

1 5704.E AMH LG H2770.1

2 **ESB 5704** - H COMM AMD
3 By Committee on Local Government

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 86.16.025 and 1989 c 64 s 2 are each amended to read
8 as follows:

9 With respect to such features as may affect flood conditions, the
10 department shall have authority to examine, approve or reject designs
11 and plans for any structure or works, public or private, to be erected
12 or built or to be reconstructed or modified upon the banks or in or
13 over the channel or over and across the floodway of any stream or body
14 of water in this state. If a county, or an incorporated city or town,
15 within which a flood plain exists, fails to adopt by October 31, 1991,
16 a flood plain management ordinance that meets the minimum requirements
17 of the national flood insurance program, the department shall adopt by
18 rule a flood plain management ordinance for that entity that meets the
19 minimum federal requirements."

20 "NEW SECTION. **Sec. 2.** The department of community development
21 shall convene a state flood damage reduction commission composed of
22 twenty-two members as follows: (1) Four members of the senate, two
23 from each of the major caucuses, who are appointed by the president of
24 the senate; (2) four members of the house of representatives, two from
25 each of the major caucuses, who are appointed by the speaker of the
26 house of representatives; (3) the director of the department of
27 community development, or the director's designee, who shall act as

1 chair of the commission; (4) the director of the department of
2 fisheries, or the director's designee; (5) the director of the
3 department of wildlife, or the director's designee; (6) the director of
4 the department of agriculture, or the director's designee; (7) the
5 director of the department of ecology, or the director's designee; (8)
6 the director of the department of transportation, or the director's
7 designee; (9) the commissioner of public lands, or the commissioner's
8 designee; (10) the director of the parks and recreation commission, or
9 the director's designee; (11) four persons appointed by the governor
10 representing counties within which significant flood control
11 improvements have been constructed; and (12) two persons appointed by
12 the governor representing conservation districts and special districts
13 that provide flood control improvements.

14 The commission may seek assistance from appropriate federal
15 agencies, including the United States army corps of engineers. The
16 department of community development shall provide staff for the
17 commission and pay the expenses of commission members who are appointed
18 by the governor. The expenses of the legislative members shall be paid
19 by the legislature. The expenses of the state agency officials, or
20 their designees, shall be paid by their state agencies."

21 "NEW SECTION. Sec. 3. The state flood damage reduction
22 commission shall consider the development of comprehensive state flood
23 policies and a comprehensive and coordinated flood damage reduction
24 plan, including the following elements:

- 25 (1) Structural and nonstructural flood damage reduction projects;
26 (2) Forest practice effects on watershed hydraulics, including:
27 (a) Percentage of watershed clearcut; (b) logging in very steep areas;
28 and (c) logging in slide-prone areas;

1 (3) Growth management and land uses, including: (a) Flood plain
2 development patterns; (b) loss of potential natural flood water storage
3 areas; (c) future development restrictions in flood-prone areas; and
4 (d) coordination with the state's growth management act and county
5 flood comprehensive planning;

6 (4) Comprehensive watershed and flood damage management;

7 (5) Storm water runoff pattern alterations and accompanying
8 liabilities;

9 (6) Analysis of the federal, state, and local permitting
10 requirements necessary for projects designed to reduce future flood
11 damage or to restore areas damaged by floods, including any conflicting
12 requirements that may exist;

13 (7) Emergency work and coordination, and emergency preparedness
14 planning;

15 (8) Determination of the need for requirements to disclose the
16 flood hazard to purchasers or renters of flood-prone property;

17 (9) The role of dredging in flood damage reduction, including
18 environmental effects, funding sources, and upstream uses that alter
19 its effectiveness;

20 (10) The role of dikes and levees in flood damage reduction,
21 including environmental effects, construction and maintenance
22 standards, sources of funding for construction and maintenance, and
23 resultant upstream and downstream hydrologic effects;

24 (11) Review criteria for evaluating and approving local plans and
25 projects funded by grants from the flood control account; and

26 (12) Public acquisition of properties to reduce flood damage."

27 "NEW SECTION. Sec. 4. The state flood reduction commission
28 shall report to the legislature on or before December 31, 1991. The
29 report shall include the following: (1) Findings relating to a state

1 flood damage reduction plan; (2) commitments to implement the plan; (3)
2 recommended state agency regulation and policy changes; (4) proposed
3 legislation and associated costs to implement the state flood damage
4 reduction plan; and (5) recommended local flood reduction and
5 mitigation measures."

