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**SUBSTITUTE HOUSE BILL 2133**

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**State of Washington 65th Legislature 2018 Regular Session**

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

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

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

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

(2) Therefore, it is the intent of the legislature to incentivize and remove roadblocks to the most beneficial types of rural economic development for food and forest products businesses. Specifically, it is the intent of the legislature to advance opportunities in value-added forest product and food production by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Building permits issued by a local government.

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

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

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

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

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

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

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

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

(1)(a) The department may by rule exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses. In adopting such rules, the department shall specify both the solid waste that is exempted from the permitting requirements and the beneficial use or uses for which the solid waste is so exempted. The department shall consider: ((~~(a)~~)) (i) Whether the material will be beneficially used or reused; and ((~~(b)~~)) (ii) whether the beneficial use or reuse of the material will present threats to human health or the environment.

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

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

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

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

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

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

(3) After receipt of an application filed under rules adopted under subsection (2) of this section, the department shall review the application to determine whether it is complete, and forward a copy of the completed application to all jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward to the department their comments and any other information they deem relevant to the department's decision to approve or disapprove the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days of receipt. If the application is approved by the department, the solid waste is exempt from the permitting requirements of this chapter when used anywhere in the state in the manner approved by the department. If the composition, use, or reuse of the solid waste is not consistent with the terms and conditions of the department's approval of the application, the use of the solid waste remains subject to the permitting requirements of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Accessory uses may include:

(i) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. 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 a grant or loan 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 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans 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, it shall 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) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**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 regulatory 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; and

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

(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.

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