
SUBSTITUTE SENATE BILL 5360

State of Washington

62nd Legislature

2011 Regular Session

By Senate Government Operations, Tribal Relations & Elections
(originally sponsored by Senators Swecker, Pridemore, Zarelli,
Hatfield, Benton, Fraser, Haugen, Sheldon, Hobbs, Prentice, and Shin)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to fiscal relief for cities and counties during
2 periods of economic downturn by delaying or modifying certain
3 regulatory and statutory requirements; amending RCW 36.70A.215,
4 43.19.648, 43.325.080, 46.68.113, 82.02.050, 82.02.070, 82.02.080,
5 36.70A.070, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting
6 and amending RCW 36.70A.130; and creating a new section.

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

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

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

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

9 (1)(a) Each comprehensive land use plan and development regulations
10 shall be subject to continuing review and evaluation by the county or
11 city that adopted them. Except as otherwise provided, a county or city
12 shall take legislative action to review and, if needed, revise its
13 comprehensive land use plan and development regulations to ensure the
14 plan and regulations comply with the requirements of this chapter
15 according to the deadlines in subsections (4) and (5) of this section.

16 (b) Except as otherwise provided, a county or city not planning
17 under RCW 36.70A.040 shall take action to review and, if needed, revise
18 its policies and development regulations regarding critical areas and
19 natural resource lands adopted according to this chapter to ensure
20 these policies and regulations comply with the requirements of this
21 chapter according to the deadlines in subsections (4) and (5) of this
22 section. Legislative action means the adoption of a resolution or
23 ordinance following notice and a public hearing indicating at a
24 minimum, a finding that a review and evaluation has occurred and
25 identifying the revisions made, or that a revision was not needed and
26 the reasons therefor.

27 ~~(c) ((The review and evaluation required by this subsection may be
28 combined with the review required by subsection (3) of this section.))~~
29 The review and evaluation required by this subsection shall include,
30 but is not limited to, consideration of critical area ordinances and,
31 if planning under RCW 36.70A.040, an analysis of the population
32 allocated to a city or county from the most recent ten-year population
33 forecast by the office of financial management.

34 (d) Any amendment of or revision to a comprehensive land use plan
35 shall conform to this chapter. Any amendment of or revision to
36 development regulations shall be consistent with and implement the
37 comprehensive plan.

1 (2)(a) Each county and city shall establish and broadly disseminate
2 to the public a public participation program consistent with RCW
3 36.70A.035 and 36.70A.140 that identifies procedures and schedules
4 whereby updates, proposed amendments, or revisions of the comprehensive
5 plan are considered by the governing body of the county or city no more
6 frequently than once every year. "Updates" means to review and revise,
7 if needed, according to subsection (1) of this section, and the
8 deadlines in subsections (4) and (5) of this section or in accordance
9 with the provisions of subsection (6) of this section. Amendments may
10 be considered more frequently than once per year under the following
11 circumstances:

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

17 (ii) The development of an initial subarea plan for economic
18 development located outside of the one hundred year floodplain in a
19 county that has completed a state-funded pilot project that is based on
20 watershed characterization and local habitat assessment;

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

23 (iv) The amendment of the capital facilities element of a
24 comprehensive plan that occurs concurrently with the adoption or
25 amendment of a county or city budget; or

26 (v) The adoption of comprehensive plan amendments necessary to
27 enact a planned action under RCW 43.21C.031(2), provided that
28 amendments are considered in accordance with the public participation
29 program established by the county or city under this subsection (2)(a)
30 and all persons who have requested notice of a comprehensive plan
31 update are given notice of the amendments and an opportunity to
32 comment.

33 (b) Except as otherwise provided in (a) of this subsection, all
34 proposals shall be considered by the governing body concurrently so the
35 cumulative effect of the various proposals can be ascertained.
36 However, after appropriate public participation a county or city may
37 adopt amendments or revisions to its comprehensive plan that conform

1 with this chapter whenever an emergency exists or to resolve an appeal
2 of a comprehensive plan filed with the growth management hearings board
3 or with the court.

4 (3)(a) Each county that designates urban growth areas under RCW
5 36.70A.110 shall review, (~~(at least every ten years)~~) according to the
6 schedules established in subsection (5) of this section, its designated
7 urban growth area or areas, and the densities permitted within both the
8 incorporated and unincorporated portions of each urban growth area. In
9 conjunction with this review by the county, each city located within an
10 urban growth area shall review the densities permitted within its
11 boundaries, and the extent to which the urban growth occurring within
12 the county has located within each city and the unincorporated portions
13 of the urban growth areas.

14 (b) The county comprehensive plan designating urban growth areas,
15 and the densities permitted in the urban growth areas by the
16 comprehensive plans of the county and each city located within the
17 urban growth areas, shall be revised to accommodate the urban growth
18 projected to occur in the county for the succeeding twenty-year period.
19 The review required by this subsection may be combined with the review
20 and evaluation required by RCW 36.70A.215.

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

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

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

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

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

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

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

11 (b) On or before (~~December 1, 2015~~) June 30, 2016, and every
12 (~~seven~~) ten years thereafter, for (~~Cowlitz, Island, Lewis~~) Kitsap,
13 (~~Mason, San Juan, Skagit,~~) Pierce, Snohomish, and (~~Skamania~~)
14 Thurston counties and the cities within those counties;

15 (c) On or before (~~December 1, 2016~~) June 30, 2017, and every
16 (~~seven~~) ten years thereafter, for (~~Benton, Chelan, Douglas, Grant,~~
17 ~~Kittitas~~) Clallam, Island, Jefferson, Mason, San Juan, Skagit,
18 Spokane, and (~~Yakima~~) Whatcom counties and the cities within those
19 counties; and

20 (d) On or before (~~December 1, 2017~~) June 30, 2018, and every
21 (~~seven~~) ten years thereafter, for (~~Adams, Asotin, Columbia, Ferry,~~
22 ~~Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,~~
23 ~~Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman~~)
24 Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, and
25 Yakima counties and the cities within those counties; and

26 (e) On or before June 30, 2019, and every ten years thereafter, for
27 Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor,
28 Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,
29 Wahkiakum, Walla Walla, and Whitman counties and the cities within
30 those counties.

