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**SUBSTITUTE HOUSE BILL 2133**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Walsh, Blake, Kraft, MacEwen, Griffey, Barkis, Stambaugh, Van Werven, Buys, Haler, and Muri)

READ FIRST TIME 01/30/18.

1 AN ACT Relating to encouraging the economic vitality of rural  
2 food and forest product businesses; amending RCW 70.95.300,  
3 36.70A.177, 70.146.070, and 43.160.060; adding a new section to  
4 chapter 15.04 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is of  
7 critical importance to promote the creation of jobs located in the  
8 rural communities where many Washington residents prefer to live. In  
9 particular, small and medium-sized value-adding businesses that  
10 process raw forest and food products are an important source of jobs  
11 for rural communities. By supporting the commercial infrastructure  
12 needed to process the harvests of local forest lands, agricultural  
13 lands, tidelands, and state waters into food and forest products,  
14 rural lands will remain in active production and able to supply the  
15 Pacific Northwest's strong demand for high quality and locally  
16 sourced products. Furthermore, such economic development is  
17 consistent with state growth management goals of supporting economic  
18 development of rural character in rural areas and bolsters the state  
19 goal of reducing statewide vehicle miles traveled.

20 (2) Therefore, it is the intent of the legislature to incentivize  
21 and remove roadblocks to the most beneficial types of rural economic

1 development for food and forest products businesses. Specifically, it  
2 is the intent of the legislature to advance opportunities in value-  
3 added forest product and food production by:

4 (a) Establishing an omnibus permit pilot program to be  
5 implemented by the department of agriculture for businesses involved  
6 in forest product and food processing;

7 (b) Directing the department of ecology to update its solid waste  
8 rules to reflect the beneficial applications of leftover materials  
9 generated by many forest product and food processors;

10 (c) Encouraging local governments to facilitate the siting of  
11 food production facilities that must exist symbiotically with  
12 designated agricultural lands; and

13 (d) Providing preferences in existing grant programs for certain  
14 types of projects that support agricultural and forest product  
15 processing activities in rural areas.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.04  
17 RCW to read as follows:

18 (1) By January 1, 2020, the department shall establish a pilot  
19 program to create an omnibus permitting process for businesses that  
20 process or engage in other value-added activities that involve:

21 (a) The raw products of agriculture, fisheries, and aquaculture,  
22 including shellfish aquaculture;

23 (b) Food, food products, or cottage food products;

24 (c) Forest products, as defined in RCW 76.36.010; and

25 (d) Specialized forest products, processed cedar products, or  
26 specialty wood, as those terms are defined in RCW 76.48.021.

27 (2) The pilot project must consolidate the application process  
28 for environmental, land use, and public health permits commonly  
29 required of food-oriented or forest product-oriented businesses that  
30 are issued by state and local governments for facility siting,  
31 operations, or both. The department must consider including, at a  
32 minimum, the following as part of the omnibus permit application  
33 process:

34 (a) Water discharge permits issued under chapter 90.48 RCW;

35 (b) Air emissions permits issued under chapter 70.94 RCW;

36 (c) Solid waste permits issued under chapter 70.95 RCW;

37 (d) Food product permits issued under chapter 69.07 or 69.22 RCW;

38 (e) Permits issued under this title or licenses issued under  
39 chapter 69.30 RCW;

1 (f) Substantial development permits issued under chapter 90.58  
2 RCW and hydraulic project approvals issued under chapter 77.55 RCW;  
3 and

4 (g) Building permits issued by a local government.

5 (3) In administering the omnibus permit application, the  
6 department must:

7 (a) Coordinate with the office of regulatory assistance and the  
8 state agencies and local governments responsible for issuing each  
9 permit included in the omnibus permit, including the department of  
10 ecology, the department of health, and the relevant county;

11 (b) Seek to provide a streamlined and customer-oriented permit  
12 service, including by providing information or technical assistance  
13 to permit applicants where appropriate; and

14 (c) Model the omnibus permit program implementation on the  
15 coordinated permit process open to projects of statewide significance  
16 under chapter 43.42 RCW.

17 (4) The department may initially limit the scope and scale of the  
18 pilot omnibus permitting program, but must seek to eventually  
19 incorporate as many products and areas within the program as is  
20 feasible. By July 1, 2019, the department must initiate the pilot  
21 omnibus permitting program by selecting at least one county and  
22 category of food, forest, agriculture, aquaculture, or fisheries  
23 product for which the omnibus permitting process will be available.

