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**SUBSTITUTE SENATE BILL 6223**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Trade & Economic Development (originally sponsored by Senators Brown, Angel, Braun, and Hewitt)

AN ACT Relating to enhancing regulatory agency coordination; amending RCW 43.42.005, 43.42.010, 34.05.320, 43.30.550, 43.42.030, 43.42.090, 43.42.092, 43.42.095, 43.42.100, 43.42A.030, 43.88.585, 43.155.070, 43.157.020, 43.157.030, 43.160.060, 43.330.440, 47.80.090, and 77.55.181; and reenacting and amending RCW 34.05.328.

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

**Sec.**  RCW 43.42.005 and 2010 c 162 s 1 are each amended to read as follows:

(1) The legislature finds that: The health and safety of its citizens and environment are of vital interest to the state's long-term quality of life; Washington state is a national leader in protecting its environment; and Washington state has a vibrant and diverse economy that is dependent on the state maintaining high environmental standards. Further, the legislature finds that a complex and confusing network of environmental and land use laws and business regulations can create obstacles to sustainable growth.

It is the intent of the legislature to promote accountability, timeliness, and predictability for citizens, business, and state, federal, and local permitting agencies, and to provide collaboration and coordination, information, and assistance on the regulatory process through the creation of the office ((~~of~~)) for regulatory innovation and assistance in the governor's office.

(2) The office ((~~of~~)) for regulatory innovation and assistance is created to work to continually improve the function of environmental and business regulatory processes by identifying conflicts and overlap in the state's rules, statutes, and operational practices; to ensure ongoing coordination among regulatory agencies, reducing costs for both government and businesses; the office is to provide project proponents and business owners with active assistance for all permitting, licensing, and other regulatory procedures required for completion of specific projects; and the office is to ensure that citizens, businesses, and local governments have access to, and clear information regarding, regulatory processes for permitting and business regulation, including state rules, permit and license requirements, and agency rule-making processes.

(3) The legislature declares that the purpose of this chapter is to provide direction, practical resources, and a range of innovative and optional service delivery options for improving the regulatory process and for providing assistance through the regulatory process on individual projects in furtherance of the state's goals of governmental transparency and accountability.

(4) The legislature intends that establishing an office ((~~of~~)) for regulatory innovation and assistance will provide these services without abrogating or limiting the authority of any agency to make decisions on permits, licenses, regulatory requirements, or agency rule making. The legislature further intends that the office ((~~of~~)) for regulatory innovation and assistance shall have authority to provide services but shall not have any authority to make decisions on permits.

**Sec.**  RCW 43.42.010 and 2012 c 196 s 1 are each amended to read as follows:

(1) The office ((~~of~~)) for regulatory innovation and assistance is created in the office of financial management and must be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor must appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office must offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060; and

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW.

(4) The office must also:

(a) Provide information to local jurisdictions about best permitting practices, methods to improve communication with, and solicit early involvement of, state agencies when needed, and effective means of assessing and communicating expected project timelines and costs;

(b) Maintain and furnish information as provided in RCW 43.42.040; and

(c) Provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(i) A performance report including:

(A) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(B) The number and type of projects or initiatives where the office provided services including the key agencies with which the office partnered;

(C) Specific information on any difficulty encountered in providing services or implementing programs, processes, or assistance tools; and

(D) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and

(ii) Recommendations on system improvements including, but not limited to, recommendations on improving environmental permitting by making it more time efficient and cost-effective for all participants in the process.

(5) The office must also develop a long-term strategy for identifying and prioritizing multiagency regulatory processes that can be streamlined through better coordination. The long-term strategy for identifying and prioritizing multiagency regulatory processes that can be streamlined through better coordination must be based on the potential for mutual benefits for industry and the public, as determined by a group made up of representatives from businesses, state agencies, local governments, tribal governments, and other relevant stakeholders consulting with the office. The group must work collaboratively with the office to consider the importance of these processes to the state, as well as consider the potential costs and savings to affected entities. The office must report to the governor and the economic development committees of the legislature annually on the progress of prioritized regulatory processes being streamlined through coordination.