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

37 (b) A county that is subject to a deadline established in
38 subsection (4)(b) through (d) of this section and meets the following

1 criteria may comply with the requirements of this section at any time
2 within the thirty-six months following the deadline established in
3 subsection (4) of this section: The county has a population of less
4 than fifty thousand and has had its population increase by no more than
5 seventeen percent in the ten years preceding the deadline established
6 in subsection (4) of this section as of that date.

7 (c) A city that is subject to a deadline established in subsection
8 (4)(b) through (d) of this section and meets the following criteria may
9 comply with the requirements of this section at any time within the
10 thirty-six months following the deadline established in subsection (4)
11 of this section: The city has a population of no more than five
12 thousand and has had its population increase by the greater of either
13 no more than one hundred persons or no more than seventeen percent in
14 the ten years preceding the deadline established in subsection (4) of
15 this section as of that date.

16 (d) A county or city that is subject to a deadline established in
17 subsection (4)(d) of this section and that meets the criteria
18 established in subsection (6)(b) or (c) of this section may comply with
19 the requirements of subsection (4)(d) of this section at any time
20 within the thirty-six months after the extension provided in subsection
21 (6)(b) or (c) of this section.

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

25 (7)(a) The requirements imposed on counties and cities under this
26 section shall be considered "requirements of this chapter" under the
27 terms of RCW 36.70A.040(1). Only those counties and cities that meet
28 the following criteria may receive grants, loans, pledges, or financial
29 guarantees under chapter 43.155 or 70.146 RCW:

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

31 (ii) Demonstrating substantial progress towards compliance with the
32 schedules in this section for development regulations that protect
33 critical areas; or

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

36 (b) A county or city that is fewer than twelve months out of
37 compliance with the schedules in this section for development
38 regulations that protect critical areas is making substantial progress

1 towards compliance. Only those counties and cities in compliance with
2 the schedules in this section may receive preference for grants or
3 loans subject to the provisions of RCW 43.17.250.

4 **Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to
5 read as follows:

6 (1) Subject to the limitations in subsection (7) of this section,
7 a county shall adopt, in consultation with its cities, countywide
8 planning policies to establish a review and evaluation program. This
9 program shall be in addition to the requirements of RCW 36.70A.110,
10 36.70A.130, and 36.70A.210. In developing and implementing the review
11 and evaluation program required by this section, the county and its
12 cities shall consider information from other appropriate jurisdictions
13 and sources. The purpose of the review and evaluation program shall be
14 to:

15 (a) Determine whether a county and its cities are achieving urban
16 densities within urban growth areas by comparing growth and development
17 assumptions, targets, and objectives contained in the countywide
18 planning policies and the county and city comprehensive plans with
19 actual growth and development that has occurred in the county and its
20 cities; and

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

24 (2) The review and evaluation program shall:

25 (a) Encompass land uses and activities both within and outside of
26 urban growth areas and provide for annual collection of data on urban
27 and rural land uses, development, critical areas, and capital
28 facilities to the extent necessary to determine the quantity and type
29 of land suitable for development, both for residential and employment-
30 based activities;

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

1 (c) Provide for methods to resolve disputes among jurisdictions
2 relating to the countywide planning policies required by this section
3 and procedures to resolve inconsistencies in collection and analysis of
4 data; and

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

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

11 (a) Determine whether there is sufficient suitable land to
12 accommodate the countywide population projection established for the
13 county pursuant to RCW 43.62.035 and the subsequent population
14 allocations within the county and between the county and its cities and
15 the requirements of RCW 36.70A.110;

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

21 (c) Based on the actual density of development as determined under
22 (b) of this subsection, review commercial, industrial, and housing
23 needs by type and density range to determine the amount of land needed
24 for commercial, industrial, and housing for the remaining portion of
25 the twenty-year planning period used in the most recently adopted
26 comprehensive plan.

27 (4) If the evaluation required by subsection (3) of this section
28 demonstrates an inconsistency between what has occurred since the
29 adoption of the countywide planning policies and the county and city
30 comprehensive plans and development regulations and what was envisioned
31 in those policies and plans and the planning goals and the requirements
32 of this chapter, as the inconsistency relates to the evaluation factors
33 specified in subsection (3) of this section, the county and its cities
34 shall adopt and implement measures that are reasonably likely to
35 increase consistency during the subsequent five-year period. If
36 necessary, a county, in consultation with its cities as required by RCW
37 36.70A.210, shall adopt amendments to countywide planning policies to

1 increase consistency. The county and its cities shall annually monitor
2 the measures adopted under this subsection to determine their effect
3 and may revise or rescind them as appropriate.

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

10 (b) By December 31, 2007, the department shall submit to the
11 appropriate committees of the legislature a report analyzing the
12 effectiveness of the activities described in this section in achieving
13 the goals envisioned by the countywide planning policies and the
14 comprehensive plans and development regulations of the counties and
15 cities.

