

2 **SHB 1724 - H AMD 352 WITHDRAWN 3/15/95**  
3 By Representative Reams

4  
5 Strike everything after the enacting clause and insert the  
6 following:

7	"TABLE OF CONTENTS	Page #
8	PART I - PLANNING AND ENVIRONMENTAL REVIEW . . . . .	1
9	PART II - PERMITTING . . . . .	61
10	PART III - APPEALS . . . . .	90
11	PART IV - STUDY . . . . .	97
12	PART V - MISCELLANEOUS . . . . .	100

13 NEW SECTION. **Sec. 1.** The legislature recognizes by this act that  
14 the growth management act is a fundamental building block of regulatory  
15 reform. The state and local governments have invested considerable  
16 resources in an act that should serve as the integrating framework for  
17 all other land-use related laws. The growth management act provides  
18 the means to effectively combine certainty for development decisions,  
19 reasonable environmental protection, long-range planning for cost-  
20 effective infrastructure, and orderly growth and development.

21 **PART I - PLANNING AND ENVIRONMENTAL REVIEW**

22 NEW SECTION. **Sec. 101.** In reviewing a development permit  
23 application and making permit decisions, a county or city planning  
24 under RCW 36.70A.040 shall rely on its development regulations and  
25 comprehensive plan to determine permitted land uses, including  
26 conditional and special uses, allowable densities, system improvements  
27 related to the proposal if the comprehensive plan and development

1 regulations provide for funding of these improvements, and other  
2 matters. During the project review the county or city shall not  
3 reexamine alternatives to or hear appeals on these matters, except for  
4 code interpretation.

5 A proposed project's consistency with development regulations shall  
6 be determined by the county or city considering the type of land use,  
7 the level of development, infrastructure, including public facilities  
8 and public services needed to serve the development, and the character  
9 of development, such as design and development standards.  
10 Determination of a project's consistency does not require documentation  
11 or use of any specific procedure.

12 Specific project design and conditions relating to the character of  
13 development, the payment of impact fees, or other measures to mitigate  
14 a proposal's probable adverse environmental impacts, if applicable,  
15 shall be identified during the project review.

16 If the conditions of section 103 of this act are met, the  
17 requirements for environmental analysis and mitigation measures in  
18 development regulations are presumed to provide adequate mitigation for  
19 the specific adverse environmental impacts to which the requirements  
20 apply. Permitting agencies shall continue to have the authority to  
21 approve, condition, or deny projects as provided in their development  
22 regulations and in their policies adopted under RCW 43.21C.060.

23 NEW SECTION. **Sec. 102.** A new section is added to chapter 36.70A  
24 RCW to read as follows:

25 Project review by a county or city planning under RCW 36.70A.040  
26 shall be used to make individual project decisions, not land use  
27 planning decisions. If, during project review, a county or city  
28 identifies deficiencies in plans or regulations, the project review  
29 shall continue and shall not be used as a comprehensive planning  
30 process, but any deficiencies in the comprehensive plan or development  
31 regulations shall be noted for consideration during the periodic review  
32 of the comprehensive plan and development regulations. Procedures  
33 shall include allowing persons to suggest changes in the comprehensive  
34 plan and development regulations.

35 For purposes of this section, a deficiency in a comprehensive plan  
36 or development regulation refers to the absence of required or  
37 potentially desirable contents of a comprehensive plan or development  
38 regulation. It does not refer to whether a development regulation

1 addresses a project's probable site-specific adverse environmental  
2 impacts that the permitting agency could mitigate in the normal project  
3 review process.

4 NEW SECTION. **Sec. 103.** A new section is added to chapter 43.21C  
5 RCW to read as follows:

6 (1) The legislature finds that a wide range of environmental  
7 subjects and impacts have been addressed by counties, cities, and towns  
8 in comprehensive plans and development regulations adopted under  
9 chapter 36.70A RCW, and by the state and federal government in  
10 environmental rules and laws. These plans, regulations, rules, and  
11 laws often provide environmental analysis and mitigation measures for  
12 project actions without the need for an environmental impact statement  
13 or further project mitigation. When existing plans, regulations,  
14 rules, or laws provide environmental analysis and mitigation measures  
15 for the specific adverse environmental impacts of proposed projects,  
16 these requirements should be integrated with, and should not be  
17 duplicated by, environmental review under this chapter. The  
18 legislature reaffirms that a primary role of environmental review under  
19 this chapter is to focus on the gaps and overlaps that may exist,  
20 taking into account the other laws and requirements. Review of project  
21 actions in counties, cities, and towns planning under RCW 36.70A.040  
22 should integrate environmental review with project review and not use  
23 this chapter to substitute for other land use planning and  
24 environmental requirements.

25 A county or city planning under RCW 36.70A.040 shall attempt to  
26 prepare an enhanced detailed statement, or enhanced environmental  
27 analysis, of its proposed comprehensive plan, subarea plans, and  
28 development regulations that is of sufficient detail in addressing  
29 impacts and alternatives to allow the detailed statement to be used in  
30 whole or in part by applicants for development permits within the  
31 geographic area covered by the statement.

32 (2) In reviewing a project action, a county, city, or town planning  
33 under RCW 36.70A.040 shall presume that requirements for environmental  
34 analysis, protection, and mitigation measures in development  
35 regulations, comprehensive plans, and other applicable local, state, or  
36 federal laws and rules provide adequate analysis of and mitigation for  
37 the specific adverse environmental impacts to which the requirements  
38 apply, and shall not conduct environmental analysis or impose

1 mitigation under this chapter if the following has occurred:

2 (a)(i) The local government has considered the probable adverse  
3 environmental impacts of the proposed action and has determined that  
4 these impacts are adequately addressed by the development regulations  
5 or other applicable requirements of the comprehensive plan, subarea  
6 plan element of the comprehensive plan, or other local, state, or  
7 federal rules or laws; and

8 (ii) The local government has based or conditioned its approval on  
9 compliance with these requirements or mitigation measures.

10 (b) If the requirements of (a) of this subsection are not satisfied  
11 for some or all of the probable adverse environmental impacts of the  
12 project action, environmental review under this chapter shall be  
13 limited to those impacts and their effect on and relationship with  
14 other impacts, if any, consistent with the intent of this section, and  
15 shall be subject to the provisions of RCW 43.21C.060.

16 (3) For a county, city, or town planning under RCW 36.70A.040,  
17 project review shall not require additional environmental analysis or  
18 mitigation if the comprehensive plans, subarea plans, or development  
19 regulations already address a project s probable site-specific adverse  
20 environmental impacts, as determined under subsection (2) of this  
21 section. If a comprehensive plan, subarea plan, or development  
22 regulation adopted pursuant to chapter 36.70A RCW does not address a  
23 project s probable site-specific adverse environmental impacts, project  
24 review shall be integrated with environmental analysis under this  
25 chapter.

26 (4) The addressing of impacts in a comprehensive plan, subarea  
27 plan, or development regulation shall include but not be limited to the  
28 adoption or designation of levels of service, land use designations, or  
29 development standards.

30 (5) In deciding whether a specific adverse environmental impact has  
31 been addressed by an existing rule or law of another agency with  
32 jurisdiction with environmental expertise with regard to a specific  
33 environmental impact, the local government shall consult with that  
34 agency and may expressly defer to that agency. In making this  
35 deferral, the local government shall base or condition its project  
36 approval on compliance with these other existing rules or laws.

37 **Sec. 104.** RCW 43.21C.075 and 1994 c 253 s 4 are each amended to  
38 read as follows:

1 (1) Because a major purpose of this chapter is to combine  
2 environmental considerations with public decisions, any appeal brought  
3 under this chapter shall be linked to a specific governmental action.  
4 The State Environmental Policy Act provides a basis for challenging  
5 whether governmental action is in compliance with the substantive and  
6 procedural provisions of this chapter. The State Environmental Policy  
7 Act is not intended to create a cause of action unrelated to a specific  
8 governmental action.

9 (2) Unless otherwise provided by this section:

10 (a) Appeals under this chapter shall be of the governmental action  
11 together with its accompanying environmental determinations.

12 (b) Appeals of environmental determinations made (or lacking) under  
13 this chapter shall be commenced within the time required to appeal the  
14 governmental action which is subject to environmental review.

15 (3) If an agency has a procedure for appeals of agency  
16 environmental determinations made under this chapter, such procedure:

17 (a) Shall not allow more than one agency appeal proceeding on a  
18 procedural determination (the adequacy of a determination of  
19 significance/nonsignificance or of a final environmental impact  
20 statement)((~~, consistent with any state statutory requirements for~~  
21 ~~appeals to local legislative bodies~~)). The appeal proceeding on a  
22 determination of significance(~~(/nonsignificance)~~) may occur before the  
23 agency's final decision on a proposed action. Such an appeal shall  
24 also be allowed for a determination of significance/nonsignificance  
25 which may be issued by the agency after supplemental review;

26 (b) Shall consolidate an appeal of procedural issues and of  
27 substantive determinations made under this chapter (such as a decision  
28 to require particular mitigation measures or to deny a proposal) with  
29 a hearing or appeal on the underlying governmental action by providing  
30 for a single simultaneous ((~~appeal of an~~) hearing before one hearing  
31 officer or body to consider the agency decision on a proposal and any  
32 environmental determinations made under this chapter, with the  
33 exception of the ((~~threshold determination~~)) appeal, if any, of a  
34 determination of significance as provided in (a) of this subsection or  
35 an appeal to the local legislative authority under RCW 43.21C.060 or  
36 other applicable state statutes;

37 (c) Shall provide for the preparation of a record for use in any  
38 subsequent appeal proceedings, and shall provide for any subsequent  
39 appeal proceedings to be conducted on the record, consistent with other

1 applicable law. An adequate record consists of findings and  
2 conclusions, testimony under oath, and taped or written transcript. An  
3 electronically recorded transcript will suffice for purposes of review  
4 under this subsection; and

5 (d) Shall provide that procedural determinations made by the  
6 responsible official shall be entitled to substantial weight.