**Sec.**  RCW 34.05.320 and 2012 c 210 s 2 are each amended to read as follows:

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make, and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a citation to such law or court decision;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A copy of the small business economic impact statement prepared under chapter 19.85 RCW, or a copy of the school district fiscal impact statement under RCW 28A.305.135 in the case of the state board of education, or an explanation for why the agency did not prepare the statement;

(k) A statement indicating whether RCW 34.05.328 applies to the rule adoption; and

(l) If RCW 34.05.328 does apply, a statement indicating that a copy of the preliminary cost-benefit analysis described in RCW 34.05.328(1)(c) is available.

(2)(a) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection. Except as provided in (b) of this subsection, the agency shall forward three copies of the notice to the rules review committee.

(b) A pilot of at least ten agencies, including the departments of labor and industries, fish and wildlife, revenue, ecology, retirement systems, and health, shall file the copies required under this subsection, as well as under RCW 34.05.350 and 34.05.353, with the rules review committee electronically for a period of four years from June 10, 2004. The office ((~~of~~)) for regulatory innovation and assistance shall negotiate the details of the pilot among the agencies, the legislature, and the code reviser.

(3) No later than three days after its publication in the state register, the agency shall cause either a copy of the notice of proposed rule adoption, or a summary of the information contained on the notice, to be mailed to each person, city, and county that has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

**Sec.**  RCW 34.05.328 and 2011 c 298 s 21 and 2011 c 149 s 1 are each reenacted and amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency must:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency must place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency must place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan must describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency must do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency must report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; or

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency must state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office ((~~of~~)) for regulatory innovation and assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, must report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report must document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

**Sec.**  RCW 43.30.550 and 2012 1st sp.s. c 1 s 208 are each amended to read as follows:

(1) By December 31, 2013, the department must make examples of complete, high quality forest practices applications and the resulting approvals readily available to the public on its internet site, as well as the internet site of the office ((~~of~~)) for regulatory innovation and assistance established in RCW 43.42.010. The department must maximize assistance to the public and interested parties by seeking to make readily available examples from forest practices that generate significant permitting activity or frequent questions.

(2) The department must regularly review and update the examples required to be made available on the internet under subsection (1) of this section.

(3) The department must obtain the written permission of an applicant before making publicly available that applicant's application or approval under this section and must work cooperatively with the applicant to ensure that no personal or proprietary information is made available.

**Sec.**  RCW 43.42.030 and 2009 c 97 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Director" means the director of the office ((~~of~~)) for regulatory innovation and assistance.

(2) "Fully coordinated permit process" means a comprehensive coordinated permitting assistance approach supported by a written agreement between the project proponent, the office ((~~of~~)) for regulatory innovation and assistance, and the agencies participating in the fully coordinated permit process.

(3) "General coordination services" means services that bring interested parties together to explore opportunities for cooperation and to resolve conflicts. General coordination services may be provided as a stand-alone event or as an element of broader project assistance, nonproject-related interagency coordination, or policy and planning teamwork.

(4) "Office" means the office ((~~of~~)) for regulatory innovation and assistance established in RCW 43.42.010.

(5) "Permit" means any permit, license, certificate, use authorization, or other form of governmental review or approval required in order to construct, expand, or operate a project in the state of Washington.

(6) "Permit agency" means any state, local, or federal agency authorized by law to issue permits.

(7) "Project" means any activity, the conduct of which requires a permit or permits from one or more permit agencies.

(8) "Project proponent" means a citizen, business, or any entity applying for or seeking a permit or permits in the state of Washington.

(9) "Project scoping" means the identification of relevant issues and information needs of a project proponent and the permitting agencies, and reaching a common understanding regarding the process, timing, and sequencing for obtaining applicable permits.

**Sec.**  RCW 43.42.090 and 2010 c 162 s 2 are each amended to read as follows:

(1) The legislature finds that the state of Washington has implemented a number of successful measures to streamline, coordinate, and consolidate the multiparty, multijurisdictional permitting and regulatory decision-making process. The office ((~~of~~)) for regulatory innovation and assistance was developed and implemented at a time when the state faced a crisis in its economic competitiveness. The multiagency permitting team for transportation was developed and implemented at a time when the state's transportation system faced a crisis in public confidence concerning transportation project delivery. The legislature further finds that the state of Washington is now facing an economic and financial crisis that requires immediate action to spur economic development and the creation of jobs without sacrificing the quality of the state's environment.