24 (5) The department may not charge an additional fee for the use  
25 of the omnibus permitting process that it develops under this  
26 section. This subsection does not limit the obligation of a person  
27 using the omnibus permitting process to obtain individual permits  
28 incorporated within the omnibus permitting process.

29 (6) By July 1, 2023, the department must submit a report to the  
30 legislature regarding the implementation of the pilot program. The  
31 report must include recommendations for reducing the regulatory  
32 burdens on forest product and food producers.

33 **Sec. 3.** RCW 70.95.300 and 2016 c 119 s 6 are each amended to  
34 read as follows:

35 (1)(a) The department may by rule exempt a solid waste from the  
36 permitting requirements of this chapter for one or more beneficial  
37 uses. In adopting such rules, the department shall specify both the  
38 solid waste that is exempted from the permitting requirements and the  
39 beneficial use or uses for which the solid waste is so exempted. The

1 department shall consider: ~~((a))~~ (i) Whether the material will be  
2 beneficially used or reused; and ~~((b))~~ (ii) whether the beneficial  
3 use or reuse of the material will present threats to human health or  
4 the environment.

5 (b) By May 1, 2019, the department must:

6 (i) Undertake a comprehensive analysis of common value-added food  
7 and forest product manufacturing processes that generate wastes that  
8 are regulated as solid wastes under this chapter, but that also hold  
9 promise for beneficial use consistent with this section or as a  
10 waste-derived soil amendment consistent with RCW 70.95.205. The  
11 department must consult with the department of natural resources and  
12 the department of agriculture in identifying common food and forest  
13 product production processes and their associated wastes, which must  
14 include wastes from the processing of raw aquaculture and agriculture  
15 products; and

16 (ii) Adopt a rule to exempt the following from the permitting  
17 requirements of this chapter for one or more beneficial uses or as  
18 waste-derived soil amendments:

19 (A) Solid wastes identified pursuant to (b)(i) of this  
20 subsection; and

21 (B) Solid wastes generated by a value-added food business that  
22 are derived from the processing of agricultural products and that are  
23 subsequently applied on lands used in agricultural production that  
24 are under the same ownership or management as the agricultural  
25 production facility.

26 (2) The department may also exempt a solid waste from the  
27 permitting requirements of this chapter for one or more beneficial  
28 uses by approving an application for such an exemption. The  
29 department shall establish by rule procedures under which a person  
30 may apply to the department for such an exemption. The rules shall  
31 establish criteria for providing such an exemption, which shall  
32 include, but not be limited to: (a) The material will be beneficially  
33 used or reused; and (b) the beneficial use or reuse of the material  
34 will not present threats to human health or the environment. Rules  
35 adopted under this subsection shall identify the information that an  
36 application shall contain. Persons seeking such an exemption shall  
37 apply to the department under the procedures established by the rules  
38 adopted under this subsection.

39 (3) After receipt of an application filed under rules adopted  
40 under subsection (2) of this section, the department shall review the

1 application to determine whether it is complete, and forward a copy  
2 of the completed application to all jurisdictional health departments  
3 and the department of agriculture for review and comment. Within  
4 forty-five days, the jurisdictional health departments and the  
5 department of agriculture shall forward to the department their  
6 comments and any other information they deem relevant to the  
7 department's decision to approve or disapprove the application. The  
8 department of agriculture's comments must be limited to addressing  
9 whether approving the application risks spreading disease, plant  
10 pathogens, or pests to areas that are not under a quarantine, as  
11 defined in RCW 17.24.007. Every complete application shall be  
12 approved or disapproved by the department within ninety days of  
13 receipt. If the application is approved by the department, the solid  
14 waste is exempt from the permitting requirements of this chapter when  
15 used anywhere in the state in the manner approved by the department.  
16 If the composition, use, or reuse of the solid waste is not  
17 consistent with the terms and conditions of the department's approval  
18 of the application, the use of the solid waste remains subject to the  
19 permitting requirements of this chapter.

20 (4) The department shall establish procedures by rule for  
21 providing to the public and the solid waste industry notice of and an  
22 opportunity to comment on each application for an exemption under  
23 subsection (2) of this section.