6 "NEW SECTION. Sec. 5. The purposes of sections 6 through 15 of
7 this act are to permit counties to adopt a comprehensive system of
8 flood control management and protection within drainage basins and to
9 coordinate the flood control activities of the state, counties, cities,
10 towns, and special districts within such drainage basins."

11 "NEW SECTION. Sec. 6. A new section is added to chapter 86.12 RCW
12 to read as follows:

13 The county legislative authority of any county may adopt a
14 comprehensive flood control management plan for any drainage basin that
15 is located wholly or partially within the county.

16 A comprehensive flood control management plan shall include the
17 following elements:

18 (1) Designation of areas that are susceptible to periodic flooding,
19 from inundation by bodies of water or surface water runoff, or both,
20 including the river's meander belt or floodway;

21 (2) Establishment of a comprehensive scheme of flood control
22 protection and improvements for the areas that are subject to such
23 periodic flooding, that includes: (a) Determining the need for, and
24 desirable location of, flood control improvements to protect or
25 preclude flood damage to structures, works, and improvements, based
26 upon a cost/benefit ratio between the expense of providing and
27 maintaining these improvements and the benefits arising from these
28 improvements; (b) establishing the level of flood protection that each

1 portion of the system of flood control improvements will be permitted;
2 (c) identifying alternatives to in-stream flood control work; (d)
3 identifying areas where flood waters could be directed during a flood
4 to avoid damage to buildings and other structures; and (e) identifying
5 sources of revenue that will be sufficient to finance the comprehensive
6 scheme of flood control protection and improvements;

7 (3) Establishing land use regulations that preclude the location of
8 structures, works, or improvements in critical portions of such areas
9 subject to periodic flooding, including a river's meander belt or
10 floodway, and permitting only flood-compatible land uses in such areas;

11 (4) Establishing restrictions on construction activities in areas
12 subject to periodic floods that require the flood proofing of those
13 structures that are permitted to be constructed or remodeled; and

14 (5) Establishing restrictions on land clearing activities and
15 development practices that exacerbate flood problems by increasing the
16 flow or accumulation of flood waters, or the intensity of drainage, on
17 low-lying areas.

18 A comprehensive flood control management plan shall be subject to
19 the minimum requirements for participation in the national flood
20 insurance program, requirements exceeding the minimum national flood
21 control insurance program that have been adopted by the department of
22 ecology for a specific flood plain pursuant to RCW 86.16.031, and rules
23 adopted by the department of ecology pursuant to RCW 86.26.050 relating
24 to flood plain management activities. When a county plans under
25 chapter 36.70A RCW, it may incorporate the portion of its comprehensive
26 flood control management plan relating to land use restrictions in its
27 comprehensive plan and development regulations adopted pursuant to
28 chapter 36.70A RCW."

1 "NEW SECTION. **Sec. 7.** A new section is added to chapter 86.12 RCW
2 to read as follows:

3 A comprehensive flood control management plan that includes an area
4 within which a city or town, or a special district subject to chapter
5 85.38 RCW, is located shall be developed by the county with the
6 participation of officials from the city, town, or special district,
7 including conservation districts, and appropriate state and federal
8 agencies. Where a comprehensive flood control management plan is being
9 prepared for a river that is part of the common boundary between two
10 counties, the county legislative authority of the county preparing the
11 plan may allow participation by officials of the adjacently located
12 county.

13 A comprehensive flood control management plan shall be binding on
14 each city, town, and special district that is located within an area
15 included in the plan, except that the land use regulations and
16 restrictions on construction activities contained in a comprehensive
17 flood control management plan applicable to a city or town shall be
18 minimum standards that the city or town may exceed."

19 "NEW SECTION. **Sec. 8.** A new section is added to chapter 86.12 RCW
20 to read as follows:

21 A county may create one or more advisory committees to assist in
22 the development of proposed comprehensive flood control management
23 plans and to provide general advice on flood problems. The advisory
24 committees may include city and town officials, officials of special
25 districts subject to chapter 85.38 RCW, conservation districts,
26 appropriate state and federal officials, and officials of other
27 counties and other interested persons."