7 (4) If a person aggrieved by an agency action has the right to  
8 judicial appeal and if an agency has an appeal procedure, such person  
9 shall, prior to seeking any judicial review, use such agency procedure  
10 if any such procedure is available, unless expressly provided otherwise  
11 by state statute.

12 (5) (~~RCW 43.21C.080 establishes an optional "notice of action"~~  
13 ~~procedure which, if used, imposes a time period for appealing decisions~~  
14 ~~under this chapter.~~) Some statutes and ordinances contain time  
15 periods for challenging governmental actions which are subject to  
16 review under this chapter, such as various local land use approvals  
17 (the "underlying governmental action"). RCW 43.21C.080 establishes an  
18 optional "notice of action" procedure which, if used, imposes a time  
19 period for appealing decisions under this chapter. This ((section))  
20 subsection does not modify any such time periods. ((This section  
21 governs when a judicial appeal must be brought under this chapter where  
22 a "notice of action" is used, and/or where there is another time period  
23 which is required by statute or ordinance for challenging the  
24 underlying governmental action.)) In this subsection, the term "appeal"  
25 refers to a judicial appeal only.

26 (a) If there is a time period for appealing the underlying  
27 governmental action, appeals under this chapter shall be commenced  
28 within ~~((thirty days))~~ such time period. The agency shall give  
29 official notice stating the date and place for commencing an appeal.  
30 (~~If there is an agency proceeding under subsection (3) of this~~  
31 ~~section, the appellant shall, prior to commencing a judicial appeal,~~  
32 ~~submit to the responsible official a notice of intent to commence a~~  
33 ~~judicial appeal. This notice of intent shall be given within the time~~  
34 ~~period for commencing a judicial appeal on the underlying governmental~~  
35 ~~action.))~~

36 (b) If there is no time period for appealing the underlying  
37 governmental action, and a notice of action under RCW 43.21C.080 ((may  
38 be used. If a notice of action)) is used, ((judicial)) appeals shall  
39 be commenced within the time period specified by RCW 43.21C.080((7

1 ~~unless there is a time period for appealing the underlying governmental~~  
2 ~~action in which case (a) of this subsection shall apply.~~

3 ~~(c) Notwithstanding RCW 43.21C.080(1), if there is a time period~~  
4 ~~for appealing the underlying governmental action, a notice of action~~  
5 ~~may be published within such time period)).~~

6 (6)(a) Judicial review under subsection (3) of this section of an  
7 appeal decision made by an agency under ((~~RCW 43.21C.075(5)~~))  
8 subsection (3) of this section shall be on the record, consistent with  
9 other applicable law.

10 (b) A taped or written transcript may be used. If a taped  
11 transcript is to be reviewed, a record shall identify the location on  
12 the taped transcript of testimony and evidence to be reviewed. Parties  
13 are encouraged to designate only those portions of the testimony  
14 necessary to present the issues raised on review, but if a party  
15 alleges that a finding of fact is not supported by evidence, the party  
16 should include in the record all evidence relevant to the disputed  
17 finding. Any other party may designate additional portions of the  
18 taped transcript relating to issues raised on review. A party may  
19 provide a written transcript of portions of the testimony at the  
20 party's own expense or apply to that court for an order requiring the  
21 party seeking review to pay for additional portions of the written  
22 transcript.

23 (c) Judicial review under this chapter shall without exception be  
24 of the governmental action together with its accompanying environmental  
25 determinations.

26 (7) Jurisdiction over the review of determinations under this  
27 chapter in an appeal before an agency or superior court shall upon  
28 consent of the parties be transferred in whole or part to the  
29 shorelines hearings board. The shorelines hearings board shall hear  
30 the matter and sign the final order expeditiously. The superior court  
31 shall certify the final order of the shorelines hearings board and said  
32 certified final order may only be appealed to an appellate court. In  
33 the case of an appeal under this chapter regarding a project or other  
34 matter that is also the subject of an appeal to the shorelines hearings  
35 board under chapter 90.58 RCW, the shorelines hearings board shall have  
36 sole jurisdiction over both the appeal under this section and the  
37 appeal under chapter 90.58 RCW, shall consider them together, and shall  
38 issue a final order within one hundred eighty days as provided in RCW  
39 90.58.180.

1 (8) For purposes of this section and RCW 43.21C.080, the words  
2 "action", "decision", and "determination" mean substantive agency  
3 action including any accompanying procedural determinations under this  
4 chapter (except where the word "action" means "appeal" in RCW  
5 43.21C.080(2) and (3)). The word "action" in this section and RCW  
6 43.21C.080 does not mean a procedural determination by itself made  
7 under this chapter. The word "determination" includes any  
8 environmental document required by this chapter and state or local  
9 implementing rules. The word "agency" refers to any state or local  
10 unit of government. Except as provided in subsection (5) of this  
11 section, the word "appeal" refers to administrative, legislative, or  
12 judicial appeals.

13 (9) The court in its discretion may award reasonable attorney's  
14 fees of up to one thousand dollars in the aggregate to the prevailing  
15 party, including a governmental agency, on issues arising out of this  
16 chapter if the court makes specific findings that the legal position of  
17 a party is frivolous and without reasonable basis.

18 **Sec. 105.** RCW 43.21C.031 and 1983 c 117 s 1 are each amended to  
19 read as follows:

20 (1) An environmental impact statement (the detailed statement  
21 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for  
22 legislation and other major actions having a probable significant,  
23 adverse environmental impact. The environmental impact statement may  
24 be combined with the recommendation or report on the proposal or issued  
25 as a separate document. Actions categorically exempt under RCW  
26 43.21C.110(1)(a) do not require environmental review or the preparation  
27 of an environmental impact statement under this chapter. In a county,  
28 city, or town planning under RCW 36.70A.040, a planned action, as  
29 provided for in subsection (2) of this section, does not require a  
30 threshold determination or the preparation of an environmental impact  
31 statement under this chapter, but is subject to environmental review  
32 and mitigation as provided in this chapter.

33 An environmental impact statement is required to analyze only those  
34 probable adverse environmental impacts which are significant.  
35 Beneficial environmental impacts may be discussed. The responsible  
36 official shall consult with agencies and the public to identify such  
37 impacts and limit the scope of an environmental impact statement. The  
38 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate



1 sections of an environmental impact statement. Discussions of  
2 significant short-term and long-term environmental impacts, significant  
3 irrevocable commitments of natural resources, significant alternatives  
4 including mitigation measures, and significant environmental impacts  
5 which cannot be mitigated should be consolidated or included, as  
6 applicable, in those sections of an environmental impact statement  
7 where the responsible official decides they logically belong.

8 (2)(a) For purposes of this section, a planned action means one or  
9 more types of project action that:

10 (i) Are designated planned actions by an ordinance or resolution  
11 adopted by a county, city, or town planning under RCW 36.70A.040;

12 (ii) Have had the significant impacts adequately addressed in an  
13 environmental impact statement prepared in conjunction with (A) a  
14 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or  
15 (B) a fully contained community, a master planned resort, a master  
16 planned development, or a phased project;

17 (iii) Are subsequent or implementing projects for the proposals  
18 listed in (a)(ii) of this subsection;

19 (iv) Are located within an urban growth area, as defined in RCW  
20 36.70A.030;

21 (v) Are not essential public facilities, as defined in RCW  
22 36.70A.200; and

23 (vi) Are consistent with a comprehensive plan adopted under chapter  
24 36.70A RCW.

25 (b) A county, city, or town shall limit planned actions to certain  
26 types of development or to specific geographical areas that are less  
27 extensive than the jurisdictional boundaries of the county, city, or  
28 town and may limit a planned action to a time period identified in the  
29 environmental impact statement or the ordinance or resolution adopted  
30 under this subsection.

31 **Sec. 106.** RCW 43.21C.110 and 1983 c 117 s 7 are each amended to  
32 read as follows:

33 It shall be the duty and function of the department of ecology(~~(~~  
34 ~~which may utilize proposed rules developed by the environmental policy~~  
35 ~~commission))):~~

36 (1) To adopt and amend thereafter rules of interpretation and  
37 implementation of this chapter (~~((the state environmental policy act of~~  
38 ~~1971))~~), subject to the requirements of chapter 34.05 RCW, for the

1 purpose of providing uniform rules and guidelines to all branches of  
2 government including state agencies, political subdivisions, public and  
3 municipal corporations, and counties. The proposed rules shall be  
4 subject to full public hearings requirements associated with rule  
5 promulgation. Suggestions for modifications of the proposed rules  
6 shall be considered on their merits, and the department shall have the  
7 authority and responsibility for full and appropriate independent  
8 promulgation and adoption of rules, assuring consistency with this  
9 chapter as amended and with the preservation of protections afforded by  
10 this chapter. The rule making powers authorized in this section shall  
11 include, but shall not be limited to, the following phases of  
12 interpretation and implementation of this chapter (~~((the state  
13 environmental policy act of 1971))~~):

14 (a) Categories of governmental actions which are not to be  
15 considered as potential major actions significantly affecting the  
16 quality of the environment, including categories pertaining to  
17 applications for water right permits pursuant to chapters 90.03 and  
18 90.44 RCW. The types of actions included as categorical exemptions in  
19 the rules shall be limited to those types which are not major actions  
20 significantly affecting the quality of the environment. The rules  
21 shall provide for certain circumstances where actions which potentially  
22 are categorically exempt require environmental review. An action that  
23 is determined to be categorically exempted under the rules adopted by  
24 the department may not be conditioned or denied under this chapter.

25 (b) Rules for criteria and procedures applicable to the  
26 determination of when an act of a branch of government is a major  
27 action significantly affecting the quality of the environment for which  
28 a detailed statement is required to be prepared pursuant to RCW  
29 43.21C.030.

