

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1933

Chapter 321, Laws of 2003

58th Legislature
2003 Regular Session

SHORELINE MANAGEMENT

EFFECTIVE DATE: 7/27/03

Passed by the House April 25, 2003
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2003
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved May 15, 2003.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1933** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 15, 2003 - 3:53 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1933

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Berkey, Kessler, Cairnes, Buck, Sullivan, Orcutt, Hatfield, Jarrett, Miloscia, Gombosky, Grant, DeBolt, Quall, Woods, Schoesler, Conway, Lovick, Clibborn, Edwards, Schindler, McCoy, Eickmeyer and Alexander)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the integration of shoreline management policies
2 with the growth management act; amending RCW 90.58.030, 90.58.090,
3 90.58.190, and 36.70A.480; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the final
6 decision and order in *Everett Shorelines Coalition v. City of Everett*
7 and *Washington State Department Of Ecology*, Case No. 02-3-0009c, issued
8 on January 9, 2003, by the central Puget Sound growth management
9 hearings board was a case of first impression interpreting the addition
10 of the shoreline management act into the growth management act, and
11 that the board considered the appeal and issued its final order and
12 decision without the benefit of shorelines guidelines to provide
13 guidance on the implementation of the shoreline management act and the
14 adoption of shoreline master programs.

15 (2) This act is intended to affirm the legislature's intent that:

16 (a) The shoreline management act be read, interpreted, applied, and
17 implemented as a whole consistent with decisions of the shoreline
18 hearings board and Washington courts prior to the decision of the

1 central Puget Sound growth management hearings board in *Everett*
2 *Shorelines Coalition v. City of Everett and Washington State Department*
3 *of Ecology*;

4 (b) The goals of the growth management act, including the goals and
5 policies of the shoreline management act, set forth in RCW 36.70A.020
6 and included in RCW 36.70A.020 by RCW 36.70A.480, continue to be listed
7 without an order of priority; and

8 (c) Shorelines of statewide significance may include critical areas
9 as defined by RCW 36.70A.030(5), but that shorelines of statewide
10 significance are not critical areas simply because they are shorelines
11 of statewide significance.

12 (3) The legislature intends that critical areas within the
13 jurisdiction of the shoreline management act shall be governed by the
14 shoreline management act and that critical areas outside the
15 jurisdiction of the shoreline management act shall be governed by the
16 growth management act. The legislature further intends that the
17 quality of information currently required by the shoreline management
18 act to be applied to the protection of critical areas within shorelines
19 of the state shall not be limited or changed by the provisions of the
20 growth management act.

21 **Sec. 2.** RCW 90.58.030 and 2002 c 230 s 2 are each amended to read
22 as follows:

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

- 25 (1) Administration:
 - 26 (a) "Department" means the department of ecology;
 - 27 (b) "Director" means the director of the department of ecology;
 - 28 (c) "Local government" means any county, incorporated city, or town
29 which contains within its boundaries any lands or waters subject to
30 this chapter;
 - 31 (d) "Person" means an individual, partnership, corporation,
32 association, organization, cooperative, public or municipal
33 corporation, or agency of the state or local governmental unit however
34 designated;
 - 35 (e) "Hearing board" means the shoreline hearings board established
36 by this chapter.

37 (2) Geographical:

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

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

15 (c) "Shorelines of the state" are the total of all "shorelines" and
16 "shorelines of statewide significance" within the state;

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

25 (e) "Shorelines of statewide significance" means the following
26 shorelines of the state:

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

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

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

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

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

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

37 and

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

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

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

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

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

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

16 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
17 this subsection (2)(e);

18 (f) "Shorelands" or "shoreland areas" means those lands extending
19 landward for two hundred feet in all directions as measured on a
20 horizontal plane from the ordinary high water mark; floodways and
21 contiguous floodplain areas landward two hundred feet from such
22 floodways; and all wetlands and river deltas associated with the
23 streams, lakes, and tidal waters which are subject to the provisions of
24 this chapter; the same to be designated as to location by the
25 department of ecology.

26 (i) Any county or city may determine that portion of a one-hundred-
27 year-flood plain to be included in its master program as long as such
28 portion includes, as a minimum, the floodway and the adjacent land
29 extending landward two hundred feet therefrom.

