of publication for the adoption or amendment of a
14 shoreline master program is the date the local government publishes
15 notice that the shoreline master program or amendment thereto has been
16 approved or disapproved by the department of ecology.

17 ~~(3) ((Unless the board dismisses the petition as frivolous or finds
18 that the person filing the petition lacks standing, or the parties have
19 filed an agreement to have the case heard in superior court as provided
20 in RCW 36.70A.295, the board shall, within ten days of receipt of the
21 petition, set a time for hearing the matter.~~

22 ~~(4) The board shall base its decision on the record developed by
23 the city, county, or the state and supplemented with additional
24 evidence if the board determines that such additional evidence would be
25 necessary or of substantial assistance to the board in reaching its
26 decision.~~

27 ~~(5) The board, shall consolidate, when appropriate, all petitions
28 involving the review of the same comprehensive plan or the same
29 development regulation or regulations.))~~ Consistent with the
30 requirements of the superior court civil rules, the superior court may
31 consolidate a petition subject to direct review under this section with
32 a separate action filed in the superior court.

33 **Sec. 9.** RCW 36.70A.300 and 1997 c 429 s 14 are each amended to
34 read as follows:

35 (1) The ~~((board))~~ court shall issue a final ~~((order))~~ judgment that
36 shall be based exclusively on whether or not a state agency, county, or
37 city is in compliance with the requirements of this chapter, chapter

1 90.58 RCW as it relates to adoption or amendment of shoreline master
2 programs, or chapter 43.21C RCW as it relates to adoption of plans,
3 development regulations, and amendments thereto, under RCW 36.70A.040
4 or chapter 90.58 RCW.

5 ~~(2)((a) Except as provided in (b) of this subsection, the final~~
6 ~~order shall be issued within one hundred eighty days of receipt of the~~
7 ~~petition for review, or, if multiple petitions are filed, within one~~
8 ~~hundred eighty days of receipt of the last petition that is~~
9 ~~consolidated.~~

10 ~~(b)) The ((board)) court may extend the period of time for issuing~~
11 ~~a decision to enable the parties to settle the dispute if additional~~
12 ~~time is necessary to achieve a settlement, and (i) an extension is~~
13 ~~requested by all parties, or (ii) an extension is requested by the~~
14 ~~petitioner and respondent and the ((board)) court determines that a~~
15 ~~negotiated settlement between the remaining parties could resolve~~
16 ~~significant issues in dispute. ((The request must be filed with the~~
17 ~~board not later than seven days before the date scheduled for the~~
18 ~~hearing on the merits of the petition. The board may authorize one or~~
19 ~~more extensions for up to ninety days each, subject to the requirements~~
20 ~~of this section.))~~

21 (3) In the final ((~~order~~)) judgment, the ((~~board~~)) court shall
22 either:

23 (a) Find that the state agency, county, or city is in compliance
24 with the requirements of this chapter, chapter 90.58 RCW as it relates
25 to the adoption or amendment of shoreline master programs, or chapter
26 43.21C RCW as it relates to adoption of plans, development regulations,
27 and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

28 (b) Find that the state agency, county, or city is not in
29 compliance with the requirements of this chapter, chapter 90.58 RCW as
30 it relates to the adoption or amendment of shoreline master programs,
31 or chapter 43.21C RCW as it relates to adoption of plans, development
32 regulations, and amendments thereto, under RCW 36.70A.040 or chapter
33 90.58 RCW, in which case the ((~~board~~)) court shall remand the matter to
34 the affected state agency, county, or city. The ((~~board~~)) court shall
35 specify a reasonable time not in excess of one hundred eighty days, or
36 such longer period as determined by the ((~~board~~)) court in cases of
37 unusual scope or complexity, within which the state agency, county, or

1 city shall comply with the requirements of this chapter. The ((~~board~~))
2 court may require periodic reports to the ((~~board~~)) court on the
3 progress the jurisdiction is making towards compliance.