30 (c) Rules and procedures applicable to the preparation of detailed  
31 statements and other environmental documents, including but not limited  
32 to rules for timing of environmental review, obtaining comments, data  
33 and other information, and providing for and determining areas of  
34 public participation which shall include the scope and review of draft  
35 environmental impact statements.

36 (d) Scope of coverage and contents of detailed statements assuring  
37 that such statements are simple, uniform, and as short as practicable;  
38 statements are required to analyze only reasonable alternatives and  
39 probable adverse environmental impacts which are significant, and may

1 analyze beneficial impacts.

2 (e) Rules and procedures for public notification of actions taken  
3 and documents prepared.

4 (f) Definition of terms relevant to the implementation of this  
5 chapter including the establishment of a list of elements of the  
6 environment. Analysis of environmental considerations under RCW  
7 43.21C.030(2) may be required only for those subjects listed as  
8 elements of the environment (or portions thereof). The list of  
9 elements of the environment shall consist of the "natural" and "built"  
10 environment. The elements of the built environment shall consist of  
11 public services and utilities (such as water, sewer, schools, fire and  
12 police protection), transportation, environmental health (such as  
13 explosive materials and toxic waste), and land and shoreline use  
14 (including housing, and a description of the relationships with land  
15 use and shoreline plans and designations, including population).

16 (g) Rules for determining the obligations and powers under this  
17 chapter of two or more branches of government involved in the same  
18 project significantly affecting the quality of the environment.

19 (h) Methods to assure adequate public awareness of the preparation  
20 and issuance of detailed statements required by RCW 43.21C.030(2)(c).

21 (i) To prepare rules for projects setting forth the time limits  
22 within which the governmental entity responsible for the action shall  
23 comply with the provisions of this chapter.

24 (j) Rules for utilization of a detailed statement for more than one  
25 action and rules improving environmental analysis of nonproject  
26 proposals and encouraging better interagency coordination and  
27 integration between this chapter and other environmental laws.

28 (k) Rules relating to actions which shall be exempt from the  
29 provisions of this chapter in situations of emergency.

30 (l) Rules relating to the use of environmental documents in  
31 planning and decision making and the implementation of the substantive  
32 policies and requirements of this chapter, including procedures for  
33 appeals under this chapter.

34 (m) Rules and procedures that provide for the integration of  
35 environmental review with project review as provided in section 103 of  
36 this act. The rules and procedures shall be jointly developed with the  
37 department of community, trade, and economic development and shall be  
38 applicable to the preparation of environmental documents for actions in  
39 counties, cities, and towns planning under RCW 36.70A.040. The rules

1 and procedures shall also include criteria to analyze the consistency  
2 of project actions, including planned actions under RCW 43.21C.031(2),  
3 with development regulations adopted pursuant to chapter 36.70A RCW, or  
4 in the absence of applicable development regulations, the appropriate  
5 elements of a comprehensive plan or subarea plan adopted pursuant to  
6 chapter 36.70A RCW. Ordinances or procedures adopted by a county,  
7 city, or town to implement the provisions of section 103 of this act  
8 prior to the effective date of rules adopted pursuant to this  
9 subsection (1)(m) shall continue to be effective until the adoption of  
10 any new or revised ordinances or procedures that may be required. If  
11 any revisions are required as a result of rules adopted pursuant to  
12 this subsection (1)(m), those revisions shall be made within the time  
13 limits specified in RCW 43.21C.120.

14 (2) In exercising its powers, functions, and duties under this  
15 section, the department may:

16 (a) Consult with the state agencies and with representatives of  
17 science, industry, agriculture, labor, conservation organizations,  
18 state and local governments and other groups, as it deems advisable;  
19 and

20 (b) Utilize, to the fullest extent possible, the services,  
21 facilities, and information (including statistical information) of  
22 public and private agencies, organizations, and individuals, in order  
23 to avoid duplication of effort and expense, overlap, or conflict with  
24 similar activities authorized by law and performed by established  
25 agencies.

26 (3) Rules adopted pursuant to this section shall be subject to the  
27 review procedures of chapter 34.05 RCW (~~(34.05.538 and 34.05.240)~~).

28 **Sec. 107.** RCW 43.21C.080 and 1977 ex.s. c 278 s 1 are each amended  
29 to read as follows:

30 (1) Notice of any action taken by a governmental agency may be  
31 publicized by the acting governmental agency, the applicant for, or the  
32 proponent of such action, in substantially the form as set forth in  
33 (~~subsection (3) of this section and in the following manner~~) rules  
34 adopted pursuant to RCW 43.21C.110:

35 (a) By publishing notice on the same day of each week for two  
36 consecutive weeks in a legal newspaper of general circulation in the  
37 area where the property which is the subject of the action is located;

38 (b) By filing notice of such action with the department of ecology

1 at its main office in Olympia prior to the date of the last newspaper  
2 publication; and

3 (c) Except for those actions which are of a nonproject nature, by  
4 one of the following methods which shall be accomplished prior to the  
5 date of ~~((last))~~ first newspaper publication;

6 (i) Mailing to the latest recorded real property owners, as shown  
7 by the records of the county treasurer, who share a common boundary  
8 line with the property upon which the project is proposed through  
9 United States mail, first class, postage prepaid.

10 (ii) Posting of the notice in a conspicuous manner on the property  
11 upon which the project is to be constructed.

12 (2)~~((a))~~ Except as otherwise provided in RCW 43.21C.075(5)(a),  
13 any action to set aside, enjoin, review, or otherwise challenge any  
14 such governmental action or subsequent government action for which  
15 notice is given as provided in subsection (1) of this section on  
16 grounds of noncompliance with the provisions of this chapter shall be  
17 commenced within ~~((thirty))~~ twenty-one days from the date of last  
18 newspaper publication of the notice pursuant to subsection (1) of this  
19 section, or be barred~~((:— PROVIDED, HOWEVER, That the time period~~  
20 ~~within which an action shall be commenced shall be ninety days (i) for~~  
21 ~~projects to be performed by a governmental agency or to be performed~~  
22 ~~under government contract, or (ii) for thermal power plant projects:~~  
23 ~~PROVIDED FURTHER, That))~~.

24 Any subsequent governmental action on the proposal for which notice  
25 has been given as provided in subsection (1) of this section shall not  
26 be set aside, enjoined, reviewed, or otherwise challenged on grounds of  
27 noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h)  
28 unless there has been a substantial change in the proposal between the  
29 time of the first governmental action and the subsequent governmental  
30 action that is likely to have adverse environmental impacts beyond the  
31 range of impacts previously analyzed, or unless the action now being  
32 considered was identified in an earlier detailed statement or  
33 declaration of nonsignificance as being one which would require further  
34 environmental evaluation.

35 ~~((b) Any action to challenge a subsequent governmental action~~  
36 ~~based upon any provisions of this chapter shall be commenced within~~  
37 ~~thirty days from the date of last newspaper publication of the~~  
38 ~~subsequent governmental action except (i) for projects to be performed~~  
39 ~~by a governmental agency or to be performed under governmental~~

1 contract, or (ii) for thermal power plant projects which shall be  
2 challenged within ninety days from the date of last newspaper  
3 publication of the subsequent governmental action, or be barred.

4 (3) The form for such notice of action shall be issued by the  
5 department of ecology and shall be made available by the governmental  
6 agency taking an action subject to being publicized pursuant to this  
7 section, by the county auditor, and/or the city clerk to the project  
8 applicant or proposer. The form of such notice shall be substantially  
9 as follows:

10 NOTICE OF ACTION BY

11 . . . . .

12 (Government agency or entity)

13 Pursuant to the provisions of chapter 43.21C RCW, notice is hereby  
14 given that:

15 The . . . . . (Government agency or entity) did on  
16 . . . . . (date), take the action described below.

17 Any action to set aside, enjoin, review, or otherwise challenge  
18 such action on the grounds of noncompliance with the provisions of  
19 chapter 43.21C RCW (State Environmental Policy Act) shall be commenced  
20 within . . . . days or be barred.

21 The action taken by . . . . . (Government agency or  
22 entity), notice of which is hereby given, was as follows:

23 (1) . . . . . (Here insert description of action taken such  
24 as: Adoption Ordinance No. . . . .; Issued Building Permit; Approved  
25 preliminary (or final) plat, etc.)

26 (2) . . . . . (Here insert brief description of the  
27 complete project or proposal.)

28 (3) Said action pertained to property commonly known as:  
29 . . . . .  
30 . . . . .  
31 . . . . .  
32 . . . . .  
33 (Sufficient description to locate property, but complete legal  
34 description not required)

35 (4) Pertinent documents may be examined during regular business  
36 hours at the office of: . . . . . located at:  
37 . . . . .  
38 (Location, including room number)

1 .....  
2 (~~Name of government agency, proponent, or applicant giving notice~~)  
3 Filed by .....  
4 (~~Signature of individual and capacity in which such individual is~~  
5 ~~signing~~))

6 NEW SECTION. **Sec. 108.** A new section is added to chapter 36.70A  
7 RCW to read as follows:

8 (1) In designating and protecting critical areas under this  
9 chapter, counties and cities shall include the best available science  
10 in developing policies and development regulations to protect the  
11 functions and values of critical areas. In addition, counties and  
12 cities shall give special consideration to conservation or protection  
13 measures necessary to preserve or enhance anadromous fisheries.

14 (2) If it determines that advice from scientific or other experts  
15 is necessary or will be of substantial assistance in reaching its  
16 decision, a growth management hearings board may retain scientific or  
17 other expert advice to assist in reviewing a petition under RCW  
18 36.70A.290 that involves critical areas.

19 **Sec. 109.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each  
20 amended to read as follows:

21 Each county and city that is required or chooses to plan under RCW  
22 36.70A.040 shall establish and broadly disseminate to the public a  
23 public participation program identifying procedures providing for early  
24 and continuous public participation in the development and amendment of  
25 comprehensive land use plans and development regulations implementing  
26 such plans. The procedures shall provide for broad dissemination of  
27 proposals and alternatives, opportunity for written comments, public  
28 meetings after effective notice, provision for open discussion,  
29 communication programs, information services, and consideration of and  
30 response to public comments. The public participation program and  
31 procedures shall apply to a response made by a county or city to a  
32 decision by a growth management hearings board under RCW 36.70A.300  
33 that the comprehensive plan or development regulations were not in  
34 compliance with this chapter. Errors in exact compliance with the  
35 established program and procedures shall not render the comprehensive  
36 land use plan or development regulations invalid if the spirit of the  
37 program and procedures is observed.