30 (ii) Any city or county may also include in its master program land
31 necessary for buffers for critical areas, as defined in chapter 36.70A
32 RCW, that occur within shorelines of the state, provided that forest
33 practices regulated under chapter 76.09 RCW, except conversions to
34 nonforest land use, on lands subject to the provisions of this
35 subsection (2)(f)(ii) are not subject to additional regulations under
36 this chapter;

37 (g) "Floodway" means those portions of the area of a river valley
38 lying streamward from the outer limits of a watercourse upon which

1 flood waters are carried during periods of flooding that occur with
2 reasonable regularity, although not necessarily annually, said floodway
3 being identified, under normal condition, by changes in surface soil
4 conditions or changes in types or quality of vegetative ground cover
5 condition. The floodway shall not include those lands that can
6 reasonably be expected to be protected from flood waters by flood
7 control devices maintained by or maintained under license from the
8 federal government, the state, or a political subdivision of the state;

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

22 (3) Procedural terms:

23 (a) "Guidelines" means those standards adopted to implement the
24 policy of this chapter for regulation of use of the shorelines of the
25 state prior to adoption of master programs. Such standards shall also
26 provide criteria to local governments and the department in developing
27 master programs;

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

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

35 (d) "Development" means a use consisting of the construction or
36 exterior alteration of structures; dredging; drilling; dumping;
37 filling; removal of any sand, gravel, or minerals; bulkheading; driving
38 of piling; placing of obstructions; or any project of a permanent or

1 temporary nature which interferes with the normal public use of the
2 surface of the waters overlying lands subject to this chapter at any
3 state of water level;

4 (e) "Substantial development" shall mean any development of which
5 the total cost or fair market value exceeds five thousand dollars, or
6 any development which materially interferes with the normal public use
7 of the water or shorelines of the state. The dollar threshold
8 established in this subsection (3)(e) must be adjusted for inflation by
9 the office of financial management every five years, beginning July 1,
10 2007, based upon changes in the consumer price index during that time
11 period. "Consumer price index" means, for any calendar year, that
12 year's annual average consumer price index, Seattle, Washington area,
13 for urban wage earners and clerical workers, all items, compiled by the
14 bureau of labor and statistics, United States department of labor. The
15 office of financial management must calculate the new dollar threshold
16 and transmit it to the office of the code reviser for publication in
17 the Washington State Register at least one month before the new dollar
18 threshold is to take effect. The following shall not be considered
19 substantial developments for the purpose of this chapter:

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

22 (ii) Construction of the normal protective bulkhead common to
23 single family residences;

24 (iii) Emergency construction necessary to protect property from
25 damage by the elements;

26 (iv) Construction and practices normal or necessary for farming,
27 irrigation, and ranching activities, including agricultural service
28 roads and utilities on shorelands, and the construction and maintenance
29 of irrigation structures including but not limited to head gates,
30 pumping facilities, and irrigation channels. A feedlot of any size,
31 all processing plants, other activities of a commercial nature,
32 alteration of the contour of the shorelands by leveling or filling
33 other than that which results from normal cultivation, shall not be
34 considered normal or necessary farming or ranching activities. A
35 feedlot shall be an enclosure or facility used or capable of being used
36 for feeding livestock hay, grain, silage, or other livestock feed, but
37 shall not include land for growing crops or vegetation for livestock

1 feeding and/or grazing, nor shall it include normal livestock wintering
2 operations;

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

5 (vi) Construction on shorelands by an owner, lessee, or contract
6 purchaser of a single family residence for his own use or for the use
7 of his or her family, which residence does not exceed a height of
8 thirty-five feet above average grade level and which meets all
9 requirements of the state agency or local government having
10 jurisdiction thereof, other than requirements imposed pursuant to this
11 chapter;

12 (vii) Construction of a dock, including a community dock, designed
13 for pleasure craft only, for the private noncommercial use of the
14 owner, lessee, or contract purchaser of single and multiple family
15 residences. This exception applies if either: (A) In salt waters, the
16 fair market value of the dock does not exceed two thousand five hundred
17 dollars; or (B) in fresh waters, the fair market value of the dock does
18 not exceed ten thousand dollars, but if subsequent construction having
19 a fair market value exceeding two thousand five hundred dollars occurs
20 within five years of completion of the prior construction, the
21 subsequent construction shall be considered a substantial development
22 for the purpose of this chapter;