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

20 (7) The provisions of this section shall apply to counties, and the
21 cities within those counties, that were greater than one hundred fifty
22 thousand in population in 1995 as determined by office of financial
23 management population estimates and that are located west of the crest
24 of the Cascade mountain range. The obligations under this subsection
25 are subject to the availability of amounts appropriated for the
26 specific purpose identified in subsection (1) of this section, unless
27 the department received private funds for the specific purpose
28 identified in subsection (1) of this section. Any other county
29 planning under RCW 36.70A.040 may carry out the review, evaluation, and
30 amendment programs and procedures as provided in this section.

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

33 (1) Except as provided in subsection (2) of this section, effective
34 June 1, 2015, all state agencies and local government subdivisions of
35 the state, to the extent determined practicable by the rules adopted by
36 the department of ((community, trade, and economic development))
37 commerce pursuant to RCW 43.325.080, are required to satisfy one

1 hundred percent of their fuel usage for operating publicly owned
2 vessels, vehicles, and construction equipment from electricity or
3 biofuel.

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

10 (3) In order to phase in this transition for the state, all state
11 agencies, to the extent determined practicable by the department of
12 (~~community, trade, and economic development~~) commerce by rules
13 adopted pursuant to RCW 43.325.080, are required to achieve forty
14 percent fuel usage for operating publicly owned vessels, vehicles, and
15 construction equipment from electricity or biofuel by June 1, 2013.
16 The department of general administration, in consultation with the
17 department of (~~community, trade, and economic development~~) commerce,
18 shall report to the governor and the legislature by December 1, 2013,
19 on what percentage of the state's fuel usage is from electricity or
20 biofuel.

21 (~~(+3)~~) (4) Except for cars owned or operated by the Washington
22 state patrol, when tires on vehicles in the state's motor vehicle fleet
23 are replaced, they must be replaced with tires that have the same or
24 better rolling resistance as the original tires.

25 (~~(+4)~~) (5) By December 31, 2015, the state must, to the extent
26 practicable, install electrical outlets capable of charging electric
27 vehicles in each of the state's fleet parking and maintenance
28 facilities.

29 (~~(+5)~~) (6) The department of transportation's obligations under
30 subsection (~~(+2)~~) (3) of this section are subject to the availability
31 of amounts appropriated for the specific purpose identified in
32 subsection (~~(+2)~~) (3) of this section.

33 (~~(+6)~~) (7) The department of transportation's obligations under
34 subsection (~~(+4)~~) (5) of this section are subject to the availability
35 of amounts appropriated for the specific purpose identified in
36 subsection (~~(+4)~~) (5) of this section unless the department receives
37 federal or private funds for the specific purpose identified in
38 subsection (~~(+4)~~) (5) of this section.

1 ~~((7))~~ (8) The definitions in this subsection apply throughout
2 this section unless the context clearly requires otherwise.

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

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

14 **Sec. 5.** RCW 43.325.080 and 2007 c 348 s 204 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, by June
17 1, 2010, the department shall adopt rules to define practicability and
18 clarify how state agencies and local government subdivisions will be
19 evaluated in determining whether they have met the goals set out in RCW
20 43.19.648(1). At a minimum, the rules must address:

21 ~~((1))~~ (a) Criteria for determining how the goal in RCW
22 43.19.648(1) will be met by June 1, 2015;

23 ~~((2))~~ (b) Factors considered to determine compliance with the
24 goal in RCW 43.19.648(1), including but not limited to: The regional
25 availability of fuels; vehicle costs; differences between types of
26 vehicles, vessels, or equipment; the cost of program implementation;
27 and cost differentials in different parts of the state; and

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

31 (2) By June 1, 2015, the department shall adopt rules to define
32 practicability and clarify how cities and counties will be evaluated in
33 determining whether they have met the goals set out in RCW
34 43.19.648(2). At a minimum, the rules must address:

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

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

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

9 **Sec. 6.** RCW 46.68.113 and 2006 c 334 s 21 are each amended to read
10 as follows:

11 During the ((2003–2005)) 2013–2015 biennium, cities and towns shall
12 provide to the transportation commission, or its successor entity,
13 preservation rating information on at least seventy percent of the
14 total city and town arterial network. Thereafter, the preservation
15 rating information requirement shall increase in five percent
16 increments in subsequent biennia, but in no case shall it exceed eighty
17 percent. The rating system used by cities and towns must be based upon
18 the Washington state pavement rating method or an equivalent standard
19 approved by the department of transportation. Beginning January 1,
20 2007, the preservation rating information shall be submitted to the
21 department.

22 **Sec. 7.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to read
23 as follows:

24 (1) It is the intent of the legislature:

25 (a) To ensure that adequate facilities are available to serve new
26 growth and development;

27 (b) To promote orderly growth and development by establishing
28 standards by which counties, cities, and towns may require, by
29 ordinance, that new growth and development pay a proportionate share of
30 the cost of new facilities needed to serve new growth and development;
31 and

32 (c) To ensure that impact fees are imposed through established
33 procedures and criteria so that specific developments do not pay
34 arbitrary fees or duplicative fees for the same impact.

35 (2) Counties, cities, and towns that are required or choose to plan
36 under RCW 36.70A.040 are authorized to impose impact fees on

1 development activity as part of the financing for public facilities,
2 provided that the financing for system improvements to serve new
3 development must provide for a balance between impact fees and other
4 sources of public funds and cannot rely solely on impact fees.