(2) The legislature intends to:

(a) Draw from and extend the benefits of proven permit streamlining solutions to future project proponents and aid the state's recovery by authorizing optional multiagency permitting teams modeled after the multiagency permitting team developed and implemented for state transportation projects. It is the purpose of chapter 162, Laws of 2010 to provide willing permit applicants and project proponents with permit coordination and integrated regulatory decision-making services on a cost-reimbursed basis; and

(b) Phase-in a revenue-neutral permit streamlining approach to expedite permit and regulatory decision making while ensuring a high level of environmental protection.

**Sec.**  RCW 43.42.092 and 2010 c 162 s 3 are each amended to read as follows:

(1)(a) The office ((~~of~~)) for regulatory innovation and assistance is authorized to develop and advertise the availability of optional multiagency permitting teams to provide coordinated permitting and integrated regulatory decision making starting in the Puget Sound basin.

(b) New expenses associated with operating the optional multiagency permitting teams must be recovered by the office ((~~of~~)) for regulatory innovation and assistance using existing state cost-reimbursement and interagency cost-sharing authorities as applicable. The cost‑reimbursement process is subject to the requirements and limitations set forth in RCW 43.42.070. Initial administrative costs and other costs that may not be recoverable through cost-reimbursement or cost-sharing mechanisms may be covered by funds from the multiagency permitting team account created in RCW 43.42.095.

(c) The director of the office ((~~of~~)) for regulatory innovation and assistance must solicit donations and such other funds as the director deems appropriate from public and private sources for the purposes of covering the initial administrative costs and other costs associated with operation of optional multiagency permitting teams which are not recoverable through cost‑reimbursement or cost-sharing mechanisms. All such solicited funds must be placed in the multiagency permitting team account created in RCW 43.42.095.

(2) Optional multiagency permitting teams must be:

(a) Mobile, capable of traveling or working together as teams, initially throughout the Puget Sound basin;

(b) Located initially in central Puget Sound;

(c) Staffed by appropriate senior-level permitting and regulatory decision-making personnel representing the Washington state departments of ecology, fish and wildlife, and natural resources and having expertise in regulatory issues relating to the project; and

(d) Managed by the office ((~~of~~)) for regulatory innovation and assistance through a team leader responsible for:

(i) Managing or monitoring team activities to ensure the cost‑reimbursement schedule and agreement is followed;

(ii) Developing and maintaining partnerships and working relationships with local, state, tribal, and federal organizations not core to the optional multiagency permitting teams that can be called upon to join the team on a project-by-project basis;

(iii) Developing, defining, and providing a set of coordinated permitting and integrated decision-making services consistent with those set forth in subsection (3) of this section;

(iv) Developing and executing funding agreements with applicants, project proponents, regulatory agencies, and others as necessary to ensure the financial viability of the optional multiagency permitting teams;

(v) Measuring and regularly reporting on team performance, results and outcomes achieved, including improved: Permitting predictability, interagency early project coordination, interagency accessibility, interagency relationships, project delivery, and environmental results, including the avoidance or prevention of environmental harm and the effectiveness of mitigation;

(vi) Conducting outreach, marketing, and advertising of team services and team availability, focusing initially on projects such as large‑scale public, private, and port development projects with complex aquatics, wetland, or other environmental impacts; environmental cleanup, restoration, and enhancement projects; aquaculture projects; and energy, power generation, and utility projects;

(vii) Implementing issue and dispute resolution protocols;

(viii) Incorporating and using virtual tools for online collaboration to support permitting and regulatory coordination and expedited decision making; and

(ix) Extending and subsequently implementing the optional multiagency permitting team approach to other significant geographic regions of the state.