1       **Sec. 110.** RCW 36.70A.300 and 1991 sp.s. c 32 s 11 are each amended  
2 to read as follows:

3       (1) The board shall issue a final order within one hundred eighty  
4 days of receipt of the petition for review, or, when multiple petitions  
5 are filed, within one hundred eighty days of receipt of the last  
6 petition that is consolidated. Such a final order shall be based  
7 exclusively on whether or not a state agency, county, or city is in  
8 compliance with the requirements of this chapter, chapter 90.58 RCW as  
9 it relates to adoption or amendment of shoreline master programs, or  
10 chapter 43.21C RCW as it relates to plans, development regulations, and  
11 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.  
12 In the final order, the board shall either: (a) Find that the state  
13 agency, county, or city is in compliance with the requirements of this  
14 chapter or chapter 90.58 RCW as it relates to the adoption or amendment  
15 of shoreline master programs; or (b) find that the state agency,  
16 county, or city is not in compliance with the requirements of this  
17 chapter or chapter 90.58 RCW as it relates to the adoption or amendment  
18 of shoreline master programs, in which case the board shall remand the  
19 matter to the affected state agency, county, or city and specify a  
20 reasonable time not in excess of one hundred eighty days within which  
21 the state agency, county, or city shall comply with the requirements of  
22 this chapter.

23       (2) A finding of noncompliance and an order of remand shall not  
24 affect the validity of comprehensive plans and development regulations  
25 during the period of remand, unless the board's final order also:

26       (a) Includes a determination, supported by findings of fact and  
27 conclusions of law, that the continued validity of the plan or  
28 regulation would substantially interfere with the fulfillment of the  
29 goals of this chapter; and

30       (b) Specifies the particular part or parts of the plan or  
31 regulation that are determined to be invalid, and the reasons for their  
32 invalidity.

33       (3) A determination of invalidity shall:

34       (a) Be prospective in effect and shall not extinguish rights that  
35 vested under state or local law before the date of the board's order;  
36 and

37       (b) Subject any development application that would otherwise vest  
38 after the date of the board's order to the development regulations in  
39 effect pursuant to subsection (2) or (4) of this section.



1       (4) If the ordinance that adopts a plan or development regulation  
2 under this chapter includes a savings clause intended to revive prior  
3 policies or regulations in the event the new plan or regulations are  
4 determined to be invalid, the board shall determine under subsection  
5 (2) of this section whether the prior policies or regulations are valid  
6 during the period of remand.

7       (5) Any party aggrieved by a final decision of the hearings board  
8 may appeal the decision as provided in RCW 34.05.514 to ((~~Thurston~~  
9 ~~county~~)) superior court within thirty days of the final order of the  
10 board.

11       **Sec. 111.** RCW 36.70A.330 and 1991 sp.s. c 32 s 14 are each amended  
12 to read as follows:

13       (1) After the time set for complying with the requirements of this  
14 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time  
15 upon the motion of a county or city subject to a determination of  
16 invalidity under RCW 36.70A.300, the board((~~, on its own motion or~~  
17 ~~motion of the petitioner,~~)) shall set a hearing for the purpose of  
18 determining whether the state agency, county, or city is in compliance  
19 with the requirements of this chapter.

20       (2) The board shall conduct a hearing and issue a finding of  
21 compliance or noncompliance with the requirements of this chapter. A  
22 person with standing to challenge the legislation enacted in response  
23 to the board's final order may participate in the hearing along with  
24 the petitioner and the state agency, city, or county. A hearing under  
25 this subsection shall be given the highest priority of business to be  
26 conducted by the board, and a finding shall be issued within forty-five  
27 days of the filing of the motion under subsection (1) of this section  
28 with the board.

29       (3) If the board finds that the state agency, county, or city is  
30 not in compliance, the board shall transmit its finding to the  
31 governor. The board may recommend to the governor that the sanctions  
32 authorized by this chapter be imposed. The board shall also reconsider  
33 its final order and decide:

34       (a) If a determination of invalidity has been made, whether such a  
35 determination should be rescinded or modified under the standards in  
36 RCW 36.70A.300(2); or

37       (b) If no determination of invalidity has been made, whether one  
38 now should be made under the standards in RCW 36.70A.300(2).

1        The board shall schedule additional hearings as appropriate  
2 pursuant to subsections (1) and (2) of this section.

3        NEW SECTION.    **Sec. 112.**    A new section is added to chapter 36.70A  
4 RCW to read as follows:

5        A city planning under RCW 36.70A.040 that operates public  
6 facilities and services shall serve within its service area if service  
7 is technically feasible and in compliance with local regulations.

8        Such a city that provides water or sewer service outside of its  
9 corporate boundaries shall not require, as a condition of providing  
10 water or sewer service that the property owner who has requested the  
11 water or sewer service agree to: (1) Lot sizes different from those  
12 authorized by the county or city within whose planning jurisdiction the  
13 property is located; or (2) other development or design requirements  
14 that are not required by the county or city within whose planning  
15 jurisdiction the property is located.

16        NEW SECTION.    **Sec. 113.**    A new section is added to chapter 36.70A  
17 RCW to read as follows:

18        Nothing in this chapter shall preclude public sanitary sewer  
19 systems and public domestic water systems designed for and serving  
20 rural uses in areas included within the rural area designated under RCW  
21 36.70A.070(5).

22        NEW SECTION.    **Sec. 114.**    A new section is added to chapter 36.70A  
23 RCW to read as follows:

24        Urban growth areas designated under RCW 36.70A.110 shall include  
25 transition areas that are designed to eventually have urban growth but  
26 which are temporarily zoned to lower densities and lower intensities of  
27 land use.

28        **Sec. 115.**    RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5 are  
29 each reenacted and amended to read as follows:

30        Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

32        (1) "Adopt a comprehensive land use plan" means to enact a new  
33 comprehensive land use plan or to update an existing comprehensive land  
34 use plan.

35        (2) "Agricultural land" means land primarily devoted to the

1 commercial production of horticultural, viticultural, floricultural,  
2 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
3 straw, turf, seed, Christmas trees not subject to the excise tax  
4 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
5 hatcheries, or livestock, and that has long-term commercial  
6 significance for agricultural production.

7 (3) "City" means any city or town, including a code city.

8 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
9 means a generalized coordinated land use policy statement of the  
10 governing body of a county or city that is adopted pursuant to this  
11 chapter.

12 (5) "Critical areas" include the following areas and ecosystems:  
13 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
14 used for potable water; (c) fish and wildlife habitat conservation  
15 areas; (d) frequently flooded areas; and (e) geologically hazardous  
16 areas.

17 (6) "Department" means the department of community, trade, and  
18 economic development.

19 (7) For purposes of RCW 36.70A.065 and 36.70A.440, "development  
20 permit application" means any application for a development proposal  
21 for a use that could be permitted under a plan adopted pursuant to this  
22 chapter and is consistent with the underlying land use and zoning,  
23 including but not limited to building permits, subdivisions, binding  
24 site plans, planned unit developments, conditional uses or other  
25 applications pertaining to land uses, but shall not include rezones,  
26 proposed amendments to comprehensive plans or the adoption or amendment  
27 of development regulations.

28 (8) "Development regulations" means any controls placed on  
29 development or land use activities by a county or city, including, but  
30 not limited to, zoning ordinances, official controls, planned unit  
31 development ordinances, subdivision ordinances, and binding site plan  
32 ordinances.

33 (9) "Forest land" means land primarily devoted to growing trees for  
34 long-term commercial timber production on land that can be economically  
35 and practically managed for such production, including Christmas trees  
36 subject to the excise tax imposed under RCW 84.33.100 through  
37 84.33.140, and that has long-term commercial significance. In  
38 determining whether forest land is primarily devoted to growing trees  
39 for long-term commercial timber production on land that can be

1 economically and practically managed for such production, the following  
2 factors shall be considered: (a) The proximity of the land to urban,  
3 suburban, and rural settlements; (b) surrounding parcel size and the  
4 compatibility and intensity of adjacent and nearby land uses; (c) long-  
5 term local economic conditions that affect the ability to manage for  
6 timber production; and (d) the availability of public facilities and  
7 services conducive to conversion of forest land to other uses.

8 (10) "Geologically hazardous areas" means areas that because of  
9 their susceptibility to erosion, sliding, earthquake, or other  
10 geological events, are not suited to the siting of commercial,  
11 residential, or industrial development consistent with public health or  
12 safety concerns.

13 (11) "Long-term commercial significance" includes the growing  
14 capacity, productivity, and soil composition of the land for long-term  
15 commercial production, in consideration with the land's proximity to  
16 population areas, and the possibility of more intense uses of the land.

17 (12) "Minerals" include gravel, sand, and valuable metallic  
18 substances.

19 (13) "Public facilities" include streets, roads, highways,  
20 sidewalks, street and road lighting systems, traffic signals, domestic  
21 water systems, storm and sanitary sewer systems, parks and recreational  
22 facilities, and schools.

23 (14) "Public services" include fire protection and suppression, law  
24 enforcement, public health, education, recreation, environmental  
25 protection, and other governmental services.

26 (15) "Urban growth" refers to growth that makes intensive use of  
27 land for the location of buildings, structures, and impermeable  
28 surfaces to such a degree as to be incompatible with the primary use of  
29 such land for the production of food, other agricultural products, or  
30 fiber, or the extraction of mineral resources. When allowed to spread  
31 over wide areas, urban growth typically requires urban governmental  
32 services. "Characterized by urban growth" refers to land having urban  
33 growth located on it, or to land located in relationship to an area  
34 with urban growth on it as to be appropriate for urban growth.