5 (3)(a) Counties, cities, and towns collecting impact fees for
6 residential development projects must make available to applicants for
7 building permits issued for a lot or unit within a subdivision, short
8 subdivision, site development permit, or condominium a process by which
9 the applicant may record a lien against title to the property that
10 requires payment equal to one hundred percent of the impact fee rates
11 in effect at the time of issuance of the building permit, less a credit
12 for any deposits paid if the residential development project is
13 designed, constructed, and certified to at least the LEED gold
14 standard. Liens recorded in accordance with this subsection (3) must
15 provide for payment through escrow of the impact fee due and owing to
16 be paid at the time of closing of sale of the lot or unit that is the
17 subject of the building permit or within twelve months of permit
18 issuances, whichever is earlier. Payment of such fees must be made
19 from seller's proceeds or otherwise paid by the seller, unless an
20 agreement to the contrary is reached between buyer and seller. In the
21 absence of an agreement to the contrary, the seller shall bear strict
22 liability for the payment of said fees. Escrow is not liable for
23 collection or payment of any such fees except as may be instructed by
24 the parties to the transaction.

25 (b) A seller, or agents of a seller, of property subject to a lien
26 authorized under this subsection (3) must provide written disclosure of
27 such lien to a purchaser or prospective purchaser pursuant to the
28 provisions of chapter 64.06 RCW.

29 (c) In the event the lot or unit is leased or rented rather than
30 sold, all impact fees applicable to such lot or unit must be paid in
31 full upon issuance of a certificate of occupancy or equivalent final
32 occupancy approval or within twelve months of permit issuances,
33 whichever is earlier.

34 (d) For purposes of this subsection, "LEED gold standard" means the
35 United States green building council leadership in energy and
36 environmental design green building rating standard, referred to as
37 gold standard.

38 (4) The impact fees:

1 (a) (~~Shall~~) Must only be imposed for system improvements that are
2 reasonably related to the new development;

3 (b) (~~Shall~~) May not exceed a proportionate share of the costs of
4 system improvements that are reasonably related to the new development;
5 and

6 (c) (~~Shall~~) Must be used for system improvements that will
7 reasonably benefit the new development.

8 (~~(4)~~) (5)(a) Impact fees may be collected and spent only for the
9 public facilities defined in RCW 82.02.090 which are addressed by a
10 capital facilities plan element of a comprehensive land use plan
11 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions
12 for comprehensive plan adoption contained in chapter 36.70, 35.63, or
13 35A.63 RCW. After the date a county, city, or town is required to
14 adopt its development regulations under chapter 36.70A RCW, continued
15 authorization to collect and expend impact fees (~~shall be~~) is
16 contingent on the county, city, or town adopting or revising a
17 comprehensive plan in compliance with RCW 36.70A.070, and on the
18 capital facilities plan identifying:

19 (~~(a)~~) (i) Deficiencies in public facilities serving existing
20 development and the means by which existing deficiencies will be
21 eliminated within a reasonable period of time;

22 (~~(b)~~) (ii) Additional demands placed on existing public
23 facilities by new development; and

24 (~~(c)~~) (iii) Additional public facility improvements required to
25 serve new development.

26 (b) If the capital facilities plan of the county, city, or town is
27 complete other than for the inclusion of those elements which are the
28 responsibility of a special district, the county, city, or town may
29 impose impact fees to address those public facility needs for which the
30 county, city, or town is responsible.

31 **Sec. 8.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read
32 as follows:

33 (1) Impact fee receipts shall be earmarked specifically and
34 retained in special interest-bearing accounts. Separate accounts shall
35 be established for each type of public facility for which impact fees
36 are collected. All interest shall be retained in the account and
37 expended for the purpose or purposes for which the impact fees were

1 imposed. Annually, each county, city, or town imposing impact fees
2 shall provide a report on each impact fee account showing the source
3 and amount of all moneys collected, earned, or received and system
4 improvements that were financed in whole or in part by impact fees.

5 (2) Impact fees for system improvements shall be expended only in
6 conformance with the capital facilities plan element of the
7 comprehensive plan.

8 (3)(a) Except as provided otherwise by (b) of this subsection,
9 impact fees shall be expended or encumbered for a permissible use
10 within ((~~six~~)) ten years of receipt, unless there exists an
11 extraordinary and compelling reason for fees to be held longer than
12 ((~~six~~)) ten years. Such extraordinary or compelling reasons shall be
13 identified in written findings by the governing body of the county,
14 city, or town.

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

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

22 (5) Each county, city, or town that imposes impact fees shall
23 provide for an administrative appeals process for the appeal of an
24 impact fee; the process may follow the appeal process for the
25 underlying development approval or the county, city, or town may
26 establish a separate appeals process. The impact fee may be modified
27 upon a determination that it is proper to do so based on principles of
28 fairness. The county, city, or town may provide for the resolution of
29 disputes regarding impact fees by arbitration.

30 **Sec. 9.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each
31 amended to read as follows:

32 (1) The current owner of property on which an impact fee has been
33 paid may receive a refund of such fees if the county, city, or town
34 fails to expend or encumber the impact fees within ((~~six~~)) ten years of
35 when the fees were paid or other such period of time established
36 pursuant to RCW 82.02.070(3) on public facilities intended to benefit
37 the development activity for which the impact fees were paid. In

1 determining whether impact fees have been encumbered, impact fees shall
2 be considered encumbered on a first in, first out basis. The county,
3 city, or town shall notify potential claimants by first-class mail
4 deposited with the United States postal service at the last known
5 address of claimants.

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

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

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

30 **Sec. 10.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
31 amended to read as follows:

32 The comprehensive plan of a county or city that is required or
33 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
34 and descriptive text covering objectives, principles, and standards
35 used to develop the comprehensive plan. The plan shall be an
36 internally consistent document and all elements shall be consistent

1 with the future land use map. A comprehensive plan shall be adopted
2 and amended with public participation as provided in RCW 36.70A.140.