(3) The optional multiagency permitting teams must at a minimum work with the office ((~~of~~)) for regulatory innovation and assistance to provide the following core services:

(a) Project scoping, as set forth in RCW 43.42.050 (1) through (4), to help applicants identify applicable permits and regulatory approvals;

(b) A preapplication coordination service, which may be combined with project scoping, to help applicants understand applicable requirements and plan out with the assistance of the regulatory agencies an optimally sequenced permitting and regulatory decision-making strategy and approach for the overall project;

(c) Fully coordinated project review as set forth in RCW 43.42.060 to set schedules and agreed-upon time frames for the applicant and regulatory decision makers consistent with statutory requirements and with regard to available agency resources and to track, monitor, and report progress made in meeting those schedules and time frames;

(d) Mitigation coordination to help applicants and regulatory agencies collaborate on and implement mitigation obligations within a watershed context so superior environmental results can be achieved when impacts cannot be avoided or further minimized.

(4) Local and federal permitting and regulatory personnel should be incorporated into the optional multiagency permitting teams whenever possible and at least on a project-by-project basis. Moneys recouped through state cost-reimbursement and interagency cost-sharing authorities, or as otherwise solicited for deposit into the multiagency permitting team account created in RCW 43.42.095, may also be used to cover local and federal participation.

(5) The optional multiagency permitting teams will provide services for complex projects requiring multiple permits and regulatory approvals and having multiple points of regulatory jurisdiction. The optional multiagency permitting teams are not intended to support state transportation projects capable of being serviced by multiagency permitting teams specifically established for state transportation projects. Use of the optional multiagency permitting teams for a fully coordinated permit process must be allowed unless the office ((~~of~~)) for regulatory innovation and assistance notifies a project proponent in writing of other means of effective and efficient project review that are available and are recommended.

**Sec.**  RCW 43.42.095 and 2012 c 196 s 5 are each amended to read as follows:

The multiagency permitting team account is created in the custody of the state treasurer. All receipts from cost‑reimbursement agreements authorized in RCW 43.42.070 and solicitations authorized in RCW 43.42.092 must be deposited into the account. Expenditures from the account may be used only for covering staffing, consultant, technology, and other administrative costs of multiagency permitting teams and other costs associated with multiagency project review and management that may arise. Only the director of the office ((~~of~~)) for regulatory innovation and assistance or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec.**  RCW 43.42.100 and 2012 c 196 s 8 are each amended to read as follows:

Within available funds, the office ((~~of~~)) for regulatory innovation and assistance may certify permit processes at the local level as streamlined processes. In developing the certification program, the director must work with local jurisdictions to establish the criteria and the process for certification. Jurisdictions with permit processes certified as streamlined may receive priority in receipt of state funds for infrastructure projects.

**Sec.**  RCW 43.42A.030 and 2014 c 68 s 4 are each amended to read as follows:

(1) To provide meaningful customer service that informs project planning and decision making by the citizens and businesses served, each agency must make available to permit applicants the following information through a link from the agency's web site to the office's web site, as provided in subsection (4) of this section:

(a) A list of the types of permit assistance available and how such assistance may be accessed;

(b) An estimate of the time required by the agency to process a permit application and issue a decision;

(c) Other tools to help applicants successfully complete a thorough application, such as:

(i) Examples of model completed applications;

(ii) Examples of approved applications, appropriately redacted to remove sensitive information; and

(iii) Checklists for ensuring a complete application.

(2) Each agency shall update at reasonable intervals the information it posts pursuant to this section.

(3)(a) Agencies must post the information required under subsection (1) of this section for all permits as soon as practicable, and no later than the deadlines established in this section.

(b) The agency shall post the permit inventory for that agency and the information required under subsection (1)(a) and (c) of this section no later than June 30, 2014.

(c) The agency shall post the estimates of application completion and permit decision times required under subsection (1)(b) of this section based on actual data for calendar year 2015 by March 1, 2016, and update this information for the previous calendar year, by March 1st of each year thereafter.

(d) Agencies must consider the customer experience in ensuring all permit assistance information is simple to use, easy to access, and designed in a customer‑friendly manner.

(4) To ensure agencies can post the required information online with minimal expenditure of agency resources, the office of the chief information officer shall, in consultation with the office ((~~of~~)) for regulatory innovation and assistance, establish a central repository of this information, hosted on the office ((~~of~~)) for regulatory innovation and assistance's web site. Each agency shall include at least one link to the central repository from the agency's web site. Agencies shall place the link or links in such locations as the agency deems will be most customer‑friendly and maximize accessibility of the information to users of the web site.