4 (4) Unless the ((~~board~~)) court makes a determination of invalidity
5 as provided in RCW 36.70A.302, a finding of noncompliance and an order
6 of remand shall not affect the validity of comprehensive plans and
7 development regulations during the period of remand.

8 (5) Any party aggrieved by a final decision of the ((~~hearings~~
9 ~~board~~)) court may appeal the decision ((~~to superior court as provided~~
10 ~~in RCW 34.05.514 or 36.01.050 within thirty days of the final order of~~
11 ~~the board~~)) as provided in RCW 36.70A.280(6)(b).

12 **Sec. 10.** RCW 36.70A.302 and 1997 c 429 s 16 are each amended to
13 read as follows:

14 (1) A ((~~board~~)) court may determine that part or all of a
15 comprehensive plan or development regulations are invalid if the
16 ((~~board~~)) court:

17 (a) Makes a finding of noncompliance and issues an order of remand
18 under RCW 36.70A.300;

19 (b) Includes in the final order a determination, supported by
20 findings of fact and conclusions of law, that the continued validity of
21 part or parts of the plan or regulation would substantially interfere
22 with the fulfillment of the goals of this chapter; and

23 (c) Specifies in the final order the particular part or parts of
24 the plan or regulation that are determined to be invalid, and the
25 reasons for their invalidity.

26 (2) A determination of invalidity is prospective in effect and does
27 not extinguish rights that vested under state or local law before
28 receipt of the ((~~board's~~)) court's order by the city or county. The
29 determination of invalidity does not apply to a completed development
30 permit application for a project that vested under state or local law
31 before receipt of the ((~~board's~~)) court's order by the county or city
32 or to related construction permits for that project.

33 (3)(a) Except as otherwise provided in subsection (2) of this
34 section and (b) of this subsection, a development permit application
35 not vested under state or local law before receipt of the ((~~board's~~))
36 court's order by the county or city vests to the local ordinance or

1 resolution that is determined by the ((~~board~~)) court not to
2 substantially interfere with the fulfillment of the goals of this
3 chapter.

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

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

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

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

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

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

35 (6) A county or city subject to a determination of invalidity may
36 file a motion requesting that the ((~~board~~)) court clarify, modify, or
37 rescind the ((~~order~~)) judgment. The ((~~board~~)) court shall
38 expeditiously schedule a hearing on the motion. At the hearing on the

1 motion, the parties may present information to the (~~board~~) court to
2 clarify the part or parts of the comprehensive plan or development
3 regulations to which the final (~~order~~) judgment applies. (~~The board~~
4 ~~shall issue any supplemental order based on the information provided at~~
5 ~~the hearing not later than thirty days after the date of the hearing.~~)

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

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

22 **Sec. 11.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to
23 read as follows:

24 A request for review by the state to a (~~growth management hearings~~
25 ~~board~~) superior court may be made only by the governor, or with the
26 governor's consent the head of an agency, or by the commissioner of
27 public lands as relating to state trust lands, for the review of
28 whether: (1) A county or city that is required or chooses to plan
29 under RCW 36.70A.040 has failed to adopt a comprehensive plan or
30 development regulations, or county-wide planning policies within the
31 time limits established by this chapter; or (2) a county or city that
32 is required or chooses to plan under this chapter has adopted a
33 comprehensive plan, development regulations, or county-wide planning
34 policies, that are not in compliance with the requirements of this
35 chapter.

1 **Sec. 12.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (5) of this section,
4 comprehensive plans and development regulations, and amendments
5 thereto, adopted under this chapter are presumed valid upon adoption.

6 (2) Except as otherwise provided in subsection (4) of this section,
7 the burden is on the petitioner to demonstrate that any action taken by
8 a state agency, county, or city under this chapter is not in compliance
9 with the requirements of this chapter.