24 (5) Any jurisdictional health department or applicant may appeal  
25 the decision of the department to approve or disapprove an  
26 application under subsection (3) of this section. The appeal shall be  
27 made to the pollution control hearings board by filing with the  
28 hearings board a notice of appeal within thirty days of the decision  
29 of the department. The hearings board's review of the decision shall  
30 be made in accordance with chapter 43.21B RCW and any subsequent  
31 appeal of a decision of the board shall be made in accordance with  
32 RCW 43.21B.180.

33 (6) This section shall not be deemed to invalidate the exemptions  
34 or determinations of nonapplicability in the department's solid waste  
35 rules as they exist on June 11, 1998, which exemptions and  
36 determinations are recognized and confirmed subject to the  
37 department's continuing authority to modify or revoke those  
38 exemptions or determinations by rule.

1       **Sec. 4.** RCW 36.70A.177 and 2006 c 147 s 1 are each amended to  
2 read as follows:

3       (1) A county or a city (~~may~~) must use a variety of innovative  
4 zoning techniques in areas designated as agricultural lands of long-  
5 term commercial significance under RCW 36.70A.170. The innovative  
6 zoning techniques should be designed to conserve agricultural lands  
7 and encourage the agricultural economy. Except as provided in  
8 subsection (3) of this section, a county or city should encourage  
9 nonagricultural uses to be limited to lands with poor soils or  
10 otherwise not suitable for agricultural purposes.

11       (2) Innovative zoning techniques a county or city may consider  
12 include, but are not limited to:

13       (a) Agricultural zoning, which limits the density of development  
14 and restricts or prohibits nonfarm uses of agricultural land and may  
15 allow accessory uses, including nonagricultural accessory uses and  
16 activities, that support, promote, or sustain agricultural operations  
17 and production, as provided in subsection (3) of this section;

18       (b) Cluster zoning, which allows new development on one portion  
19 of the land, leaving the remainder in agricultural or open space  
20 uses;

21       (c) Large lot zoning, which establishes as a minimum lot size the  
22 amount of land necessary to achieve a successful farming practice;

23       (d) Quarter/quarter zoning, which permits one residential  
24 dwelling on a one-acre minimum lot for each one-sixteenth of a  
25 section of land; and

26       (e) Sliding scale zoning, which allows the number of lots for  
27 single-family residential purposes with a minimum lot size of one  
28 acre to increase inversely as the size of the total acreage  
29 increases.

30       (3) Accessory uses allowed under subsection (2)(a) of this  
31 section shall comply with the following:

32       (a) Accessory uses shall be located, designed, and operated so as  
33 to not interfere with, and to support the continuation of, the  
34 overall agricultural use of the property and neighboring properties,  
35 and shall comply with the requirements of this chapter;

36       (b) Accessory uses may include:

37       (i) Agricultural accessory uses and activities, including but not  
38 limited to the storage, distribution, and marketing of regional  
39 agricultural products from one or more producers, agriculturally  
40 related experiences, or the production, marketing, and distribution

1 of value-added agricultural products, including support services that  
2 facilitate these activities; and

3 (ii) Nonagricultural accessory uses and activities as long as  
4 they are consistent with the size, scale, and intensity of the  
5 existing agricultural use of the property and the existing buildings  
6 on the site(~~(. Nonagricultural accessory uses and activities,~~  
7 ~~including new buildings, parking, or supportive uses, shall not be~~  
8 ~~located outside the general area already developed for buildings and~~  
9 ~~residential uses and shall not otherwise convert more than one acre~~  
10 ~~of agricultural land to nonagricultural uses))); and~~

11 (c) Counties and cities have the authority to limit or exclude  
12 accessory uses otherwise authorized in this subsection (3) in areas  
13 designated as agricultural lands of long-term commercial  
14 significance.

15 (4) This section shall not be interpreted to limit agricultural  
16 production on designated agricultural lands.