(5) The office shall ensure the searchability of the information posted on the central repository, applying industry best practices such as search engine optimization, to ensure that the permit performance and assistance information is readily findable and accessible by members of the public.

**Sec.**  RCW 43.88.585 and 2013 c 63 s 1 are each amended to read as follows:

(1) By January 1, 2014, the office of financial management shall compile, maintain, and periodically update an inventory of all fees imposed by state agencies and institutions of higher education pursuant to statute or administrative rule. At a minimum, the inventory shall identify the agency or institution collecting the fee, the purpose of the fee, the current amount of the fee, the amount of the fee over the previous five years, and the statutory authority for the fee. The office of financial management may aggregate or consolidate fee information when there is commonality among the fee payers or the purposes for which the fee is paid.

(2) To facilitate the fee inventory under this section, each state agency and institution of higher education shall report the information required under subsection (1) of this section to the office of financial management and shall update the information at least every two years.

(3) The fee inventory under this section shall be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(4) The office of financial management shall convene a work group consisting of representatives from the legislative evaluation and accountability program committee, the office ((~~of~~)) for regulatory innovation and assistance, the department of licensing, the department of labor and industries, the department of transportation, and the department of health to develop a process to facilitate more frequent updates to the inventory and to recommend changes to increase public accessibility.

(5) For purposes of this section, "fee" means any charge, fixed by law or administrative rule, for the benefit of a service or to cover the cost of a regulatory program or the costs of administering a program for which the fee payer benefits. "Fee" does not include taxes; penalties or fines; intergovernmental charges; commercial charges; pension or health care contributions or rates; industrial, unemployment, or other state-operated insurance programs; or individualized cost recoveries.

**Sec.**  RCW 43.155.070 and 2015 3rd sp.s. c 3 s 7033 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board must develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board must attempt to assure a geographical balance in assigning priorities to projects. The board must consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

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

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(e) Whether the applicant's permitting process has been certified as streamlined by the office ((~~of~~)) for regulatory innovation and assistance;

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

(g) The cost of the project compared to the size of the local government and amount of loan money available;

(h) The number of communities served by or funding the project;

(i) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(j) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(k) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(l) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(m) Other criteria that the board considers advisable.

(5) For the 2015-2017 fiscal biennium, in place of the criteria, ranking, and submission processes for construction loan lists provided in subsections (4) and (7) of this section:

(a) The board must develop a process for numerically ranking applications for construction loans submitted by local governments. The board must consider, at a minimum and in any order, the following factors in assigning a numerical ranking to a project:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages nonstate funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed‑use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well‑managed in the present and for long‑term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services, public transit, and transportation;

(G) Avoidance of additional costs to state and local governments that adversely impact local residents and small businesses; and

(H) Reduction of the overall cost of public infrastructure; and

(xi) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before November 1, 2016, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a ranked list of qualified public works projects which have been evaluated by the board and are recommended for funding by the legislature. The maximum amount of funding that the board may recommend for any jurisdiction is ten million dollars per biennium. For each project on the ranked list, as well as for eligible projects not recommended for funding, the board must document the numerical ranking that was assigned.

(6) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(7) Before November 1st of each even-numbered year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (10) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list must include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list must also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(8) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature may not change the order of the priorities recommended for funding by the board.

(9) Subsection (8) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (10) of this section.

(10) Loans made for the purpose of capital facilities plans are exempted from subsection (8) of this section.

(11) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(12) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(13) During the 2015-2017 fiscal biennium, for projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan.

(14)(a) For public works assistance account application rounds conducted during the 2015-2017 fiscal biennium, the board must implement policies and procedures designed to maximize local government use of federal funds to finance local infrastructure including, but not limited to, drinking water and clean water state revolving funds operated by the state departments of health and ecology. Projects that are eligible for the drinking water and clean water state revolving funds may receive public works board preconstruction loans. Projects that are eligible for the drinking water and clean water state revolving funds are not eligible for public works board construction loans. For purposes of this subsection "eligible for drinking water and clean water state revolving funds" means:

(i) Projects that have applied to the state revolving funds and are awaiting a funding decision;

(ii) Projects that have been rejected for funding solely due to not meeting readiness requirements; and

(iii) Projects that have not applied, but would likely be eligible if the project applied and met the project readiness requirements.

