

1 5746.E AMH HARG H5051.1

2 **ESB 5746 - H AMD 0297**

3 By Representatives Hargrove and Forner

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21A  
8 RCW to read as follows:

9 The department, to the greatest extent possible, within available  
10 resources and without jeopardizing the department's ability to carry  
11 out its legal responsibilities, may designate one or more of its  
12 employees as a technical assistance officer, and may organize the  
13 officers into one or more technical assistance units within the  
14 department. The duties of a technical assistance officer are to  
15 coordinate voluntary compliance with the regulatory laws administered  
16 by the department and to provide technical assistance concerning  
17 compliance with the laws."

18 "NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21A  
19 RCW to read as follows:

20 (1) An employee designated by the department as a technical  
21 assistance officer or as a member of a technical assistance unit may  
22 not, during the period of the designation, have authority to issue  
23 orders or assess penalties on behalf of the department. Such an  
24 employee who provides on-site consultation at an industrial or  
25 commercial facility and who observes violations of the law shall inform  
26 the owner or operator of the facility of the violations. On-site  
27 consultation visits by such an employee may not be regarded as

1 inspections or investigations and no notices or citations may be issued  
2 or civil penalties assessed during such a visit. However, violations  
3 of the law must be reported to the appropriate officers within the  
4 department. If the owner or operator of the facility does not correct  
5 the observed violations within a reasonable time, the department may  
6 reinspect the facility and take appropriate enforcement action. If a  
7 technical assistance officer or member of a technical assistance unit  
8 observes a violation of the law that places a person in danger of death  
9 or substantial bodily harm, or has caused or is likely to cause  
10 physical damage to the property of others in an amount exceeding one  
11 thousand dollars, the department may initiate enforcement action  
12 immediately upon observing the violation.

13 (2) The state, the department, and officers or employees of the  
14 state shall not be liable for damages to a person to the extent that  
15 liability is asserted to arise from the performance by technical  
16 assistance officers of their duties, or if liability is asserted to  
17 arise from the failure of the department to supply technical  
18 assistance."

19 "NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A  
20 RCW to read as follows:

21 The legislature finds that designating land as a wetland to be  
22 protected by a county or city's development regulations has a  
23 significant impact on the value and permissible uses, both public and  
24 private, of that land. The legislature also finds that creating an  
25 inventory and map of wetlands within the local jurisdiction will  
26 provide local officials with needed knowledge to allow for the  
27 integration of wetlands protection programs with the multiple planning  
28 goals established in RCW 36.70A.020, in a manner consistent with the  
29 legislative declaration in RCW 43.21A.010 of state policy on the

1 environment and utilization of natural resources. Mapping will serve  
2 also as an indication to an owner of land that his or her land may be  
3 subject to local ordinances that regulate wetlands.

4 The legislature finds that, while precise mapping of wetland  
5 boundaries is overly expensive to do on a state-wide basis, an  
6 inventory showing the general location and extent of wetlands can be  
7 developed by using currently available information. In addition, there  
8 is significant benefit in providing local governments with the means to  
9 utilize additional wetland mapping tools to map wetlands in anticipated  
10 urban growth areas.

11 The legislature finds it beneficial that counties and cities  
12 provide information that is currently available on the location of  
13 wetlands and also provide pertinent development regulations affecting  
14 land value to the county assessor's office to assist in meeting current  
15 statutory requirements of determining the value of property for tax  
16 purposes."

17 "NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A  
18 RCW to read as follows:

19 (1) Prior to adopting development regulations to protect wetlands,  
20 the county or city considering adoption shall develop an inventory of  
21 wetlands that may be subject to those regulations. The approximate  
22 location of wetlands must be placed on maps of suitable scale for  
23 public viewing. At a minimum, the county or city shall use information  
24 from existing national wetland inventory maps together with existing  
25 soil maps developed by the federal soil conservation service to  
26 indicate the approximate location of wetlands to satisfy the  
27 requirements of this section.