10 (3) In any petition under this chapter, the ((~~board~~)) court, after
11 full consideration of the petition, shall determine whether there is
12 compliance with the requirements of this chapter. In making its
13 determination, the ((~~board~~)) court shall consider the criteria adopted
14 by the department under RCW 36.70A.190(4). The ((~~board~~)) court shall
15 find compliance unless it determines that the action by the state
16 agency, county, or city is clearly erroneous in view of the entire
17 record before the ((~~board~~)) court and in light of the goals and
18 requirements of this chapter.

19 (4) A county or city subject to a determination of invalidity made
20 under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that
21 the ordinance or resolution it has enacted in response to the
22 determination of invalidity will no longer substantially interfere with
23 the fulfillment of the goals of this chapter under the standard in RCW
24 36.70A.302(1).

25 (5) 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. 13.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to
29 read as follows:

30 (1) After the time set for complying with the requirements of this
31 chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time
32 upon the motion of a county or city subject to a determination of
33 invalidity under RCW 36.70A.300, the ((~~board~~)) court shall set a
34 hearing for the purpose of determining whether the state agency,
35 county, or city is in compliance with the requirements of this chapter.

36 (2) The ((~~board~~)) court shall conduct a hearing and issue a finding
37 of compliance or noncompliance with the requirements of this chapter

1 and with any compliance schedule established by the ((board)) court in
2 its final ((order)) judgment. A person with standing to challenge the
3 legislation enacted in response to the ((board's)) court's final
4 ((order)) judgment may participate in the hearing along with the
5 petitioner and the state agency, county, or city. A hearing under this
6 subsection shall be given the highest priority of business to be
7 conducted by the ((board, and a finding shall be issued within forty-
8 five days of the filing of the motion under subsection (1) of this
9 section with the board)) court. The ((board)) court shall issue any
10 order necessary to make adjustments to the compliance schedule and set
11 additional hearings as provided in subsection (5) of this section.

12 (3) If the ((board)) court after a compliance hearing finds that
13 the state agency, county, or city is not in compliance, the ((board))
14 court shall transmit its finding to the governor. The ((board)) court
15 may recommend to the governor that the sanctions authorized by this
16 chapter be imposed. The ((board)) court shall take into consideration
17 the county's or city's efforts to meet its compliance schedule in
18 making the decision to recommend sanctions to the governor.

19 (4) In a compliance hearing upon petition of a party, the ((board))
20 court shall also reconsider its final order and decide, if no
21 determination of invalidity has been made, whether one now should be
22 made under RCW 36.70A.302.

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

25 **Sec. 14.** RCW 36.70A.340 and 1991 sp.s. c 32 s 26 are each amended
26 to read as follows:

27 Upon receipt from the ((board)) court of a finding that a state
28 agency, county, or city is in noncompliance under RCW 36.70A.330, or as
29 a result of failure to meet the requirements of RCW 36.70A.210, the
30 governor may either:

31 (1) Notify and direct the director of the office of financial
32 management to revise allotments in appropriation levels;

33 (2) Notify and direct the state treasurer to withhold the portion
34 of revenues to which the county or city is entitled under one or more
35 of the following: The motor vehicle fuel tax, as provided in chapter
36 82.36 RCW; the transportation improvement account, as provided in RCW
37 47.26.084; the urban arterial trust account, as provided in RCW

1 47.26.080; the rural arterial trust account, as provided in RCW
2 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the
3 liquor profit tax, as provided in RCW 66.08.190; and the liquor excise
4 tax, as provided in RCW 82.08.170; or

5 (3) File a notice of noncompliance with the secretary of state and
6 the county or city, which shall temporarily rescind the county or
7 city's authority to collect the real estate excise tax under RCW
8 82.46.030 until the governor files a notice rescinding the notice of
9 noncompliance.