23 (viii) Operation, maintenance, or construction of canals,
24 waterways, drains, reservoirs, or other facilities that now exist or
25 are hereafter created or developed as a part of an irrigation system
26 for the primary purpose of making use of system waters, including
27 return flow and artificially stored ground water for the irrigation of
28 lands;

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

32 (x) Operation and maintenance of any system of dikes, ditches,
33 drains, or other facilities existing on September 8, 1975, which were
34 created, developed, or utilized primarily as a part of an agricultural
35 drainage or diking system;

36 (xi) Site exploration and investigation activities that are
37 prerequisite to preparation of an application for development
38 authorization under this chapter, if:

1 (A) The activity does not interfere with the normal public use of
2 the surface waters;

3 (B) The activity will have no significant adverse impact on the
4 environment including, but not limited to, fish, wildlife, fish or
5 wildlife habitat, water quality, and aesthetic values;

6 (C) The activity does not involve the installation of a structure,
7 and upon completion of the activity the vegetation and land
8 configuration of the site are restored to conditions existing before
9 the activity;

10 (D) A private entity seeking development authorization under this
11 section first posts a performance bond or provides other evidence of
12 financial responsibility to the local jurisdiction to ensure that the
13 site is restored to preexisting conditions; and

14 (E) The activity is not subject to the permit requirements of RCW
15 90.58.550;

16 (xii) The process of removing or controlling an aquatic noxious
17 weed, as defined in RCW 17.26.020, through the use of an herbicide or
18 other treatment methods applicable to weed control that are recommended
19 by a final environmental impact statement published by the department
20 of agriculture or the department jointly with other state agencies
21 under chapter 43.21C RCW.

22 **Sec. 3.** RCW 90.58.090 and 1997 c 429 s 50 are each amended to read
23 as follows:

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

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

32 (a) Provide notice to and opportunity for written comment by all
33 interested parties of record as a part of the local government review
34 process for the proposal and to all persons, groups, and agencies that
35 have requested in writing notice of proposed master programs or
36 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 be
19 consistent with the policy of RCW 90.58.020 and the applicable
20 guidelines. The written findings and conclusions shall be provided to
21 the local government, all interested persons, parties, groups, and
22 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 (3) The department shall approve the segment of a master program
2 relating to shorelines unless it determines that the submitted segments
3 are not consistent with the policy of RCW 90.58.020 and the applicable
4 guidelines.

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

12 (5) The department shall approve those segments of the master
13 program relating to shorelines of statewide significance only after
14 determining the program provides the optimum implementation of the
15 policy of this chapter to satisfy the statewide interest. If the
16 department does not approve a segment of a local government master
17 program relating to a shoreline of statewide significance, the
18 department may develop and by rule adopt an alternative to the local
19 government's proposal.

20 (~~(+5)~~) (6) In the event a local government has not complied with
21 the requirements of RCW 90.58.070 it may thereafter upon written notice
22 to the department elect to adopt a master program for the shorelines
23 within its jurisdiction, in which event it shall comply with the
24 provisions established by this chapter for the adoption of a master
25 program for such shorelines.

26 Upon approval of such master program by the department it shall
27 supersede such master program as may have been adopted by the
28 department for such shorelines.

29 (~~(+6)~~) (7) A master program or amendment to a master program takes
30 effect when and in such form as approved or adopted by the department.
31 Shoreline master programs that were adopted by the department prior to
32 July 22, 1995, in accordance with the provisions of this section then
33 in effect, shall be deemed approved by the department in accordance
34 with the provisions of this section that became effective on that date.
35 The department shall maintain a record of each master program, the
36 action taken on any proposal for adoption or amendment of the master
37 program, and any appeal of the department's action. The department's
38 approved document of record constitutes the official master program.

1 **Sec. 4.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to
2 read as follows:

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

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

12 (b) If the appeal to the growth management hearings board concerns
13 shorelines, the growth management hearings board shall review the
14 proposed master program or amendment solely for compliance with the
15 requirements of this chapter (~~and chapter 36.70A RCW~~), the policy of
16 RCW 90.58.020 and the applicable guidelines, the internal consistency
17 provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105,
18 and chapter 43.21C RCW as it relates to the adoption of master programs
19 and amendments under chapter 90.58 RCW.