17 **Sec. 5.** RCW 70.146.070 and 2013 c 275 s 4 are each amended to  
18 read as follows:

19 (1) When making grants or loans for water pollution control  
20 facilities, the department shall consider the following:

21 (a) The protection of water quality and public health;

22 (b) The cost to residential ratepayers if they had to finance  
23 water pollution control facilities without state assistance;

24 (c) Actions required under federal and state permits and  
25 compliance orders;

26 (d) The level of local fiscal effort by residential ratepayers  
27 since 1972 in financing water pollution control facilities;

28 (e) Except as otherwise conditioned by RCW 70.146.110, whether  
29 the entity receiving assistance is a Puget Sound partner, as defined  
30 in RCW 90.71.010;

31 (f) Whether the project is referenced in the action agenda  
32 developed by the Puget Sound partnership under RCW 90.71.310;

33 (g) Except as otherwise provided in RCW 70.146.120, and effective  
34 one calendar year following the development and statewide  
35 availability of model evergreen community management plans and  
36 ordinances under RCW 35.105.050, whether the project is sponsored by  
37 an entity that has been recognized, and what gradation of recognition  
38 was received, in the evergreen community recognition program created  
39 in RCW 35.105.030;

1 (h) The extent to which the applicant county or city, or if the  
2 applicant is another public body, the extent to which the county or  
3 city in which the applicant public body is located, has established  
4 programs to mitigate nonpoint pollution of the surface or  
5 subterranean water sought to be protected by the water pollution  
6 control facility named in the application for state assistance;  
7 ((and))

8 (i) The recommendations of the Puget Sound partnership, created  
9 in RCW 90.71.210, and any other board, council, commission, or group  
10 established by the legislature or a state agency to study water  
11 pollution control issues in the state; and

12 (j) Whether the project will support the viability of local  
13 agriculture, aquaculture, fisheries, or silviculture, and associated  
14 food or forest product processing, by increasing the local capacity  
15 to treat wastewater from food or forest product processing  
16 facilities.

17 (2) Except where necessary to address a public health need or  
18 substantial environmental degradation, a county, city, or town  
19 planning under RCW 36.70A.040 may not receive a grant or loan for  
20 water pollution control facilities unless it has adopted a  
21 comprehensive plan, including a capital facilities plan element, and  
22 development regulations as required by RCW 36.70A.040. A county,  
23 city, or town that has adopted a comprehensive plan and development  
24 regulations as provided in RCW 36.70A.040 may request a grant or loan  
25 for water pollution control facilities. This subsection does not  
26 require any county, city, or town planning under RCW 36.70A.040 to  
27 adopt a comprehensive plan or development regulations before  
28 requesting a grant or loan under this chapter if such request is made  
29 before the expiration of the time periods specified in RCW  
30 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
31 that has not adopted a comprehensive plan and development regulations  
32 within the time periods specified in RCW 36.70A.040 is not prohibited  
33 from receiving a grant or loan under this chapter if the  
34 comprehensive plan and development regulations are adopted as  
35 required by RCW 36.70A.040 before the department executes a  
36 contractual agreement for the grant or loan.

37 (3) Whenever the department is considering awarding grants or  
38 loans for public facilities to special districts requesting funding  
39 for a proposed facility located in a county, city, or town planning  
40 under RCW 36.70A.040, it shall consider whether the county, city, or



1 town planning under RCW 36.70A.040 in whose planning jurisdiction the  
2 proposed facility is located has adopted a comprehensive plan and  
3 development regulations as required by RCW 36.70A.040.

4 (4) After January 1, 2010, any project designed to address the  
5 effects of water pollution on Puget Sound may be funded under this  
6 chapter only if the project is not in conflict with the action agenda  
7 developed by the Puget Sound partnership under RCW 90.71.310.

8 **Sec. 6.** RCW 43.160.060 and 2014 c 112 s 108 are each amended to  
9 read as follows:

10 (1) The board is authorized to make direct loans to political  
11 subdivisions of the state and to federally recognized Indian tribes  
12 for the purposes of assisting the political subdivisions and  
13 federally recognized Indian tribes in financing the cost of public  
14 facilities, including development of land and improvements for public  
15 facilities, project-specific environmental, capital facilities, land  
16 use, permitting, feasibility, and marketing studies and plans;  
17 project design, site planning, and analysis; project debt and revenue  
18 impact analysis; as well as the construction, rehabilitation,  
19 alteration, expansion, or improvement of the facilities. A grant may  
20 also be authorized for purposes designated in this chapter, but only  
21 when, and to the extent that, a loan is not reasonably possible,  
22 given the limited resources of the political subdivision or the  
23 federally recognized Indian tribe and the finding by the board that  
24 financial circumstances require grant assistance to enable the  
25 project to move forward. However, no more than twenty-five percent of  
26 all financial assistance approved by the board in any biennium may  
27 consist of grants to political subdivisions and federally recognized  
28 Indian tribes.