10 **Sec. 15.** RCW 36.70A.345 and 1994 c 249 s 33 are each amended to
11 read as follows:

12 The governor may impose a sanction or sanctions specified under RCW
13 36.70A.340 on: (1) A county or city that fails to designate critical
14 areas, agricultural lands, forest lands, or mineral resource lands
15 under RCW 36.70A.170 by the date such action was required to have been
16 taken; (2) a county or city that fails to adopt development regulations
17 under RCW 36.70A.060 protecting critical areas or conserving
18 agricultural lands, forest lands, or mineral resource lands by the date
19 such action was required to have been taken; (3) a county that fails to
20 designate urban growth areas under RCW 36.70A.110 by the date such
21 action was required to have been taken; and (4) a county or city that
22 fails to adopt its comprehensive plan or development regulations when
23 such actions are required to be taken.

24 Imposition of a sanction or sanctions under this section shall be
25 preceded by written findings by the governor, that either the county or
26 city is not proceeding in good faith to meet the requirements of the
27 act; or that the county or city has unreasonably delayed taking the
28 required action. The governor shall consult with and communicate his
29 or her findings to the appropriate (~~growth management hearings board~~)
30 superior court prior to imposing the sanction or sanctions. For those
31 counties or cities that are not required to plan or have not opted in,
32 the governor in imposing sanctions shall consider the size of the
33 jurisdiction relative to the requirements of this chapter and the
34 degree of technical and financial assistance provided.

35 **Sec. 16.** RCW 36.70C.030 and 1995 c 347 s 704 are each amended to
36 read as follows:

1 (1) This chapter replaces the writ of certiorari for appeal of land
2 use decisions and shall be the exclusive means of judicial review of
3 land use decisions, except that this chapter does not apply to:

4 (a) Judicial review of:

5 (i) Land use decisions made by bodies that are not part of a local
6 jurisdiction;

7 (ii) Land use decisions of a local jurisdiction that are subject to
8 review by a quasi-judicial body created by state law, such as the
9 shorelines hearings board (~~(or the growth management hearings board)~~);

10 (b) Judicial review of applications for a writ of mandamus or
11 prohibition; or

12 (c) Claims provided by any law for monetary damages or
13 compensation. If one or more claims for damages or compensation are
14 set forth in the same complaint with a land use petition brought under
15 this chapter, the claims are not subject to the procedures and
16 standards, including deadlines, provided in this chapter for review of
17 the petition. The judge who hears the land use petition may, if
18 appropriate, preside at a trial for damages or compensation.

19 (2) The superior court civil rules govern procedural matters under
20 this chapter to the extent that the rules are consistent with this
21 chapter.

22 **Sec. 17.** RCW 34.05.518 and 1995 c 382 s 5 are each amended to read
23 as follows:

24 (1) The final decision of an administrative agency in an
25 adjudicative proceeding under this chapter may be directly reviewed by
26 the court of appeals either (a) upon certification by the superior
27 court pursuant to this section or (b) if the final decision is from an
28 environmental board as defined in subsection (3) of this section, upon
29 acceptance by the court of appeals after a certificate of appealability
30 has been filed by the environmental board that rendered the final
31 decision.

32 (2) For direct review upon certification by the superior court, an
33 application for direct review must be filed with the superior court
34 within thirty days of the filing of the petition for review in superior
35 court. The superior court may certify a case for direct review only if
36 the judicial review is limited to the record of the agency proceeding
37 and the court finds that:

1 (a) Fundamental and urgent issues affecting the future
2 administrative process or the public interest are involved which
3 require a prompt determination;

4 (b) Delay in obtaining a final and prompt determination of such
5 issues would be detrimental to any party or the public interest;

6 (c) An appeal to the court of appeals would be likely regardless of
7 the determination in superior court; and

8 (d) The appellate court's determination in the proceeding would
9 have significant precedential value.

10 Procedures for certification shall be established by court rule.

11 (3)(a) For the purposes of direct review of final decisions of
12 environmental boards, environmental boards include those boards
13 identified in RCW 43.21B.005 (~~and growth management hearings boards as~~
14 ~~identified in RCW 36.70A.250~~)).