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

5 (1) A land use element designating the proposed general
6 distribution and general location and extent of the uses of land, where
7 appropriate, for agriculture, timber production, housing, commerce,
8 industry, recreation, open spaces, general aviation airports, public
9 utilities, public facilities, and other land uses. The land use
10 element shall include population densities, building intensities, and
11 estimates of future population growth. The land use element shall
12 provide for protection of the quality and quantity of groundwater used
13 for public water supplies. Wherever possible, the land use element
14 should consider utilizing urban planning approaches that promote
15 physical activity. Where applicable, the land use element shall review
16 drainage, flooding, and storm water run-off in the area and nearby
17 jurisdictions and provide guidance for corrective actions to mitigate
18 or cleanse those discharges that pollute waters of the state, including
19 Puget Sound or waters entering Puget Sound.

20 (2) A housing element ensuring the vitality and character of
21 established residential neighborhoods that: (a) Includes an inventory
22 and analysis of existing and projected housing needs that identifies
23 the number of housing units necessary to manage projected growth; (b)
24 includes a statement of goals, policies, objectives, and mandatory
25 provisions for the preservation, improvement, and development of
26 housing, including single-family residences; (c) identifies sufficient
27 land for housing, including, but not limited to, government-assisted
28 housing, housing for low-income families, manufactured housing,
29 multifamily housing, and group homes and foster care facilities; and
30 (d) makes adequate provisions for existing and projected needs of all
31 economic segments of the community.

32 (3) A capital facilities plan element consisting of: (a) An
33 inventory of existing capital facilities owned by public entities,
34 showing the locations and capacities of the capital facilities; (b) a
35 forecast of the future needs for such capital facilities; (c) the
36 proposed locations and capacities of expanded or new capital
37 facilities; (d) at least a six-year plan that will finance such capital
38 facilities within projected funding capacities and clearly identifies

1 sources of public money for such purposes; and (e) a requirement to
2 reassess the land use element if probable funding falls short of
3 meeting existing needs and to ensure that the land use element, capital
4 facilities plan element, and financing plan within the capital
5 facilities plan element are coordinated and consistent. Park and
6 recreation facilities shall be included in the capital facilities plan
7 element.

8 (4) A utilities element consisting of the general location,
9 proposed location, and capacity of all existing and proposed utilities,
10 including, but not limited to, electrical lines, telecommunication
11 lines, and natural gas lines.

12 (5) Rural element. Counties shall include a rural element
13 including lands that are not designated for urban growth, agriculture,
14 forest, or mineral resources. The following provisions shall apply to
15 the rural element:

16 (a) Growth management act goals and local circumstances. Because
17 circumstances vary from county to county, in establishing patterns of
18 rural densities and uses, a county may consider local circumstances,
19 but shall develop a written record explaining how the rural element
20 harmonizes the planning goals in RCW 36.70A.020 and meets the
21 requirements of this chapter.

22 (b) Rural development. The rural element shall permit rural
23 development, forestry, and agriculture in rural areas. The rural
24 element shall provide for a variety of rural densities, uses, essential
25 public facilities, and rural governmental services needed to serve the
26 permitted densities and uses. To achieve a variety of rural densities
27 and uses, counties may provide for clustering, density transfer, design
28 guidelines, conservation easements, and other innovative techniques
29 that will accommodate appropriate rural densities and uses that are not
30 characterized by urban growth and that are consistent with rural
31 character.

32 (c) Measures governing rural development. The rural element shall
33 include measures that apply to rural development and protect the rural
34 character of the area, as established by the county, by:

- 35 (i) Containing or otherwise controlling rural development;
- 36 (ii) Assuring visual compatibility of rural development with the
37 surrounding rural area;

1 (iii) Reducing the inappropriate conversion of undeveloped land
2 into sprawling, low-density development in the rural area;

3 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
4 surface water and groundwater resources; and

5 (v) Protecting against conflicts with the use of agricultural,
6 forest, and mineral resource lands designated under RCW 36.70A.170.

7 (d) Limited areas of more intensive rural development. Subject to
8 the requirements of this subsection and except as otherwise
9 specifically provided in this subsection (5)(d), the rural element may
10 allow for limited areas of more intensive rural development, including
11 necessary public facilities and public services to serve the limited
12 area as follows:

13 (i) Rural development consisting of the infill, development, or
14 redevelopment of existing commercial, industrial, residential, or
15 mixed-use areas, whether characterized as shoreline development,
16 villages, hamlets, rural activity centers, or crossroads developments.

17 (A) A commercial, industrial, residential, shoreline, or mixed-use
18 area shall be subject to the requirements of (d)(iv) of this
19 subsection, but shall not be subject to the requirements of (c)(ii) and
20 (iii) of this subsection.

21 (B) Any development or redevelopment other than an industrial area
22 or an industrial use within a mixed-use area or an industrial area
23 under this subsection (5)(d)(i) must be principally designed to serve
24 the existing and projected rural population.