(b) For all construction loan projects proposed to the legislature for funding during the 2015-2017 fiscal biennium, the board must base interest rates on the average daily market interest rate for tax‑exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle. For projects with a repayment period between five and twenty years, the rate must be sixty percent of the market rate. For projects with a repayment period under five years, the rate must be thirty percent of the market rate. The board must also provide reduced interest rates, extended repayment periods, or forgivable principal loans for projects that meet financial hardship criteria as measured by the affordability index or similar standard measure of financial hardship.

**Sec.**  RCW 43.157.020 and 2009 c 421 s 3 are each amended to read as follows:

Counties and cities with development projects designated as projects of statewide significance within their jurisdictions shall enter into an agreement with the office ((~~of~~)) for regulatory innovation and assistance and the project managers of projects of statewide significance for expediting the completion of projects of statewide significance. The agreement shall require:

(1) Expedited permit processing for the design and construction of the project;

(2) Expedited environmental review processing;

(3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project;

(4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(2)(b); and

(5) Such other actions or items as are deemed necessary by the office ((~~of~~)) for regulatory innovation and assistance for the design and construction of the project.

**Sec.**  RCW 43.157.030 and 2009 c 421 s 4 are each amended to read as follows:

(1) The department of ((~~community, trade, and economic development~~)) commerce shall:

(a) Develop an application for designation of development projects as projects of statewide significance. The application must be accompanied by a letter of approval from the legislative authority of any jurisdiction that will have the proposed project of statewide significance within its boundaries. No designation of a project as a project of statewide significance shall be made without such letter of approval. The letter of approval must state that the jurisdiction joins in the request for the designation of the project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of a project of statewide significance. The development project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application shall contain information regarding the location of the project, the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, estimated time schedules for completion and operation, and other information required by the department; and

(b) Designate a development project as a project of statewide significance if the department determines:

(i) After review of the application under criteria adopted by rule, the development project will provide significant economic benefit to the local or state economy, or both, the project is aligned with the state's comprehensive plan for economic development under RCW 43.162.020, and, by its designation, the project will not prevent equal consideration of all categories of proposals under RCW 43.157.010; and

(ii) The development project meets or will meet the requirements of RCW 43.157.010 regarding designation as a project of statewide significance.

(2) The office ((~~of~~)) for regulatory innovation and assistance shall assign a project facilitator or coordinator to each project of statewide significance to:

(a) Assist in the scoping and coordinating functions provided for in chapter 43.42 RCW;

(b) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project, which team shall include those responsible for planning, permitting and licensing, infrastructure development, workforce development services including higher education, transportation services, and the provision of utilities; and

(c) Work with each team member to expedite their actions in furtherance of the project.

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

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

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

(a) The board may not provide financial assistance:

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

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

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

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

(b) The board may only provide financial assistance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

**Sec.**  RCW 43.330.440 and 2013 c 324 s 2 are each amended to read as follows:

(1) The department, in collaboration with the office ((~~of~~)) for regulatory innovation and assistance and the office of accountability and performance, must conduct multijurisdictional regulatory streamlining projects that each impact a specific industry sector or subsector within a specific geographical location. Planning for an initial pilot project must begin by September 1, 2013, and the initial pilot project must be underway by December 31, 2013. One or more projects must be implemented in each subsequent calendar year through 2019.

(2) The department must establish and implement a competitive process and select a minimum of one applicant comprised of a public-private partnership for participation in each project. The initial pilot project must focus on the manufacturing sector. The department, in consultation with the economic development commission, must determine the sectors for subsequent projects. The criteria to be used to select projects must include:

(a) Evidence of strong business commitment to the project;

(b) Evidence of strong commitment by the local government jurisdictions where the project is located to allocate necessary staff to the project and to streamline laws, rules, and administrative process requirements both within their jurisdictions and collaboratively across jurisdictions;

(c) Willingness to apply lean principles and tools to streamline the business regulatory experience;

(d) Identification of a lead partner capable of providing project management and coordination of partners;

(e) Support of the stakeholders necessary to implement the project;

(f) A plan and capacity to complete the project within the time frame; and

(g) A minimum of fifty percent match must be provided from project partners. The match may be cash, in-kind, or a combination of cash and in-kind.