35 (16) "Urban growth areas" means those areas designated by a county  
36 pursuant to RCW 36.70A.110.

37 (17) "Urban governmental services" include those governmental  
38 services historically and typically delivered by cities, and include  
39 storm and sanitary sewer systems, domestic water systems, street

1 cleaning services, fire and police protection services, public transit  
2 services, and other public utilities associated with urban areas and  
3 normally not associated with nonurban areas.

4 (18) "Wetland" or "wetlands" means areas (~~(that are inundated or~~  
5 ~~saturated by surface water or ground water at a frequency and duration~~  
6 ~~sufficient to support, and that under normal circumstances do support,~~  
7 ~~a prevalence of vegetation typically adapted for life in saturated soil~~  
8 ~~conditions.—Wetlands generally include swamps, marshes, bogs, and~~  
9 ~~similar areas.—Wetlands do not include those artificial wetlands~~  
10 ~~intentionally created from nonwetland sites, including, but not limited~~  
11 ~~to, irrigation and drainage ditches, grass lined swales, canals,~~  
12 ~~detention facilities, wastewater treatment facilities, farm ponds, and~~  
13 ~~landscape amenities.—However, wetlands may include those artificial~~  
14 ~~wetlands intentionally created from nonwetland areas created to~~  
15 ~~mitigate conversion of wetlands, if permitted by the county or city))~~  
16 defined as wetlands under section 401 of the clean water act, 33 U.S.C.  
17 Sec. 1344. Wetlands do not include inadvertent wetlands  
18 unintentionally created after July 1, 1990, as a result of development  
19 activity, including the construction of roads, streets, or highways.

20 **Sec. 116.** RCW 90.58.020 and 1992 c 105 s 1 are each amended to  
21 read as follows:

22 The legislature finds that the shorelines of the state are among  
23 the most valuable and fragile of its natural resources and that there  
24 is great concern throughout the state relating to their utilization,  
25 protection, restoration, and preservation. In addition it finds that  
26 ever increasing pressures of additional uses are being placed on the  
27 shorelines necessitating increased coordination in the management and  
28 development of the shorelines of the state. The legislature further  
29 finds that much of the shorelines of the state and the uplands adjacent  
30 thereto are in private ownership; that unrestricted construction on the  
31 privately owned or publicly owned shorelines of the state is not in the  
32 best public interest; and therefore, coordinated planning is necessary  
33 in order to protect the public interest associated with the shorelines  
34 of the state while, at the same time, recognizing and protecting  
35 private property rights consistent with the public interest. There is,  
36 therefor, a clear and urgent demand for a planned, rational, and  
37 concerted effort, jointly performed by federal, state, and local  
38 governments, to prevent the inherent harm in an uncoordinated and

1 piecemeal development of the state's shorelines.

2 It is the policy of the state to provide for the management of the  
3 shorelines of the state by planning for and fostering all reasonable  
4 and appropriate uses. This policy is designed to insure the  
5 development of these shorelines in a manner which, while allowing for  
6 limited reduction of rights of the public in the navigable waters, will  
7 promote and enhance the public interest. This policy contemplates  
8 protecting against adverse effects to the public health, the land and  
9 its vegetation and wildlife, and the waters of the state and their  
10 aquatic life, while protecting generally public rights of navigation  
11 and corollary rights incidental thereto.

12 The legislature declares that the interest of all of the people  
13 shall be paramount in the management of shorelines of state-wide  
14 significance. The department, in adopting guidelines for shorelines of  
15 state-wide significance, and local government, in developing master  
16 programs for shorelines of state-wide significance, shall give  
17 preference to uses in the following order of preference which:

18 (1) Recognize and protect the state-wide interest over local  
19 interest;

20 (2) Preserve the natural character of the shoreline;

21 (3) Result in long term over short term benefit;

22 (4) Protect the resources and ecology of the shoreline;

23 (5) Increase public access to publicly owned areas of the  
24 shorelines;

25 (6) Increase recreational opportunities for the public in the  
26 shoreline;

27 (7) Provide for any other element as defined in RCW 90.58.100  
28 deemed appropriate or necessary.

29 In the implementation of this policy the public's opportunity to  
30 enjoy the physical and aesthetic qualities of natural shorelines of the  
31 state shall be preserved to the greatest extent feasible consistent  
32 with the overall best interest of the state and the people generally.  
33 To this end uses shall be preferred which are consistent with control  
34 of pollution and prevention of damage to the natural environment, or  
35 are unique to or dependent upon use of the state's shoreline.  
36 Alterations of the natural condition of the shorelines of the state, in  
37 those limited instances when authorized, shall be given priority for  
38 single family residences and their appurtenant structures, ports,  
39 shoreline recreational uses including but not limited to parks,

1 marinas, piers, and other improvements facilitating public access to  
2 shorelines of the state, industrial and commercial developments which  
3 are particularly dependent on their location on or use of the  
4 shorelines of the state and other development that will provide an  
5 opportunity for substantial numbers of the people to enjoy the  
6 shorelines of the state. Alterations of the natural condition of the  
7 shorelines and ((~~wetlands~~)) shorelands of the state shall be recognized  
8 by the department. Shorelines and ((~~wetlands~~)) shorelands of the state  
9 shall be appropriately classified and these classifications shall be  
10 revised when circumstances warrant regardless of whether the change in  
11 circumstances occurs through man-made causes or natural causes. Any  
12 areas resulting from alterations of the natural condition of the  
13 shorelines and ((~~wetlands~~)) shorelands of the state no longer meeting  
14 the definition of "shorelines of the state" shall not be subject to the  
15 provisions of chapter 90.58 RCW.

16 Permitted uses in the shorelines of the state shall be designed and  
17 conducted in a manner to minimize, insofar as practical, any resultant  
18 damage to the ecology and environment of the shoreline area and any  
19 interference with the public's use of the water.

20 **Sec. 117.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to  
21 read as follows:

22 As used in this chapter, unless the context otherwise requires, the  
23 following definitions and concepts apply:

24 (1) Administration:

25 (a) "Department" means the department of ecology;

26 (b) "Director" means the director of the department of ecology;

27 (c) "Local government" means any county, incorporated city, or town  
28 which contains within its boundaries any lands or waters subject to  
29 this chapter;

30 (d) "Person" means an individual, partnership, corporation,  
31 association, organization, cooperative, public or municipal  
32 corporation, or agency of the state or local governmental unit however  
33 designated;

34 (e) "Hearing board" means the shoreline hearings board established  
35 by this chapter.

36 (2) Geographical:

37 (a) "Extreme low tide" means the lowest line on the land reached by  
38 a receding tide;

1 (b) "Ordinary high water mark" on all lakes, streams, and tidal  
2 water is that mark that will be found by examining the bed and banks  
3 and ascertaining where the presence and action of waters are so common  
4 and usual, and so long continued in all ordinary years, as to mark upon  
5 the soil a character distinct from that of the abutting upland, in  
6 respect to vegetation as that condition exists on June 1, 1971, as it  
7 may naturally change thereafter, or as it may change thereafter in  
8 accordance with permits issued by a local government or the department:  
9 PROVIDED, That in any area where the ordinary high water mark cannot be  
10 found, the ordinary high water mark adjoining salt water shall be the  
11 line of mean higher high tide and the ordinary high water mark  
12 adjoining fresh water shall be the line of mean high water;

13 (c) "Shorelines of the state" are the total of all "shorelines" and  
14 "shorelines of state-wide significance" within the state;

15 (d) "Shorelines" means all of the water areas of the state,  
16 including reservoirs, and their associated ((wetlands)) shorelands,  
17 together with the lands underlying them; except (i) shorelines of  
18 state-wide significance; (ii) shorelines on segments of streams  
19 upstream of a point where the mean annual flow is twenty cubic feet per  
20 second or less and the wetlands associated with such upstream segments;  
21 and (iii) shorelines on lakes less than twenty acres in size and  
22 wetlands associated with such small lakes;

23 (e) "Shorelines of state-wide significance" means the following  
24 shorelines of the state:

25 (i) The area between the ordinary high water mark and the western  
26 boundary of the state from Cape Disappointment on the south to Cape  
27 Flattery on the north, including harbors, bays, estuaries, and inlets;

28 (ii) Those areas of Puget Sound and adjacent salt waters and the  
29 Strait of Juan de Fuca between the ordinary high water mark and the  
30 line of extreme low tide as follows:

31 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

32 (B) Birch Bay--from Point Whitehorn to Birch Point,

33 (C) Hood Canal--from Tala Point to Foulweather Bluff,

34 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,

35 and

36 (E) Padilla Bay--from March Point to William Point;

37 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and  
38 adjacent salt waters north to the Canadian line and lying seaward from  
39 the line of extreme low tide;



1 (iv) Those lakes, whether natural, artificial, or a combination  
2 thereof, with a surface acreage of one thousand acres or more measured  
3 at the ordinary high water mark;

4 (v) Those natural rivers or segments thereof as follows:

5 (A) Any west of the crest of the Cascade range downstream of a  
6 point where the mean annual flow is measured at one thousand cubic feet  
7 per second or more,

8 (B) Any east of the crest of the Cascade range downstream of a  
9 point where the annual flow is measured at two hundred cubic feet per  
10 second or more, or those portions of rivers east of the crest of the  
11 Cascade range downstream from the first three hundred square miles of  
12 drainage area, whichever is longer;

13 (vi) Those ~~((wetlands))~~ shorelands associated with (i), (ii), (iv),  
14 and (v) of this subsection (2)(e);

15 (f) "~~((Wetlands))~~ Shorelands" or "~~((wetland))~~ shoreland areas"  
16 means those lands extending landward for two hundred feet in all  
17 directions as measured on a horizontal plane from the ordinary high  
18 water mark; floodways and contiguous floodplain areas landward two  
19 hundred feet from such floodways; and all ~~((marshes, bogs, swamps,))~~  
20 wetlands and river deltas associated with the streams, lakes, and tidal  
21 waters which are subject to the provisions of this chapter; the same to  
22 be designated as to location by the department of ecology(~~(:—PROVIDED,~~  
23 ~~That))~~). Any county or city may determine that portion of a one-  
24 hundred-year-flood plain to be included in its master program as long  
25 as such portion includes, as a minimum, the floodway and the adjacent  
26 land extending landward two hundred feet therefrom;

27 (g) "Floodway" means those portions of the area of a river valley  
28 lying streamward from the outer limits of a watercourse upon which  
29 flood waters are carried during periods of flooding that occur with  
30 reasonable regularity, although not necessarily annually, said floodway  
31 being identified, under normal condition, by changes in surface soil  
32 conditions or changes in types or quality of vegetative ground cover  
33 condition. The floodway shall not include those lands that can  
34 reasonably be expected to be protected from flood waters by flood  
35 control devices maintained by or maintained under license from the  
36 federal government, the state, or a political subdivision of the state;

37 (h) "Wetlands" means areas defined as wetlands under section 401 of  
38 the clean water act, 33 U.S.C. Sec. 1344. Wetlands do not include  
39 inadvertent wetlands unintentionally created after July 1, 1990, as a

1 result of development activity, including the construction of roads,  
2 streets, or highways.