25 (C) Any development or redevelopment in terms of building size,
26 scale, use, or intensity shall be consistent with the character of the
27 existing areas. Development and redevelopment may include changes in
28 use from vacant land or a previously existing use so long as the new
29 use conforms to the requirements of this subsection (5);

30 (ii) The intensification of development on lots containing, or new
31 development of, small-scale recreational or tourist uses, including
32 commercial facilities to serve those recreational or tourist uses, that
33 rely on a rural location and setting, but that do not include new
34 residential development. A small-scale recreation or tourist use is
35 not required to be principally designed to serve the existing and
36 projected rural population. Public services and public facilities
37 shall be limited to those necessary to serve the recreation or tourist

1 use and shall be provided in a manner that does not permit low-density
2 sprawl;

3 (iii) The intensification of development on lots containing
4 isolated nonresidential uses or new development of isolated cottage
5 industries and isolated small-scale businesses that are not principally
6 designed to serve the existing and projected rural population and
7 nonresidential uses, but do provide job opportunities for rural
8 residents. Rural counties may allow the expansion of small-scale
9 businesses as long as those small-scale businesses conform with the
10 rural character of the area as defined by the local government
11 according to RCW 36.70A.030(15). Rural counties may also allow new
12 small-scale businesses to utilize a site previously occupied by an
13 existing business as long as the new small-scale business conforms to
14 the rural character of the area as defined by the local government
15 according to RCW 36.70A.030(15). Public services and public facilities
16 shall be limited to those necessary to serve the isolated
17 nonresidential use and shall be provided in a manner that does not
18 permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the
20 existing areas or uses of more intensive rural development, as
21 appropriate, authorized under this subsection. Lands included in such
22 existing areas or uses shall not extend beyond the logical outer
23 boundary of the existing area or use, thereby allowing a new pattern of
24 low-density sprawl. Existing areas are those that are clearly
25 identifiable and contained and where there is a logical boundary
26 delineated predominately by the built environment, but that may also
27 include undeveloped lands if limited as provided in this subsection.
28 The county shall establish the logical outer boundary of an area of
29 more intensive rural development. In establishing the logical outer
30 boundary, the county shall address (A) the need to preserve the
31 character of existing natural neighborhoods and communities, (B)
32 physical boundaries, such as bodies of water, streets and highways, and
33 land forms and contours, (C) the prevention of abnormally irregular
34 boundaries, and (D) the ability to provide public facilities and public
35 services in a manner that does not permit low-density sprawl;

36 (v) For purposes of (d) of this subsection, an existing area or
37 existing use is one that was in existence:

1 (A) On July 1, 1990, in a county that was initially required to
2 plan under all of the provisions of this chapter;

3 (B) On the date the county adopted a resolution under RCW
4 36.70A.040(2), in a county that is planning under all of the provisions
5 of this chapter under RCW 36.70A.040(2); or

6 (C) On the date the office of financial management certifies the
7 county's population as provided in RCW 36.70A.040(5), in a county that
8 is planning under all of the provisions of this chapter pursuant to RCW
9 36.70A.040(5).

10 (e) Exception. This subsection shall not be interpreted to permit
11 in the rural area a major industrial development or a master planned
12 resort unless otherwise specifically permitted under RCW 36.70A.360 and
13 36.70A.365.

14 (6) A transportation element that implements, and is consistent
15 with, the land use element.

16 (a) The transportation element shall include the following
17 subelements:

18 (i) Land use assumptions used in estimating travel;

19 (ii) Estimated traffic impacts to state-owned transportation
20 facilities resulting from land use assumptions to assist the department
21 of transportation in monitoring the performance of state facilities, to
22 plan improvements for the facilities, and to assess the impact of land-
23 use decisions on state-owned transportation facilities;

24 (iii) Facilities and services needs, including:

25 (A) An inventory of air, water, and ground transportation
26 facilities and services, including transit alignments and general
27 aviation airport facilities, to define existing capital facilities and
28 travel levels as a basis for future planning. This inventory must
29 include state-owned transportation facilities within the city or
30 county's jurisdictional boundaries;

31 (B) Level of service standards for all locally owned arterials and
32 transit routes to serve as a gauge to judge performance of the system.
33 These standards should be regionally coordinated;

34 (C) For state-owned transportation facilities, level of service
35 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
36 to gauge the performance of the system. The purposes of reflecting
37 level of service standards for state highways in the local
38 comprehensive plan are to monitor the performance of the system, to

1 evaluate improvement strategies, and to facilitate coordination between
2 the county's or city's six-year street, road, or transit program and
3 the office of financial management's ten-year investment program. The
4 concurrency requirements of (b) of this subsection do not apply to
5 transportation facilities and services of statewide significance except
6 for counties consisting of islands whose only connection to the
7 mainland are state highways or ferry routes. In these island counties,
8 state highways and ferry route capacity must be a factor in meeting the
9 concurrency requirements in (b) of this subsection;

10 (D) Specific actions and requirements for bringing into compliance
11 locally owned transportation facilities or services that are below an
12 established level of service standard;

13 (E) Forecasts of traffic for at least ten years based on the
14 adopted land use plan to provide information on the location, timing,
15 and capacity needs of future growth;

16 (F) Identification of state and local system needs to meet current
17 and future demands. Identified needs on state-owned transportation
18 facilities must be consistent with the statewide multimodal
19 transportation plan required under chapter 47.06 RCW;

20 (iv) Finance, including:

21 (A) An analysis of funding capability to judge needs against
22 probable funding resources;

23 (B) A multiyear financing plan based on the needs identified in the
24 comprehensive plan, the appropriate parts of which shall serve as the
25 basis for the six-year street, road, or transit program required by RCW
26 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
27 for public transportation systems. The multiyear financing plan should
28 be coordinated with the ten-year investment program developed by the
29 office of financial management as required by RCW 47.05.030;

30 (C) If probable funding falls short of meeting identified needs, a
31 discussion of how additional funding will be raised, or how land use
32 assumptions will be reassessed to ensure that level of service
33 standards will be met;

34 (v) Intergovernmental coordination efforts, including an assessment
35 of the impacts of the transportation plan and land use assumptions on
36 the transportation systems of adjacent jurisdictions;

37 (vi) Demand-management strategies;

1 (vii) Pedestrian and bicycle component to include collaborative
2 efforts to identify and designate planned improvements for pedestrian
3 and bicycle facilities and corridors that address and encourage
4 enhanced community access and promote healthy lifestyles.