28 (2) At least fifteen working days prior to the first public hearing  
29 on the proposed regulations, the county or city shall mail a notice to

1 the owners of land that can be reasonably determined from existing maps  
2 showing property ownership as subject to wetland protection  
3 regulations. The notice must state how a landowner may obtain a copy  
4 of the proposed ordinance and map, and the time and location of the  
5 public hearing. The notice shall also state that the map of  
6 inventoried wetlands indicates, based upon the best information  
7 currently available, the possible location of wetlands. Further that  
8 some areas shown on the maps will not be regulated and some areas will  
9 be subject to regulation that are not shown on the map. Any person who  
10 owns property within the jurisdiction of a county or city that fails to  
11 mail a notice as required by this subsection may bring an action for an  
12 injunction in the form of a writ of mandamus to require the county or  
13 city to mail a notice and hold another public hearing.

14 The county or city shall also give notice to the public by  
15 publishing in a daily newspaper of general circulation one time per  
16 week for two consecutive weeks a notice that states how the public may  
17 obtain a copy of the proposed ordinance and map, and the time and  
18 location of the public hearing. A county or city that publishes a  
19 notice to the public is not subject to legal action for damages based  
20 upon a failure of providing individual notification.

21 (3) Upon adopting development regulations, a county or city subject  
22 to this section shall transmit a copy of the development regulations  
23 and wetlands inventory map to the county assessor's office within sixty  
24 days of adopting the ordinances. The county assessor shall consider  
25 this information in determining a new assessed value of property  
26 subject to the ordinance within twelve months of receiving the  
27 information.

28 (4) This section shall apply only to a county or city that adopts  
29 development regulations after March 15, 1992."

1        "NEW SECTION.   **Sec. 5.**   A new section is added to chapter 36.70A  
2   RCW to read as follows:

3        (1) A county or city that has adopted development regulations by  
4   March 15, 1992, shall develop by September 1, 1992, an inventory of  
5   land that may be subject to wetland regulation.   The approximate  
6   location of wetlands shall be placed on maps of suitable scale for  
7   public viewing.   At a minimum, the county or city shall use information  
8   from existing national wetland inventory maps together with existing  
9   soil maps developed by the federal soil conservation service to  
10   indicate the approximate location of wetlands to satisfy the  
11   requirements of this section.

12       (2) Within thirty days after the required completion date of the  
13   inventory, the county and city shall mail a notice to the owners of  
14   land that can be reasonably determined from existing maps showing  
15   property ownership as subject to the wetland protection regulation.  
16   The notice must inform the landowners how the landowner may obtain a  
17   copy of the ordinance and map.   The notice shall also state that the  
18   map of the inventoried wetlands indicates, based upon the best  
19   information currently available, the possible location of wetlands.  
20   Further that some areas shown on the maps will not be regulated and  
21   some areas will be subject to regulation that are not shown on the map.  
22   Any person who owns property within the jurisdiction of a county or  
23   city that fails to mail a notice as required by this subsection may  
24   bring an action for an injunction in the form of a writ of mandamus to  
25   require the county or city to mail a notice and hold another public  
26   hearing.

27       The county or city shall give notice to the public by publishing in  
28   a daily newspaper of general circulation one time per week for two  
29   consecutive weeks a notice that states how a person may obtain a copy  
30   of the proposed ordinance and map.   A county or city that publishes a

1 notice to the public and that makes reasonable attempts at providing  
2 individual notification is not subject to legal action for damages  
3 based upon a failure of providing individual notification.

4 (3) A county or city subject to this section shall transmit a copy  
5 of the development regulations and the wetlands inventory map to the  
6 county assessor within thirty days of the required completion date of  
7 the inventory. The county assessor shall consider this information in  
8 determining a new assessed value of property subject to the ordinance  
9 within twelve months of receiving the information."