(3) The department is encouraged to collaborate with nonprofit industry organizations, the private sector, foundations, and other interested entities to successfully complete each project.

(4) The department must pursue opportunities for nonstate funding as the match to the fifty percent or more provided by project partners. A maximum of fifty thousand dollars of state funds may be used for a project.

(5) The department may contract with a third party for expertise and facilitation.

(6) All state agencies with regulatory requirements that impact the project's industry sector must participate.

(7) The state agencies, local jurisdictions, business partners, and other participants must jointly:

(a) Develop a project plan to conduct a cross-jurisdictional review process;

(b) Identify and review all laws, rules, and administrative processes and requirements pertaining to the selected sector;

(c) Apply specific criteria to evaluate the extent to which the laws, rules, and administrative processes and requirements provide for consistent, clear, and efficient customer experiences while continuing to maintain public health, safety, and environmental standards;

(d) Develop an implementation plan and schedule that identifies priority streamlining actions;

(e) Present their recommendations to the department for comment and endorsement; and

(f) Present their recommendations to the Washington state economic development commission for comment, endorsement, and evaluation.

(8) The department must document and distribute the streamlined laws, rules, processes, and other potentially replicable information, derived from the projects to the association of Washington cities and Washington state association of counties for distribution to their membership.

(9) The department must brief the economic development committees of the legislature by January 15, 2014, on the status of the initial pilot project, and must submit a report on the outcomes of the projects to the economic development committees of the legislature by January 15th of each calendar year, from 2015 through 2020. The department must include in the reports any streamlining recommendations identified in the projects that require statutory changes for implementation and any potentially replicable models, approaches, and tools that could be applied to other sectors and geographical areas.

**Sec.**  RCW 47.80.090 and 2012 c 229 s 592 are each amended to read as follows:

(1) A regional transportation planning organization containing any county with a population in excess of one million in collaboration with representatives from the department of ecology, the department of commerce, local governments, and the office ((~~of~~)) for regulatory innovation and assistance must seek federal or private funding for the planning for, deployment of, or regulations concerning electric vehicle infrastructure. These efforts should include:

(a) Development of short-term and long-term plans outlining how state, regional, and local government construction may include electric vehicle infrastructure in publicly available off-street parking and government fleet vehicle parking, including what ratios of charge spots to parking may be appropriate based on location or type of facility or building;

(b) Consultations with the state building code council and the department of labor and industries to coordinate the plans with state standards for new residential, commercial, and industrial buildings to ensure that the appropriate electric circuitry is installed to support electric vehicle infrastructure;

(c) Consultation with the workforce development council and the student achievement council to ensure the development of appropriate educational and training opportunities for citizens of the state in support of the transition of some portion of vehicular transportation from combustion to electric vehicles;

(d) Development of an implementation plan for counties with a population greater than five hundred thousand with the goal of having public and private parking spaces, in the aggregate, be ten percent electric vehicle ready by December 31, 2018; and

(e) Development of model ordinances and guidance for local governments for siting and installing electric vehicle infrastructure, in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment.

(2) These plans and any recommendations developed as a result of the consultations required by this section must be submitted to the legislature by December 31, 2010, or as soon as reasonably practicable after the securing of any federal or private funding. Priority will be given to the activities in subsection (1)(e) of this section and any ordinances or guidance that is developed will be submitted to the legislature, the department of commerce, and affected local governments prior to December 31, 2010, if completed.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

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

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

**Sec.**  RCW 77.55.181 and 2014 c 120 s 1 are each amended to read as follows:

(1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under this section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including culvert repair and replacement;

(ii) Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

(b) The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety.

(c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration;

(vii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project;

(viii) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

(ix) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county; and

(x) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office ((~~of~~)) for regulatory innovation and assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government.

(b) Local governments shall accept the application as notice of the proposed project. The department shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts.

(c) Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit.

(d) If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021(8).

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

**--- END ---**