5 (b) After adoption of the comprehensive plan by jurisdictions
6 required to plan or who choose to plan under RCW 36.70A.040, local
7 jurisdictions must adopt and enforce ordinances which prohibit
8 development approval if the development causes the level of service on
9 a locally owned transportation facility to decline below the standards
10 adopted in the transportation element of the comprehensive plan, unless
11 transportation improvements or strategies to accommodate the impacts of
12 development are made concurrent with the development. These strategies
13 may include increased public transportation service, ride sharing
14 programs, demand management, and other transportation systems
15 management strategies. For the purposes of this subsection (6),
16 "concurrent with the development" means that improvements or strategies
17 are in place at the time of development, or that a financial commitment
18 is in place to complete the improvements or strategies within six
19 years. If the collection of impact fees is delayed under RCW
20 82.02.050(3), the six-year period required by this subsection (6)(b)
21 must begin after the county or city receives full payment of all impact
22 fees due.

23 (c) The transportation element described in this subsection (6),
24 the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121
25 for counties, and RCW 35.58.2795 for public transportation systems, and
26 the ten-year investment program required by RCW 47.05.030 for the
27 state, must be consistent.

28 (7) An economic development element establishing local goals,
29 policies, objectives, and provisions for economic growth and vitality
30 and a high quality of life. The element shall include: (a) A summary
31 of the local economy such as population, employment, payroll, sectors,
32 businesses, sales, and other information as appropriate; (b) a summary
33 of the strengths and weaknesses of the local economy defined as the
34 commercial and industrial sectors and supporting factors such as land
35 use, transportation, utilities, education, workforce, housing, and
36 natural/cultural resources; and (c) an identification of policies,
37 programs, and projects to foster economic growth and development and to

1 address future needs. A city that has chosen to be a residential
2 community is exempt from the economic development element requirement
3 of this subsection.

4 (8) A park and recreation element that implements, and is
5 consistent with, the capital facilities plan element as it relates to
6 park and recreation facilities. The element shall include: (a)
7 Estimates of park and recreation demand for at least a ten-year period;
8 (b) an evaluation of facilities and service needs; and (c) an
9 evaluation of intergovernmental coordination opportunities to provide
10 regional approaches for meeting park and recreational demand.

11 (9) It is the intent that new or amended elements required after
12 January 1, 2002, be adopted concurrent with the scheduled update
13 provided in RCW 36.70A.130. Requirements to incorporate any such new
14 or amended elements shall be null and void until funds sufficient to
15 cover applicable local government costs are appropriated and
16 distributed by the state at least two years before local government
17 must update comprehensive plans as required in RCW 36.70A.130.

18 **Sec. 11.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read
19 as follows:

20 (1) The department of ecology shall, in coordination with the
21 department of health, adopt rules for reclaimed water use consistent
22 with this chapter. The rules must address all aspects of reclaimed
23 water use, including commercial and industrial uses, land applications,
24 direct groundwater recharge, wetland discharge, surface percolation,
25 constructed wetlands, and streamflow or surface water augmentation.
26 The department of health shall, in coordination with the department of
27 ecology, adopt rules for greywater reuse. The rules must also
28 designate whether the department of ecology or the department of health
29 will be the lead agency responsible for a particular aspect of
30 reclaimed water use. In developing the rules, the departments of
31 health and ecology shall amend or rescind any existing rules on
32 reclaimed water in conflict with the new rules.

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

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

4 **Sec. 12.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to
5 read as follows:

6 The department of ecology is hereby designated as the state water
7 pollution control agency for all purposes of the federal clean water
8 act as it exists on February 4, 1987, and is hereby authorized to
9 participate fully in the programs of the act as well as to take all
10 action necessary to secure to the state the benefits and to meet the
11 requirements of that act. With regard to the national estuary program
12 established by section 320 of that act, the department shall exercise
13 its responsibility jointly with the Puget Sound partnership, created in
14 RCW 90.71.210. The department of ecology may delegate its authority
15 under this chapter, including its national pollutant discharge
16 elimination permit system authority and duties regarding animal feeding
17 operations and concentrated animal feeding operations, to the
18 department of agriculture through a memorandum of understanding. Until
19 any such delegation receives federal approval, the department of
20 agriculture's adoption or issuance of animal feeding operation and
21 concentrated animal feeding operation rules, permits, programs, and
22 directives pertaining to water quality shall be accomplished after
23 reaching agreement with the director of the department of ecology.
24 Adoption or issuance and implementation shall be accomplished so that
25 compliance with such animal feeding operation and concentrated animal
26 feeding operation rules, permits, programs, and directives will achieve
27 compliance with all federal and state water pollution control laws.
28 The department of ecology shall extend without modification any
29 national pollution discharge elimination system phase II municipal
30 storm water general permit first issued on January 17, 2007, until
31 after June 30, 2013. The powers granted herein include, among others,
32 and notwithstanding any other provisions of chapter 90.48 RCW or
33 otherwise, the following:

34 (1) Complete authority to establish and administer a comprehensive
35 state point source waste discharge or pollution discharge elimination
36 permit program which will enable the department to qualify for full
37 participation in any national waste discharge or pollution discharge