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

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

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

31 (3)(a) The department's decision to approve, reject, or modify a
32 proposed master program or master program amendment by a local
33 government not planning under RCW 36.70A.040 shall be appealed to the
34 shorelines hearings board by filing a petition within thirty days of
35 the date of the department's written notice to the local government of
36 the department's decision to approve, reject, or modify a proposed
37 master program or master program amendment as provided in RCW
38 90.58.090(2).

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

7 (c) In an appeal relating to shorelines of statewide significance,
8 the shorelines hearings board shall uphold the decision by the
9 department unless the board determines, by clear and convincing
10 evidence that the decision of the department is inconsistent with the
11 policy of RCW 90.58.020 and the applicable guidelines.

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

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

22 (4) A master program amendment shall become effective after the
23 approval of the department or after the decision of the shorelines
24 hearings board to uphold the master program or master program
25 amendment, provided that the board may remand the master program or
26 master program adjustment to the local government or the department for
27 modification prior to the final adoption of the master program or
28 master program amendment.

29 **Sec. 5.** RCW 36.70A.480 and 1995 c 347 s 104 are each amended to
30 read as follows:

31 (1) For shorelines of the state, the goals and policies of the
32 shoreline management act as set forth in RCW 90.58.020 are added as one
33 of the goals of this chapter as set forth in RCW 36.70A.020 without
34 creating an order of priority among the fourteen goals. The goals and
35 policies of a shoreline master program for a county or city approved
36 under chapter 90.58 RCW shall be considered an element of the county or
37 city's comprehensive plan. All other portions of the shoreline master

1 program for a county or city adopted under chapter 90.58 RCW, including
2 use regulations, shall be considered a part of the county or city's
3 development regulations.

4 (2) The shoreline master program shall be adopted pursuant to the
5 procedures of chapter 90.58 RCW rather than the goals, policies, and
6 procedures set forth in this chapter for the adoption of a
7 comprehensive plan or development regulations.

8 (3) The policies, goals, and provisions of chapter 90.58 RCW and
9 applicable guidelines shall be the sole basis for determining
10 compliance of a shoreline master program with this chapter except as
11 the shoreline master program is required to comply with the internal
12 consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and
13 35A.63.105.

14 (a) As of the date the department of ecology approves a local
15 government's shoreline master program adopted under applicable
16 shoreline guidelines, the protection of critical areas as defined by
17 RCW 36.70A.030(5) within shorelines of the state shall be accomplished
18 only through the local government's shoreline master program and shall
19 not be subject to the procedural and substantive requirements of this
20 chapter, except as provided in subsection (6) of this section.

21 (b) Critical areas within shorelines of the state that have been
22 identified as meeting the definition of critical areas as defined by
23 RCW 36.70A.030(5), and that are subject to a shoreline master program
24 adopted under applicable shoreline guidelines shall not be subject to
25 the procedural and substantive requirements of this chapter, except as
26 provided in subsection (6) of this section. Nothing in this act is
27 intended to affect whether or to what extent agricultural activities,
28 as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

29 (c) The provisions of RCW 36.70A.172 shall not apply to the
30 adoption or subsequent amendment of a local government's shoreline
31 master program and shall not be used to determine compliance of a local
32 government's shoreline master program with chapter 90.58 RCW and
33 applicable guidelines. Nothing in this section, however, is intended
34 to limit or change the quality of information to be applied in
35 protecting critical areas within shorelines of the state, as required
36 by chapter 90.58 RCW and applicable guidelines.

37 (4) Shoreline master programs shall provide a level of protection
38 to critical areas located within shorelines of the state that is at

1 least equal to the level of protection provided to critical areas by
2 the local government's critical area ordinances adopted and thereafter
3 amended pursuant to RCW 36.70A.060(2).

4 (5) Shorelines of the state shall not be considered critical areas
5 under this chapter except to the extent that specific areas located
6 within shorelines of the state qualify for critical area designation
7 based on the definition of critical areas provided by RCW 36.70A.030(5)
8 and have been designated as such by a local government pursuant to RCW
9 36.70A.060(2).

10 (6) If a local jurisdiction's master program does not include land
11 necessary for buffers for critical areas that occur within shorelines
12 of the state, as authorized by RCW 90.58.030(2)(f), then the local
13 jurisdiction shall continue to regulate those critical areas and their
14 required buffers pursuant to RCW 36.70A.060(2).

Passed by the House April 25, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 15, 2003.

Filed in Office of Secretary of State May 15, 2003.