3 (3) Procedural terms:

4 (a) "Guidelines" means those standards adopted to implement the  
5 policy of this chapter for regulation of use of the shorelines of the  
6 state prior to adoption of master programs. Such standards shall also  
7 provide criteria to local governments and the department in developing  
8 master programs;

9 (b) "Master program" shall mean the comprehensive use plan for a  
10 described area, and the use regulations together with maps, diagrams,  
11 charts, or other descriptive material and text, a statement of desired  
12 goals, and standards developed in accordance with the policies  
13 enunciated in RCW 90.58.020;

14 (c) "State master program" is the cumulative total of all master  
15 programs approved or adopted by the department of ecology;

16 (d) "Development" means a use consisting of the construction or  
17 exterior alteration of structures; dredging; drilling; dumping;  
18 filling; removal of any sand, gravel, or minerals; bulkheading; driving  
19 of piling; placing of obstructions; or any project of a permanent or  
20 temporary nature which interferes with the normal public use of the  
21 surface of the waters overlying lands subject to this chapter at any  
22 state of water level;

23 (e) "Substantial development" shall mean any development of which  
24 the total cost or fair market value exceeds two thousand five hundred  
25 dollars, or any development which materially interferes with the normal  
26 public use of the water or shorelines of the state; except that the  
27 following shall not be considered substantial developments for the  
28 purpose of this chapter:

29 (i) Normal maintenance or repair of existing structures or  
30 developments, including damage by accident, fire, or elements;

31 (ii) Construction of the normal protective bulkhead common to  
32 single family residences;

33 (iii) Emergency construction necessary to protect property from  
34 damage by the elements;

35 (iv) Construction and practices normal or necessary for farming,  
36 irrigation, and ranching activities, including agricultural service  
37 roads and utilities on (~~wetlands~~) shorelands, and the construction  
38 and maintenance of irrigation structures including but not limited to  
39 head gates, pumping facilities, and irrigation channels(~~(:—PROVIDED,~~

1 That)). A feedlot of any size, all processing plants, other activities  
2 of a commercial nature, alteration of the contour of the ((wetlands))  
3 shorelands by leveling or filling other than that which results from  
4 normal cultivation, shall not be considered normal or necessary farming  
5 or ranching activities. A feedlot shall be an enclosure or facility  
6 used or capable of being used for feeding livestock hay, grain, silage,  
7 or other livestock feed, but shall not include land for growing crops  
8 or vegetation for livestock feeding and/or grazing, nor shall it  
9 include normal livestock wintering operations;

10 (v) Construction or modification of navigational aids such as  
11 channel markers and anchor buoys;

12 (vi) Construction on ((wetlands)) shorelands by an owner, lessee,  
13 or contract purchaser of a single family residence for his own use or  
14 for the use of his family, which residence does not exceed a height of  
15 thirty-five feet above average grade level and which meets all  
16 requirements of the state agency or local government having  
17 jurisdiction thereof, other than requirements imposed pursuant to this  
18 chapter;

19 (vii) Construction of a dock, including a community dock, designed  
20 for pleasure craft only, for the private noncommercial use of the  
21 owner, lessee, or contract purchaser of single and multiple family  
22 residences, the cost of which does not exceed two thousand five hundred  
23 dollars;

24 (viii) Operation, maintenance, or construction of canals,  
25 waterways, drains, reservoirs, or other facilities that now exist or  
26 are hereafter created or developed as a part of an irrigation system  
27 for the primary purpose of making use of system waters, including  
28 return flow and artificially stored ground water for the irrigation of  
29 lands;

30 (ix) The marking of property lines or corners on state owned lands,  
31 when such marking does not significantly interfere with normal public  
32 use of the surface of the water;

33 (x) Operation and maintenance of any system of dikes, ditches,  
34 drains, or other facilities existing on September 8, 1975, which were  
35 created, developed, or utilized primarily as a part of an agricultural  
36 drainage or diking system( (+

37 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~  
38 ~~(A) the restoration of interim transportation services as may be~~  
39 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~

1 including, but not limited to, improvements to highways, development of  
2 park and ride facilities, and development of ferry terminal facilities  
3 until a new or reconstructed Hood Canal bridge is open to traffic; and  
4 (B) the reconstruction of a permanent bridge at the site of the  
5 original Hood Canal bridge)).

6 **Sec. 118.** RCW 90.58.050 and 1971 ex.s. c 286 s 5 are each amended  
7 to read as follows:

8 This chapter establishes a cooperative program of shoreline  
9 management between local government and the state. Local government  
10 shall have the primary responsibility for initiating the planning  
11 required by this chapter and administering the regulatory program  
12 consistent with the policy and provisions of this chapter. The  
13 department shall act primarily in a supportive and review capacity with  
14 ((primary)) an emphasis on providing assistance to local government and  
15 on insuring compliance with the policy and provisions of this chapter.

16 **Sec. 119.** RCW 90.58.060 and 1971 ex.s. c 286 s 6 are each amended  
17 to read as follows:

18 (1) ((Within one hundred twenty days from June 1, 1971,)) The  
19 department shall ((submit to local governments proposed)) periodically  
20 review and adopt guidelines consistent with RCW 90.58.020, containing  
21 the elements specified in RCW 90.58.100 for:

22 (a) Development of master programs for regulation of the uses of  
23 shorelines; and

24 (b) Development of master programs for regulation of the uses of  
25 shorelines of state-wide significance.

26 (2) Before adopting or amending guidelines under this section, the  
27 department shall provide an opportunity for public review and comment  
28 as follows:

29 (a) The department shall mail copies of the proposal to all cities,  
30 counties, and federally recognized Indian tribes, and to any other  
31 person who has requested a copy, and shall publish the proposed  
32 guidelines in the Washington state register. Comments shall be  
33 submitted in writing to the department within sixty days from ((receipt  
34 of such proposed guidelines, local governments shall submit to the  
35 department in writing proposed changes, if any, and comments upon the  
36 proposed guidelines.

37 (3) ~~Thereafter and within one hundred twenty days from the~~

1 ~~submission of such proposed guidelines to local governments, the~~  
2 ~~department, after review and consideration of the comments and~~  
3 ~~suggestions submitted to it, shall resubmit final proposed guidelines.~~

4 ~~(4) Within sixty days thereafter public hearings shall be held by)~~  
5 the date the proposal has been published in the register.

6 ~~(b) The department ((in Olympia and Spokane, at which interested~~  
7 ~~public and private parties shall have the opportunity)) shall hold at~~  
8 least four public hearings on the proposal in different locations  
9 throughout the state to provide a reasonable opportunity for residents  
10 in all parts of the state to present statements and views on the  
11 proposed guidelines. Notice of ((such)) the hearings shall be  
12 published at least once in each of the three weeks immediately  
13 preceding the hearing in one or more newspapers of general circulation  
14 in each county of the state. If an amendment to the guidelines  
15 addresses an issue limited to one geographic area, the number and  
16 location of hearings may be adjusted consistent with the intent of this  
17 subsection to assure all parties a reasonable opportunity to comment on  
18 the proposed amendment. The department shall accept written comments  
19 on the proposal during the sixty-day public comment period and for  
20 seven days after the final public hearing.

21 ~~(c) At the conclusion of the public comment period, the department~~  
22 shall review the comments received and modify the proposal consistent  
23 with the provisions of this chapter. The proposal shall then be  
24 published for adoption pursuant to the provisions of chapter 34.05 RCW.

25 ~~((5) Within ninety days following such public hearings, the~~  
26 ~~department at a public hearing to be held in Olympia shall adopt~~  
27 ~~guidelines.)) (3) The department may propose amendments to the~~  
28 guidelines not more than once each year. At least once every five  
29 years the department shall conduct a review of the guidelines pursuant  
30 to the procedures outlined in subsection (2) of this section.

31 **Sec. 120.** RCW 90.58.080 and 1974 ex.s. c 61 s 1 are each amended  
32 to read as follows:

33 ~~Local governments ((are directed with regard to shorelines of the~~  
34 ~~state within their various jurisdictions as follows:~~

35 ~~(1) To complete within eighteen months after June 1, 1971, a~~  
36 ~~comprehensive inventory of such shorelines. Such inventory shall~~  
37 ~~include but not be limited to the general ownership patterns of the~~  
38 ~~lands located therein in terms of public and private ownership, a~~

1 ~~survey of the general natural characteristics thereof, present uses~~  
2 ~~conducted therein and initial projected uses thereof;~~

3 (2) ~~To~~) shall develop or amend, within twenty-four months after  
4 the adoption of guidelines as provided in RCW 90.58.060, a master  
5 program for regulation of uses of the shorelines of the state  
6 consistent with the required elements of the guidelines adopted by the  
7 department.