29 (2) Application for funds must be made in the form and manner as  
30 the board may prescribe. In making grants or loans the board must  
31 conform to the following requirements:

32 (a) The board may not provide financial assistance:

33 (i) For a project the primary purpose of which is to facilitate  
34 or promote a retail shopping development or expansion.

35 (ii) For any project that evidence exists would result in a  
36 development or expansion that would displace existing jobs in any  
37 other community in the state.

38 (iii) For a project the primary purpose of which is to facilitate  
39 or promote gambling.

1 (iv) For a project located outside the jurisdiction of the  
2 applicant political subdivision or federally recognized Indian tribe.

3 (b) The board may only provide financial assistance:

4 (i) For a project demonstrating convincing evidence that a  
5 specific private development or expansion is ready to occur and will  
6 occur only if the public facility improvement is made that:

7 (A) Results in the creation of significant private sector jobs or  
8 significant private sector capital investment as determined by the  
9 board; and

10 (B) Will improve the opportunities for the successful  
11 maintenance, establishment, or expansion of industrial or commercial  
12 plants or will otherwise assist in the creation or retention of long-  
13 term economic opportunities;

14 (ii) For a project that cannot meet the requirement of (b)(i) of  
15 this subsection but is a project that:

16 (A) Results in the creation of significant private sector jobs or  
17 significant private sector capital investment as determined by the  
18 board;

19 (B) Is part of a local economic development plan consistent with  
20 applicable state planning requirements;

21 (C) Can demonstrate project feasibility using standard economic  
22 principles; and

23 (D) Is located in a rural community as defined by the board, or a  
24 rural county;

25 (iii) For site-specific plans, studies, and analyses that address  
26 environmental impacts, capital facilities, land use, permitting,  
27 feasibility, marketing, project engineering, design, site planning,  
28 and project debt and revenue impacts, as grants not to exceed fifty  
29 thousand dollars.

30 (c) The board must develop guidelines for local participation and  
31 allowable match and activities.

32 (d) An application must demonstrate local match and local  
33 participation, in accordance with guidelines developed by the board.

34 (e) An application must be approved by the political subdivision  
35 and supported by the local associate development organization or  
36 local workforce development council or approved by the governing body  
37 of the federally recognized Indian tribe.

38 (f) The board may allow de minimis general system improvements to  
39 be funded if they are critically linked to the viability of the  
40 project.

1 (g) An application must demonstrate convincing evidence that the  
2 median hourly wage of the private sector jobs created after the  
3 project is completed will exceed the countywide median hourly wage.

4 (h) The board must prioritize each proposed project according to:

5 (i) The relative benefits provided to the community by the jobs  
6 the project would create, not just the total number of jobs it would  
7 create after the project is completed, but also giving consideration  
8 to the unemployment rate in the area in which the jobs would be  
9 located;

10 (ii) The rate of return of the state's investment, including, but  
11 not limited to, the leveraging of private sector investment,  
12 anticipated job creation and retention, and expected increases in  
13 state and local tax revenues associated with the project;

14 (iii) Whether the proposed project offers a health insurance plan  
15 for employees that includes an option for dependents of employees;

16 (iv) Whether the public facility investment will increase  
17 existing capacity necessary to accommodate projected population and  
18 employment growth in a manner that supports infill and redevelopment  
19 of existing urban or industrial areas that are served by adequate  
20 public facilities. Projects should maximize the use of existing  
21 infrastructure and provide for adequate funding of necessary  
22 transportation improvements;

23 (v) Whether the applicant's permitting process has been certified  
24 as streamlined by the office of regulatory assistance; ((and))

25 (vi) Whether the applicant has developed and adhered to  
26 guidelines regarding its permitting process for those applying for  
27 development permits consistent with section 1(2), chapter 231, Laws  
28 of 2007; and

29 (vii) Whether the project will support rural economic development  
30 by facilitating the long-term sustainability of local agriculture,  
31 aquaculture, fisheries, and silviculture, and associated food and  
32 forest product processing activities.

33 (i) A responsible official of the political subdivision or the  
34 federally recognized Indian tribe must be present during board  
35 deliberations and provide information that the board requests.

36 (3) Before any financial assistance application is approved, the  
37 political subdivision or the federally recognized Indian tribe  
38 seeking the assistance must demonstrate to the community economic  
39 revitalization board that no other timely source of funding is

1 available to it at costs reasonably similar to financing available  
2 from the community economic revitalization board.

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