
HOUSE BILL 2133

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By Representatives J. Walsh, Blake, Kraft, MacEwen, Griffey, Barkis, Stambaugh, Van Werven, Buys, Haler, and Muri

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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, 2019, 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, 2018, 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, 2022, 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, 2018, 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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