15 (b) An environmental board may issue a certificate of appealability
16 if it finds that delay in obtaining a final and prompt determination of
17 the issues would be detrimental to any party or the public interest and
18 either:

19 (i) Fundamental and urgent statewide or regional issues are raised;
20 or

21 (ii) The proceeding is likely to have significant precedential
22 value.

23 (4) The environmental board shall state in the certificate of
24 appealability which criteria it applied, explain how that criteria was
25 met, and file with the certificate a copy of the final decision.

26 (5) For an appellate court to accept direct review of a final
27 decision of an environmental board, it shall consider the same criteria
28 outlined in subsection (3) of this section.

29 (6) The procedures for direct review of final decisions of
30 environmental boards include:

31 (a) Within thirty days after filing the petition for review with
32 the superior court, a party may file an application for direct review
33 with the superior court and serve the appropriate environmental board
34 and all parties of record. The application shall request the
35 environmental board to file a certificate of appealability.

36 (b) If an issue on review is the jurisdiction of the environmental
37 board, the board may file an application for direct review on that
38 issue.

1 (c) The environmental board shall have thirty days to grant or deny
2 the request for a certificate of appealability and its decision shall
3 be filed with the superior court and served on all parties of record.

4 (d) If a certificate of appealability is issued, the parties shall
5 have fifteen days from the date of service to file a notice of
6 discretionary review in the superior court, and the notice shall
7 include a copy of the certificate of appealability and a copy of the
8 final decision.

9 (e) If the appellate court accepts review, the certificate of
10 appealability shall be transmitted to the court of appeals as part of
11 the certified record.

12 (f) If a certificate of appealability is denied, review shall be by
13 the superior court. The superior court's decision may be appealed to
14 the court of appeals.

15 **Sec. 18.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Office" means the office of administrative hearings.

20 (2) "Administrative law judge" means any person appointed by the
21 chief administrative law judge to conduct or preside over hearings as
22 provided in this chapter.

23 (3) "Hearing" means an adjudicative proceeding within the meaning
24 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413
25 through 34.05.476.

26 (4) "State agency" means any state board, commission, department,
27 or officer authorized by law to make rules or to conduct adjudicative
28 proceedings, except those in the legislative or judicial branches,
29 (~~the growth management hearings boards,~~) the utilities and
30 transportation commission, the pollution control hearings board, the
31 shorelines hearings board, the forest practices appeals board, the
32 environmental hearings office, the board of industrial insurance
33 appeals, the Washington personnel resources board, the public
34 employment relations commission, the personnel appeals board, and the
35 board of tax appeals.

1 **Sec. 19.** RCW 34.12.020 and 2002 c 354 s 226 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Office" means the office of administrative hearings.

6 (2) "Administrative law judge" means any person appointed by the
7 chief administrative law judge to conduct or preside over hearings as
8 provided in this chapter.

9 (3) "Hearing" means an adjudicative proceeding within the meaning
10 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413
11 through 34.05.476.

12 (4) "State agency" means any state board, commission, department,
13 or officer authorized by law to make rules or to conduct adjudicative
14 proceedings, except those in the legislative or judicial branches,
15 (~~the growth management hearings boards,~~) the utilities and
16 transportation commission, the pollution control hearings board, the
17 shorelines hearings board, the forest practices appeals board, the
18 environmental hearings office, the board of industrial insurance
19 appeals, the Washington personnel resources board, the public
20 employment relations commission, and the board of tax appeals.