1 elimination permit system and will allow the department to be the sole
2 agency issuing permits required by such national system operating in
3 the state of Washington subject to the provisions of RCW 90.48.262(2).
4 Program elements authorized herein may include, but are not limited to:
5 (a) Effluent treatment and limitation requirements together with timing
6 requirements related thereto; (b) applicable receiving water quality
7 standards requirements; (c) requirements of standards of performance
8 for new sources; (d) pretreatment requirements; (e) termination and
9 modification of permits for cause; (f) requirements for public notices
10 and opportunities for public hearings; (g) appropriate relationships
11 with the secretary of the army in the administration of his
12 responsibilities which relate to anchorage and navigation, with the
13 administrator of the environmental protection agency in the performance
14 of his duties, and with other governmental officials under the federal
15 clean water act; (h) requirements for inspection, monitoring, entry,
16 and reporting; (i) enforcement of the program through penalties,
17 emergency powers, and criminal sanctions; (j) a continuing planning
18 process; and (k) user charges.

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

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

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

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

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

36 (2)(a) Subject to the provisions of subsections (5) and (6) of this

1 section, each local government subject to this chapter shall develop or
2 amend its master program for the regulation of uses of shorelines
3 within its jurisdiction according to the following schedule:

4 (i) On or before December 1, 2005, for the city of Port Townsend,
5 the city of Bellingham, the city of Everett, Snohomish county, and
6 Whatcom county;

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

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

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

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

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

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

26 (3)(a) Following approval by the department of a new or amended
27 master program, local governments required to develop or amend master
28 programs on or before December 1, 2009, as provided by subsection
29 (2)(a)(i) and (ii) of this section, shall be deemed to have complied
30 with the schedule established by subsection (2)(a)(iii) of this section
31 and shall not be required to complete master program amendments until
32 (~~seven~~) ten years after the applicable dates established by
33 subsection (2)(a)(iii) of this section. Any jurisdiction listed in
34 subsection (2)(a)(i) of this section that has a new or amended master
35 program approved by the department on or after March 1, 2002, but
36 before July 27, 2003, shall not be required to complete master program
37 amendments until (~~seven~~) ten years after the applicable date provided
38 by subsection (2)(a)(iii) of this section.

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

8 (4) Local governments shall conduct a review of their master
9 programs at least once every (~~seven~~) ten years after the applicable
10 dates established by subsection (2)(a)(iii) through (vi) of this
11 section. Following the review required by this subsection (4), local
12 governments shall, if necessary, revise their master programs. The
13 purpose of the review is:

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

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

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

28 (6)(a) Grants to local governments for developing and amending
29 master programs pursuant to the schedule established by this section
30 shall be provided at least two years before the adoption dates
31 specified in subsection (2) of this section. To the extent possible,
32 the department shall allocate grants within the amount appropriated for
33 such purposes to provide reasonable and adequate funding to local
34 governments that have indicated their intent to develop or amend master
35 programs during the biennium according to the schedule established by
36 subsection (2) of this section. Any local government that applies for
37 but does not receive funding to comply with the provisions of

1 subsection (2) of this section may delay the development or amendment
2 of its master program until the following biennium.

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

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

12 (7) Notwithstanding the provisions of this section, all local
13 governments subject to the requirements of this chapter that have not
14 developed or amended master programs on or after March 1, 2002, shall,
15 no later than December 1, 2014, develop or amend their master programs
16 to comply with guidelines adopted by the department after January 1,
17 2003.

18 (8) Local governments may be provided an additional year beyond the
19 deadlines in this section to complete their master program or
20 amendment. The department shall grant the request if it determines
21 that the local government is likely to adopt or amend its master
22 program within the additional year.

23 **Sec. 14.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read
24 as follows:

25 (1) A master program, segment of a master program, or an amendment
26 to a master program shall become effective when approved by the
27 department or within one hundred eighty days of receipt by the
28 department. The one hundred eighty day time period may be extended for
29 an additional thirty days by the department or at the request of the
30 local government. Within the time period provided in RCW 90.58.080,
31 each local government shall have submitted a master program, either
32 totally or by segments, for all shorelines of the state within its
33 jurisdiction to the department for review and approval.

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

36 (a) Provide notice to and opportunity for written comment by all
37 interested parties of record as a part of the local government review

1 process for the proposal and to all persons, groups, and agencies that
2 have requested in writing notice of proposed master programs or
3 amendments generally or for a specific area, subject matter, or issue.
4 The comment period shall be at least thirty days, unless the department
5 determines that the level of complexity or controversy involved
6 supports a shorter period;

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

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

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

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

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

33 (ii) Submit an alternative proposal. If, in the opinion of the
34 department, the alternative is consistent with the purpose and intent
35 of the changes originally submitted by the department and with this
36 chapter it shall approve the changes and provide written notice to all
37 recipients of the written findings and conclusions. If the department
38 determines the proposal is not consistent with the purpose and intent

1 of the changes proposed by the department, the department may resubmit
2 the proposal for public and agency review pursuant to this section or
3 reject the proposal.

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

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

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

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

29 Upon approval of such master program by the department it shall
30 supersede such master program as may have been adopted by the
31 department for such shorelines.

32 (7) A master program or amendment to a master program takes effect
33 when and in such form as approved or adopted by the department.
34 Shoreline master programs that were adopted by the department prior to
35 July 22, 1995, in accordance with the provisions of this section then
36 in effect, shall be deemed approved by the department in accordance
37 with the provisions of this section that became effective on that date.
38 The department shall maintain a record of each master program, the

1 action taken on any proposal for adoption or amendment of the master
2 program, and any appeal of the department's action. The department's
3 approved document of record constitutes the official master program.

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