8 **Sec. 121.** RCW 90.58.090 and 1971 ex.s. c 286 s 9 are each amended  
9 to read as follows:

10 (1) A master program(~~s or segments thereof~~), segment of a master  
11 program, or an amendment to a master program shall become effective  
12 when (~~adopted or~~) approved by the department (~~as appropriate~~).  
13 Within the time period provided in RCW 90.58.080, each local government  
14 shall have submitted a master program, either totally or by segments,  
15 for all shorelines of the state within its jurisdiction to the  
16 department for review and approval.

17 (2) Upon receipt of a proposed master program or amendment, the  
18 department shall:

19 (a) Provide notice to and opportunity for written comment by all  
20 interested parties of record as a part of the local government review  
21 process for the proposal and to all persons, groups, and agencies that  
22 have requested in writing notice of proposed master programs or  
23 amendments generally or for a specific area, subject matter, or issue.  
24 The comment period shall be at least thirty days, unless the department  
25 determines that the level of complexity or controversy involved  
26 supports a shorter period;

27 (b) In the department's discretion, conduct a public hearing during  
28 the thirty-day comment period in the jurisdiction proposing the master  
29 program or amendment;

30 (c) Within fifteen days after the close of public comment, request  
31 the local government to review the issues identified by the public,  
32 interested parties, groups, and agencies and provide a written response  
33 as to how the proposal addresses the identified issues;

34 (d) Within thirty days after receipt of the local government  
35 response pursuant to (c) of this subsection, make written findings and  
36 conclusions regarding the consistency of the proposal with the policy  
37 of RCW 90.58.020 and the applicable guidelines, provide a response to  
38 the issues identified in (c) of this subsection, and either approve the

1 proposal as submitted, recommend specific changes necessary to make the  
2 proposal approvable, or deny approval of the proposal in those  
3 instances where no alteration of the proposal appears likely to  
4 accomplish the purposes for which it was submitted and the requirements  
5 of this chapter. The written findings and conclusions shall be  
6 provided to the local government, all interested persons, parties,  
7 groups, and agencies of record on the proposal;

8 (e) If the department recommends changes to the proposed master  
9 program or amendment, within thirty days after the department mails the  
10 written findings and conclusions to the local government, the local  
11 government may:

12 (i) Agree to the proposed changes. The receipt by the department  
13 of the written notice of agreement constitutes final action by the  
14 department approving the amendment; or

15 (ii) Submit an alternative proposal. If, in the opinion of the  
16 department, the alternative is consistent with the purpose and intent  
17 of the changes originally submitted by the department and with this  
18 chapter it shall approve the changes and provide written notice to all  
19 recipients of the written findings and conclusions. If the department  
20 determines the proposal is not consistent with the purpose and intent  
21 of the changes proposed by the department, the department may resubmit  
22 the proposal for public and agency review pursuant to this section or  
23 reject the proposal.

24 ~~((1) As to those segments of the master program relating to~~  
25 ~~shorelines, they shall be approved by))~~

26 (3) The department shall approve the segment of a master program  
27 relating to shorelines unless it determines that the submitted segments  
28 are not consistent with the policy of RCW 90.58.020 and the applicable  
29 guidelines. ((If approval is denied, the department shall state within  
30 ninety days from the date of submission in detail the precise facts  
31 upon which that decision is based, and shall submit to the local  
32 government suggested modifications to the program to make it consistent  
33 with said policy and guidelines. The local government shall have  
34 ninety days after it receives recommendations from the department to  
35 make modifications designed to eliminate the inconsistencies and to  
36 resubmit the program to the department for approval. Any resubmitted  
37 program shall take effect when and in such form and content as is  
38 approved by the department.

39 ~~(2) As to))~~ (4) The department shall approve those segments of the

1 master program relating to shorelines of state-wide significance ((the  
2 department shall have full authority following review and evaluation of  
3 the submission by local government to develop and adopt an alternative  
4 to the local government's proposal if in the department's opinion the  
5 program submitted does not)) only after determining the program  
6 provides the optimum implementation of the policy of this chapter to  
7 satisfy the state-wide interest. ((If the submission by local  
8 government is not approved, the department shall suggest modifications  
9 to the local government within ninety days from receipt of the  
10 submission. The local government shall have ninety days after it  
11 receives said modifications to consider the same and resubmit a master  
12 program to the department. Thereafter, the department shall adopt the  
13 resubmitted program or, if the department determines that said program  
14 does not provide for optimum implementation, it may develop and adopt  
15 an alternative as hereinbefore provided.)) If the department does not  
16 approve a segment of a local government master program relating to a  
17 shoreline of state-wide significance, the department may develop and by  
18 rule adopt an alternative to the local government s proposal.

19 ((+3)) (5) In the event a local government has not complied with  
20 the requirements of RCW 90.58.070 it may thereafter upon written notice  
21 to the department elect to adopt a master program for the shorelines  
22 within its jurisdiction, in which event it shall comply with the  
23 provisions established by this chapter for the adoption of a master  
24 program for such shorelines.

25 Upon approval of such master program by the department it shall  
26 supersede such master program as may have been adopted by the  
27 department for such shorelines.

28 (6) A master program or amendment to a master program takes effect  
29 when and in such form as approved or adopted by the department. The  
30 department shall maintain a record of each master program, the action  
31 taken on any proposal for adoption or amendment of the master program,  
32 and any appeal of the department's action. The department's approved  
33 document of record constitutes the official master program.

34 **Sec. 122.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to  
35 read as follows:

36 (1) The master programs provided for in this chapter, when adopted  
37 ((and)) or approved by the department((, as appropriate,)) shall  
38 constitute use regulations for the various shorelines of the state. In



1 preparing the master programs, and any amendments thereto, the  
2 department and local governments shall to the extent feasible:

3 (a) Utilize a systematic interdisciplinary approach which will  
4 insure the integrated use of the natural and social sciences and the  
5 environmental design arts;

6 (b) Consult with and obtain the comments of any federal, state,  
7 regional, or local agency having any special expertise with respect to  
8 any environmental impact;

9 (c) Consider all plans, studies, surveys, inventories, and systems  
10 of classification made or being made by federal, state, regional, or  
11 local agencies, by private individuals, or by organizations dealing  
12 with pertinent shorelines of the state;

13 (d) Conduct or support such further research, studies, surveys, and  
14 interviews as are deemed necessary;

15 (e) Utilize all available information regarding hydrology,  
16 geography, topography, ecology, economics, and other pertinent data;

17 (f) Employ, when feasible, all appropriate, modern scientific data  
18 processing and computer techniques to store, index, analyze, and manage  
19 the information gathered.

20 (2) The master programs shall include, when appropriate, the  
21 following:

22 (a) An economic development element for the location and design of  
23 industries, transportation facilities, port facilities, tourist  
24 facilities, commerce and other developments that are particularly  
25 dependent on their location on or use of the shorelines of the state;

26 (b) A public access element making provision for public access to  
27 publicly owned areas;

28 (c) A recreational element for the preservation and enlargement of  
29 recreational opportunities, including but not limited to parks,  
30 tidelands, beaches, and recreational areas;

31 (d) A circulation element consisting of the general location and  
32 extent of existing and proposed major thoroughfares, transportation  
33 routes, terminals, and other public utilities and facilities, all  
34 correlated with the shoreline use element;

35 (e) A use element which considers the proposed general distribution  
36 and general location and extent of the use on shorelines and adjacent  
37 land areas for housing, business, industry, transportation,  
38 agriculture, natural resources, recreation, education, public buildings  
39 and grounds, and other categories of public and private uses of the

1 land;

2 (f) A conservation element for the preservation of natural  
3 resources, including but not limited to scenic vistas, aesthetics, and  
4 vital estuarine areas for fisheries and wildlife protection;

5 (g) An historic, cultural, scientific, and educational element for  
6 the protection and restoration of buildings, sites, and areas having  
7 historic, cultural, scientific, or educational values;

8 (h) An element that gives consideration to the state-wide interest  
9 in the prevention and minimization of flood damages; and

10 (i) Any other element deemed appropriate or necessary to effectuate  
11 the policy of this chapter.

12 (3) The master programs shall include such map or maps, descriptive  
13 text, diagrams and charts, or other descriptive material as are  
14 necessary to provide for ease of understanding.

15 (4) Master programs will reflect that state-owned shorelines of the  
16 state are particularly adapted to providing wilderness beaches,  
17 ecological study areas, and other recreational activities for the  
18 public and will give appropriate special consideration to same.

19 (5) Each master program shall contain provisions to allow for the  
20 varying of the application of use regulations of the program, including  
21 provisions for permits for conditional uses and variances, to insure  
22 that strict implementation of a program will not create unnecessary  
23 hardships or thwart the policy enumerated in RCW 90.58.020. Any such  
24 varying shall be allowed only if extraordinary circumstances are shown  
25 and the public interest suffers no substantial detrimental effect. The  
26 concept of this subsection shall be incorporated in the rules adopted  
27 by the department relating to the establishment of a permit system as  
28 provided in RCW 90.58.140(3).

29 (6) Each master program shall contain standards governing the  
30 protection of single family residences and appurtenant structures  
31 against damage or loss due to shoreline erosion. The standards shall  
32 govern the issuance of substantial development permits for shoreline  
33 protection, including structural methods such as construction of  
34 bulkheads, and nonstructural methods of protection. The standards  
35 shall provide for methods which achieve effective and timely protection  
36 against loss or damage to single family residences and appurtenant  
37 structures due to shoreline erosion. The standards shall provide a  
38 preference for permit issuance for measures to protect single family  
39 residences occupied prior to January 1, 1992, where the proposed

1 measure is designed to minimize harm to the shoreline natural  
2 environment.