21 **Sec. 20.** RCW 35.81.060 and 2002 c 218 s 6 are each amended to read
22 as follows:

23 (1) A municipality shall not approve a community renewal project
24 for a community renewal area unless the local governing body has, by
25 ordinance or resolution, determined such an area to be a blighted area
26 and designated the area as appropriate for a community renewal project.
27 The local governing body shall not approve a community renewal plan
28 until a comprehensive plan or parts of the plan for an area which would
29 include a community renewal area for the municipality have been
30 prepared as provided in chapter 36.70A RCW. For municipalities not
31 subject to the planning requirements of chapter 36.70A RCW, any
32 proposed comprehensive plan must be consistent with a local
33 comprehensive plan adopted under chapter 35.63 or 36.70 RCW, or any
34 other applicable law. A municipality shall not acquire real property
35 for a community renewal project unless the local governing body has
36 approved the community renewal project plan in accordance with
37 subsection (4) of this section.

1 (2) The municipality may itself prepare or cause to be prepared a
2 community renewal plan, or any person or agency, public or private, may
3 submit such a plan to the municipality. Prior to its approval of a
4 community renewal project, the local governing body shall review and
5 determine the conformity of the community renewal plan with the
6 comprehensive plan or parts thereof for the development of the
7 municipality as a whole. If the community renewal plan is not
8 consistent with the existing comprehensive plan, the local governing
9 body may amend its comprehensive plan or community renewal plan.

10 (3) Prior to adoption, the local governing body shall hold a public
11 hearing on a community renewal plan after providing public notice. The
12 notice shall be given by publication once each week for two consecutive
13 weeks not less than ten nor more than thirty days prior to the date of
14 the hearing in a newspaper having a general circulation in the
15 community renewal area of the municipality and by mailing a notice of
16 the hearing not less than ten days prior to the date of the hearing to
17 the persons whose names appear on the county treasurer's tax roll as
18 the owner or reputed owner of the property, at the address shown on the
19 tax roll. The notice shall describe the time, date, place, and purpose
20 of the hearing, shall generally identify the community renewal area
21 affected, and shall outline the general scope of the community renewal
22 plan under consideration.

23 (4) Following the hearing, the local governing body may approve a
24 community renewal project if it finds that (a) a feasible plan exists
25 for making available adequate housing for the residents who may be
26 displaced by the project; (b) the community renewal plan conforms to
27 the comprehensive plan for the municipality; (c) the community renewal
28 plan will afford maximum opportunity, consistent with the needs of the
29 municipality, for the rehabilitation or redevelopment of the community
30 renewal area by private enterprise; (d) a sound and adequate financial
31 program exists for the financing of the project; and (e) the community
32 renewal project area is a blighted area as defined in RCW 35.81.015(2).

33 (5) A community renewal project plan may be modified at any time by
34 the local governing body. However, if modified after the lease or sale
35 by the municipality of real property in the community renewal project
36 area, the modification shall be subject to the rights at law or in
37 equity as a lessee or purchaser, or the successor or successors in
38 interest may be entitled to assert.

1 (6) Unless otherwise expressly stated in an ordinance or resolution
2 of the governing body of the municipality, a community renewal plan
3 shall not be considered a subarea plan or part of a comprehensive plan
4 for purposes of chapter 36.70A RCW. However, a municipality that has
5 adopted a comprehensive plan under chapter 36.70A RCW may adopt all or
6 part of a community renewal plan at any time as a new or amended
7 subarea plan, whether or not any subarea plan has previously been
8 adopted for all or part of the community renewal area. Any community
9 renewal plan so adopted, unless otherwise determined by (~~the growth~~
10 ~~management hearings board~~)) a superior court with jurisdiction under a
11 timely appeal in RCW 36.70A.280, shall be conclusively presumed to
12 comply with the requirements in this chapter for consistency with the
13 comprehensive plan.

14 **Sec. 21.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to
15 read as follows:

16 (1) The appeal of the department's decision to adopt a master
17 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(4) is
18 governed by RCW 34.05.510 through 34.05.598.