10 "Sec. 6. RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended  
11 to read as follows:

12 (1) Each county that is required or chooses to plan under RCW  
13 36.70A.040, and each city within such county, shall adopt development  
14 regulations on or before September 1, 1991, to assure the conservation  
15 of agricultural, forest, and mineral resource lands designated under  
16 RCW 36.70A.170. Regulations adopted under this (~~subsection~~) section  
17 may not prohibit uses legally existing on any parcel prior to their  
18 adoption and shall remain in effect until the county or city adopts  
19 development regulations pursuant to RCW 36.70A.120. Such regulations  
20 shall assure that the use of lands adjacent to agricultural, forest, or  
21 mineral resource lands shall not interfere with the continued use, in  
22 the accustomed manner and in accordance with best management practices,  
23 of these designated lands for the production of food, agricultural  
24 products, or timber, or for the extraction of minerals. Counties and  
25 cities shall require that all plats, short plats, development permits,  
26 and building permits issued for development activities on, or within  
27 three hundred feet of, lands designated as agricultural lands, forest  
28 lands, or mineral resource lands, contain a notice that the subject  
29 property is within or near designated agricultural lands, forest lands,

1 or mineral resource lands on which a variety of commercial activities  
2 may occur that are not compatible with residential development for  
3 certain periods of limited duration.

4 (2) In order to comply with the mapping and inventory requirements  
5 of sections 2 and 3 of this act, each county and city shall adopt  
6 interim development regulations that protect critical areas that are  
7 required to be designated under RCW 36.70A.170. For counties and  
8 cities that are required or choose to plan under RCW 36.70A.040, such  
9 interim development regulations shall be adopted on or before  
10 (~~September 1, 1991~~) March 1, 1992. For the remainder of the counties  
11 and cities, such development regulations shall be adopted on or before  
12 (~~March~~) September 1, 1992.

13 (3) Such counties and cities shall review these designations and  
14 development regulations when adopting their comprehensive plans under  
15 RCW 36.70A.040 and implementing development regulations under RCW  
16 36.70A.120 and may alter such designations and development regulations  
17 to insure consistency.

18 (4) Forest land and agricultural land located within urban growth  
19 areas shall not be designated by a county or city as forest land or  
20 agricultural land of long-term commercial significance under RCW  
21 36.70A.170 unless the city or county has enacted a program authorizing  
22 transfer or purchase of development rights."

23 NEW SECTION. Sec. 7. A new section is added to chapter 36.70A  
24 RCW to read as follows:

25 The department of community development, in consultation with the  
26 Washington state association of counties, Washington association of  
27 cities, and representatives of affected interest groups, within thirty  
28 days after the effective date of this act shall inquire and evaluate  
29 the cost and timeliness of contracting with the federal soil

1 conservation service, institutions of higher education within the  
2 state, and private consulting firms to expedite the development of  
3 wetland maps for use by local governments for the purposes of  
4 implementing sections 2 and 3 of this act."

5 "NEW SECTION. Sec. 8. A new section is added to chapter 36.70A  
6 RCW to read as follows:

7 (1) If the county assessor fails to revalue property within the  
8 time specified in sections 2(3) and 3(3) of this act, a person who owns  
9 land designated or that appears to be subject to regulation as a  
10 wetland by a county or city, may request the county assessor for  
11 revaluation. If the county assessor fails to make the proper  
12 adjustment, the landowner may request a hearing before the county board  
13 of equalization under chapter 84.48 RCW.

14 (2) If the value of the property is adjusted under this section or  
15 under section 2(3) or 3(3) of this act, the property owner shall be  
16 entitled to a refund under chapter 84.69 RCW in the amount of overpaid  
17 taxes commencing as of the effective date of the regulation."

18 "NEW SECTION. Sec. 9. If specific funding for the purposes of  
19 this act, referencing this act by bill number, is not provided by June  
20 30, 1992, in the omnibus appropriations act, this act shall be null and  
21 void."

22 "NEW SECTION. Sec. 10. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and shall take  
25 effect immediately."



1 **ESB 5746** - H AMD  
2 By Representative Hargrove

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4 On page 1, line 2 of the title, after "measures;" strike the  
5 remainder of the title and insert "amending RCW 36.70A.060; adding new  
6 sections to chapter 43.21A RCW; adding new sections to chapter 36.70A  
7 RCW; creating a new section; and declaring an emergency."