1 **"Sec. 9.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read
2 as follows:

3 (1) State participation shall be in such preparation of
4 comprehensive flood control management plans under this chapter and
5 chapter 86.12 RCW, cost sharing feasibility studies for new flood
6 control projects, and flood control maintenance projects as are
7 affected with a general public and state interest, as differentiated
8 from a private interest, and as are likely to bring about public
9 benefits commensurate with the amount of state funds allocated thereto.

10 (2) No participation for flood control maintenance projects may
11 occur with a county or other municipal corporation unless the director
12 of ecology has approved the flood plain management activities of the
13 county, city, or town having planning jurisdiction over the area where
14 the flood control maintenance project will be, on the one hundred year
15 flood plain surrounding such area.

16 The department of ecology shall adopt rules concerning the flood
17 plain management activities of a county, city, or town that are
18 adequate to protect or preclude flood damage to structures, works, and
19 improvements, including the restriction of land uses within a river's
20 meander belt or floodway to only flood-compatible uses. Whenever the
21 department has approved county, city, and town flood plain management
22 activities, as a condition of receiving an allocation of funds under
23 this chapter, each revision to the flood plain management activities
24 must be approved by the department of ecology, in consultation with the
25 department of fisheries and the department of wildlife.

26 No participation with a county or other municipal corporation for
27 flood control maintenance projects may occur unless the county engineer
28 of the county within which the flood control maintenance project is
29 located certifies that a comprehensive flood control management plan
30 has been completed and adopted by the appropriate local authority, or

1 is being prepared for all portions of the river basin or other area,
2 within which the project is located in that county, that are subject to
3 flooding with a frequency of one hundred years or less.

4 (3) Participation for flood control maintenance projects and
5 preparation of comprehensive flood control management plans shall be
6 made from grants made by the department of ecology from the flood
7 control assistance account. Comprehensive flood control management
8 plans, and any revisions to the plans, must be approved by the
9 department of ecology, in consultation with the department of fisheries
10 and the department of wildlife. The department may only grant
11 financial assistance to local governments that, in the opinion of the
12 department, are making good faith efforts to take advantage of, or
13 comply with, federal and state flood control programs."

14 "Sec. 10. RCW 86.26.090 and 1984 c 212 s 7 are each amended to
15 read as follows:

16 The state shall participate with eligible local authorities in
17 maintaining and restoring the normal and reasonably stable river and
18 stream channel alignment and the normal and reasonably stable river and
19 stream channel capacity for carrying off flood waters with a minimum of
20 damage from bank erosion or overflow of adjacent lands and property;
21 and in restoring, maintaining and repairing natural conditions, works
22 and structures for the maintenance of such conditions. State
23 participation in the repair of flood control facilities may include the
24 enhancement of such facilities. The state shall likewise participate
25 in the restoration and maintenance of natural conditions, works or
26 structures for the protection of lands and other property from
27 inundation or other damage by the sea or other bodies of water. Funds
28 from the flood control assistance account shall not be available for

1 maintenance of works or structures maintained solely for the detention
2 or storage of flood waters."

3 "Sec. 11. RCW 86.26.100 and 1986 c 46 s 4 are each amended to read
4 as follows:

5 State participation in the cost of any flood control maintenance
6 project shall be provided for by a written memorandum agreement between
7 the director of ecology and the legislative authority of the county
8 submitting the request, which agreement, among other things, shall
9 state the estimated cost and the percentage thereof to be borne by the
10 state. In no instance, except on emergency projects, shall the state's
11 share exceed one-half the cost of the project, to include project
12 planning and design. Grants for cost sharing feasibility studies for
13 new flood control projects shall not exceed fifty percent of the
14 matching funds that are required by the federal government, and shall
15 not exceed twenty-five percent of the total costs of the feasibility
16 study. However, grants to prepare a comprehensive flood control
17 management plan required under RCW 86.26.050 shall not exceed seventy-
18 five percent of the full planning costs, but not to exceed amounts for
19 either purpose specified in rule and regulation by the department of
20 ecology."

21 "NEW SECTION. **Sec. 12.** A new section is added to chapter 86.15
22 RCW to read as follows:

23 A board may not establish a zone including an area located in
24 another zone unless this area is removed from the other zone, or the
25 other zone is dissolved, as part of the action creating the new zone."