19 (2)(a) The department's decision to approve, reject, or modify a
20 proposed master program or amendment adopted by a local government
21 planning under RCW 36.70A.040 shall be appealed to the (~~growth~~
22 ~~management hearings board~~)) superior court with jurisdiction over the
23 local government. The appeal shall be initiated by filing a petition
24 as provided in RCW 36.70A.250 through 36.70A.320.

25 (b) If the appeal to the (~~growth management hearings board~~))
26 superior court concerns shorelines, the (~~growth management hearings~~
27 ~~board~~)) superior court shall review the proposed master program or
28 amendment for compliance with the requirements of this chapter and
29 chapter 36.70A RCW, the policy of RCW 90.58.020 and the applicable
30 guidelines, and chapter 43.21C RCW as it relates to the adoption of
31 master programs and amendments under chapter 90.58 RCW.

32 (c) If the appeal to the (~~growth management hearings board~~))
33 superior court concerns a shoreline of statewide significance, the
34 (~~board~~)) court shall uphold the decision by the department unless the
35 (~~board~~)) court, by clear and convincing evidence, determines that the
36 decision of the department is inconsistent with the policy of RCW
37 90.58.020 and the applicable guidelines.

1 (d) The appellant has the burden of proof in all appeals to the
2 (~~(growth management hearings board)~~) superior court under this
3 subsection.

4 (e) Any party aggrieved by a final decision of (~~(a growth~~
5 ~~management hearings board)~~) the superior court under this subsection
6 may appeal the decision to superior court as provided in RCW
7 36.70A.300.

8 (3)(a) The department's decision to approve, reject, or modify a
9 proposed master program or master program amendment by a local
10 government not planning under RCW 36.70A.040 shall be appealed to the
11 shorelines hearings board by filing a petition within thirty days of
12 the date of the department's written notice to the local government of
13 the department's decision to approve, reject, or modify a proposed
14 master program or master program amendment as provided in RCW
15 90.58.090(2).

16 (b) In an appeal relating to shorelines, the shorelines hearings
17 board shall review the proposed master program or master program
18 amendment and, after full consideration of the presentations of the
19 local government and the department, shall determine the validity of
20 the local government's master program or amendment in light of the
21 policy of RCW 90.58.020 and the applicable guidelines.

22 (c) In an appeal relating to shorelines of statewide significance,
23 the shorelines hearings board shall uphold the decision by the
24 department unless the board determines, by clear and convincing
25 evidence that the decision of the department is inconsistent with the
26 policy of RCW 90.58.020 and the applicable guidelines.

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

31 (e) Whenever possible, the review by the shorelines hearings board
32 shall be heard within the county where the land subject to the proposed
33 master program or master program amendment is primarily located. The
34 department and any local government aggrieved by a final decision of
35 the hearings board may appeal the decision to superior court as
36 provided in chapter 34.05 RCW.

37 (4) A master program amendment shall become effective after the
38 approval of the department or after the decision of the shorelines

1 hearings board to uphold the master program or master program
2 amendment, provided that the board may remand the master program or
3 master program adjustment to the local government or the department for
4 modification prior to the final adoption of the master program or
5 master program amendment.

6 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 36.70A.260 (Growth management hearings boards--
9 Qualifications) and 1994 c 249 s 30 & 1991 sp.s. c 32 s 6;

10 (2) RCW 36.70A.270 (Growth management hearings boards--Conduct,
11 procedure, and compensation) and 1997 c 429 s 11, 1996 c 325 s 1, 1994
12 c 257 s 1, & 1991 sp.s. c 32 s 7;

13 (3) RCW 36.70A.295 (Direct judicial review) and 1997 c 429 s 13;
14 and

15 (4) RCW 36.70A.305 (Expedited review) and 1996 c 325 s 4.

16 NEW SECTION. **Sec. 23.** Section 18 of this act expires July 1,
17 2006.

18 NEW SECTION. **Sec. 24.** Section 19 of this act takes effect July 1,
19 2006.

--- END ---