26 "**Sec. 13.** RCW 86.15.178 and 1983 c 315 s 23 and 1983 c 167 s 212
27 are each reenacted to read as follows:

1 (1) The supervisors may authorize the issuance of revenue bonds to
2 finance any flood control improvement or storm water control
3 improvement. The bonds may be issued by the supervisors in the same
4 manner as prescribed in RCW 36.67.510 through 36.67.570 pertaining to
5 counties. The bonds shall be issued on behalf of the zone or
6 participating zones when the improvement has by the resolution,
7 provided in RCW 86.15.110, been found to be of benefit to a zone or
8 participating zones. The bonds may be in any form, including bearer
9 bonds or registered bonds.

10 Each revenue bond shall state on its face that it is payable from
11 a special fund, naming the fund and the resolution creating the fund.

12 Revenue bond principal, interest, and all other related necessary
13 expenses shall be payable only out of the appropriate special fund.

14 A zone or participating zones shall have a lien for delinquent
15 service charges, including interest thereon, against the premises
16 benefited by a flood control improvement or storm water control
17 improvement, which lien shall be superior to all other liens and
18 encumbrances except general taxes and local and special assessments.
19 The lien shall be effective and shall be enforced and foreclosed in the
20 same manner as provided for sewerage liens of cities and towns by RCW
21 35.67.200 through 35.67.290.

22 (2) Notwithstanding subsection (1) of this section, such bonds may
23 be issued and sold in accordance with chapter 39.46 RCW."

24 "**Sec. 14.** RCW 86.16.110 and 1987 c 109 s 23 are each reenacted and
25 amended to read as follows:

26 Any person, association, or corporation, public, municipal, or
27 private, feeling aggrieved at any order, decision, or determination of
28 the department or director pursuant to this chapter, affecting his or
29 her interest, may have the same reviewed pursuant to RCW 43.21B.310."

1 "NEW SECTION. Sec. 15. The department of fisheries and the
2 department of wildlife shall process hydraulic project applications
3 submitted under RCW 75.20.100 or 75.20.103 within thirty days of
4 receipt of the application. This requirement is only applicable for
5 the repair and reconstruction of legally constructed dikes, seawalls,
6 and other flood control structures damaged as a result of flooding or
7 windstorms which occurred in November and December 1990."

8 "NEW SECTION. Sec. 16. The following acts or parts of acts are
9 each repealed:

- 10 (1) RCW 86.15.040 and 1961 c 153 s 4;
11 (2) RCW 86.16.027 and 1987 c 109 s 51 & 1935 c 159 s 9;
12 (3) RCW 86.16.030 and 1987 c 109 s 52 & 1935 c 159 s 5;
13 (4) RCW 86.16.040 and 1987 c 109 s 54 & 1935 c 159 s 11;
14 (5) RCW 86.16.060 and 1987 c 109 s 55 & 1935 c 159 s 13;
15 (6) RCW 86.16.065 and 1987 c 109 s 56 & 1935 c 159 s 14;
16 (7) RCW 86.16.067 and 1987 c 109 s 57, 1985 c 469 s 86, & 1935 c
17 159 s 15;
18 (8) RCW 86.16.070 and 1987 c 109 s 58 & 1935 c 159 s 16;
19 (9) RCW 86.16.080 and 1987 c 109 s 59 & 1935 c 159 s 10;
20 (10) RCW 86.16.090 and 1987 c 109 s 60, 1939 c 85 s 2, & 1935 c 159
21 s 7; and
22 (11) RCW 86.16.170 and 1987 c 109 s 62 & 1973 c 75 s 3."

23 **ESB 5704** - H COMM AMD
24 By Committee on Local Government

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26 On page 1, line 1 of the title, after "planning;" strike the
27 remainder of the title and insert "amending RCW 86.16.025, 86.26.050,
28 86.26.090, and 86.26.100; reenacting and amending RCW 86.16.110;

1 reenacting RCW 86.15.178; adding new sections to chapter 86.12 RCW;
2 adding a new section to chapter 86.15 RCW; creating new sections; and
3 repealing RCW 86.15.040, 86.16.027, 86.16.030, 86.16.040, 86.16.060,
4 86.16.065, 86.16.067, 86.16.070, 86.16.080, 86.16.090, and 86.16.170."