3 **Sec. 123.** RCW 90.58.120 and 1989 c 175 s 182 are each amended to  
4 read as follows:

5 All rules, regulations, (~~master programs,~~) designations, and  
6 guidelines, issued by the department, and master programs and  
7 amendments adopted by the department pursuant to RCW 90.58.070(2) or  
8 90.58.090(4) shall be adopted or approved in accordance with the  
9 provisions of RCW 34.05.310 through 34.05.395 insofar as such  
10 provisions are not inconsistent with the provisions of this chapter.  
11 In addition:

12 (1) Prior to the (~~approval or~~) adoption by the department of a  
13 master program, or portion thereof pursuant to RCW 90.58.070(2) or  
14 90.58.090(4), at least one public hearing shall be held in each county  
15 affected by a program or portion thereof for the purpose of obtaining  
16 the views and comments of the public. Notice of each such hearing  
17 shall be published at least once in each of the three weeks immediately  
18 preceding the hearing in one or more newspapers of general circulation  
19 in the county in which the hearing is to be held.

20 (2) All guidelines, regulations, designations, or master programs  
21 adopted or approved under this chapter shall be available for public  
22 inspection at the office of the department or the appropriate county  
23 (~~auditor~~) and city (~~clerk~~). The terms "adopt" and "approve" for  
24 purposes of this section, shall include modifications and rescission of  
25 guidelines.

26 **Sec. 124.** RCW 90.58.140 and 1992 c 105 s 3 are each amended to  
27 read as follows:

28 (1) A development shall not be undertaken on the shorelines of the  
29 state unless it is consistent with the policy of this chapter and,  
30 after adoption or approval, as appropriate, the applicable guidelines,  
31 rules, or master program.

32 (2) A substantial development shall not be undertaken on shorelines  
33 of the state without first obtaining a permit from the government  
34 entity having administrative jurisdiction under this chapter.

35 A permit shall be granted:

36 (a) From June 1, 1971, until such time as an applicable master  
37 program has become effective, only when the development proposed is

1 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their  
2 adoption, the guidelines and rules of the department; and (iii) so far  
3 as can be ascertained, the master program being developed for the area;

4 (b) After adoption or approval, as appropriate, by the department  
5 of an applicable master program, only when the development proposed is  
6 consistent with the applicable master program and ~~((the provisions of))~~  
7 this chapter ((90.58-RCW)).

8 (3) The local government shall establish a program, consistent with  
9 rules adopted by the department, for the administration and enforcement  
10 of the permit system provided in this section. The administration of  
11 the system so established shall be performed exclusively by the local  
12 government.

13 (4) Except as otherwise specifically provided in subsection  
14 ~~((+13))~~ (11) of this section, the local government shall require  
15 notification of the public of all applications for permits governed by  
16 any permit system established pursuant to subsection (3) of this  
17 section by ensuring that~~((:~~

18 ~~(a) A notice of such an application is published at least once a~~  
19 ~~week on the same day of the week for two consecutive weeks in a legal~~  
20 ~~newspaper of general circulation within the area in which the~~  
21 ~~development is proposed; and~~

22 ~~(b) Additional~~) notice of ~~((such an))~~ the application is given by  
23 at least one of the following methods:

24 ~~((+i))~~ (a) Mailing of the notice to the latest recorded real  
25 property owners as shown by the records of the county assessor within  
26 at least three hundred feet of the boundary of the property upon which  
27 the substantial development is proposed;

28 ~~((+ii))~~ (b) Posting of the notice in a conspicuous manner on the  
29 property upon which the project is to be constructed; or

30 ~~((+iii))~~ (c) Any other manner deemed appropriate by local  
31 authorities to accomplish the objectives of reasonable notice to  
32 adjacent landowners and the public.

33 The notices shall include a statement that any person desiring to  
34 submit written comments concerning an application, or desiring to  
35 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision  
36 concerning an application as expeditiously as possible after the  
37 issuance of the ~~((order))~~ decision, may submit the comments or requests  
38 for ~~((orders))~~ decisions to the local government within thirty days of  
39 the last date the notice is to be published pursuant to ~~((subsection~~

1 ~~(a) of~~) this subsection. The local government shall forward, in a  
2 timely manner following the issuance of ~~((an order))~~ a decision, a copy  
3 of the ~~((order))~~ decision to each person who submits a request for the  
4 ~~((order))~~ decision.

5 If a hearing is to be held on an application, notices of such a  
6 hearing shall include a statement that any person may submit oral or  
7 written comments on an application at the hearing.

8 (5) The system shall include provisions to assure that construction  
9 pursuant to a permit will not begin or be authorized until ~~((thirty))~~  
10 twenty-one days from the date the ~~((final order))~~ permit decision was  
11 filed as provided in subsection (6) of this section; or until all  
12 review proceedings are terminated if the proceedings were initiated  
13 within ~~((thirty))~~ twenty-one days from the date of filing as defined in  
14 subsection (6) of this section except as follows:

15 (a) In the case of any permit issued to the state of Washington,  
16 department of transportation, for the construction and modification of  
17 SR 90 (I-90) on or adjacent to Lake Washington, the construction may  
18 begin after thirty days from the date of filing, and the permits are  
19 valid until December 31, 1995;

20 (b) Construction may be commenced thirty days after the date the  
21 appeal of the board's decision is filed if a permit is granted by the  
22 local government and (i) the granting of the permit is appealed to the  
23 shorelines hearings board within ~~((thirty))~~ twenty-one days of the date  
24 of filing, (ii) the hearings board approves the granting of the permit  
25 by the local government or approves a portion of the substantial  
26 development for which the local government issued the permit, and (iii)  
27 an appeal for judicial review of the hearings board decision is filed  
28 pursuant to chapter 34.05 RCW~~((, the permittee))~~. The appellant may  
29 request, within ten days of the filing of the appeal with the court, a  
30 hearing before the court to determine whether construction ~~((may~~  
31 begin)) pursuant to the permit approved by the hearings board or to a  
32 revised permit issued pursuant to the order of the hearings board  
33 should not commence. If, at the conclusion of the hearing, the court  
34 finds that construction pursuant to such a permit would ~~((not))~~  
35 a significant, irreversible damaging of the environment, the court  
36 ~~((may allow))~~ shall prohibit the permittee ~~((to begin))~~ from commencing  
37 the construction pursuant to the approved or revised permit ~~((as the~~  
38 court deems appropriate. ~~The court may require the permittee to post~~  
39 bonds, in the name of the local government that issued the permit,

1 sufficient to remove the substantial development or to restore the  
2 environment if the permit is ultimately disapproved by the courts, or  
3 to alter the substantial development if the alteration is ultimately  
4 ordered by the courts)) until all review proceedings are final.  
5 Construction pursuant to a permit revised at the direction of the  
6 hearings board may begin only on that portion of the substantial  
7 development for which the local government had originally issued the  
8 permit, and construction pursuant to such a revised permit on other  
9 portions of the substantial development may not begin until after all  
10 review proceedings are terminated. In such a hearing before the court,  
11 the burden of proving whether the construction may involve significant  
12 irreversible damage to the environment and demonstrating whether such  
13 construction would or would not be appropriate is on the appellant;

14 (c) (~~If a permit is granted by the local government and the~~  
15 ~~granting of the permit is appealed directly to the superior court for~~  
16 ~~judicial review pursuant to the proviso in RCW 90.58.180(1), the~~  
17 ~~permittee may request the court to remand the appeal to the shorelines~~  
18 ~~hearings board, in which case the appeal shall be so remanded and~~  
19 ~~construction pursuant to such a permit shall be governed by the~~  
20 ~~provisions of subsection (b) of this subsection or may otherwise begin~~  
21 ~~after review proceedings before the hearings board are terminated if~~  
22 ~~judicial review is not thereafter requested pursuant to chapter 34.05~~  
23 ~~RCW;~~

24 (d)) If the permit is for a substantial development meeting the  
25 requirements of subsection ((~~13~~)) (11) of this section, construction  
26 pursuant to that permit may not begin or be authorized until ((~~thirty~~))  
27 twenty-one days from the date the ((~~final order~~)) permit decision was  
28 filed as provided in subsection (6) of this section.

29 If a permittee begins construction pursuant to subsections (a),  
30 (b), or (c)((~~, or (d)~~)) of this subsection, the construction is begun  
31 at the permittee's own risk. If, as a result of judicial review, the  
32 courts order the removal of any portion of the construction or the  
33 restoration of any portion of the environment involved or require the  
34 alteration of any portion of a substantial development constructed  
35 pursuant to a permit, the permittee is barred from recovering damages  
36 or costs involved in adhering to such requirements from the local  
37 government that granted the permit, the hearings board, or any  
38 appellant or intervener.

39 (6) Any ((~~ruling~~)) decision on an application for a permit under

1 the authority of this section, whether it is an approval or a denial,  
2 shall, concurrently with the transmittal of the ruling to the  
3 applicant, be filed with the department and the attorney general. With  
4 regard to a permit other than a permit governed by subsection ~~((+12))~~  
5 (10) of this section, "date of filing" as used herein means the date of  
6 actual receipt by the department. With regard to a permit for a  
7 variance or a conditional use, "date of filing" means the date a  
8 decision of the department rendered on the permit pursuant to  
9 subsection ~~((+12))~~ (10) of this section is transmitted by the  
10 department to the local government. The department shall notify in  
11 writing the local government and the applicant of the date of filing.

12 (7) Applicants for permits under this section have the burden of  
13 proving that a proposed substantial development is consistent with the  
14 criteria that must be met before a permit is granted. In any review of  
15 the granting or denial of an application for a permit as provided in  
16 RCW 90.58.180 (1) and (2), the person requesting the review has the  
17 burden of proof.

18 (8) Any permit may, after a hearing with adequate notice to the  
19 permittee and the public, be rescinded by the issuing authority upon  
20 the finding that a permittee has not complied with conditions of a  
21 permit. If the department is of the opinion that noncompliance exists,  
22 the department shall provide written notice to the local government and  
23 the permittee. If the department is of the opinion that the  
24 noncompliance continues to exist thirty days after the date of the  
25 notice, and the local government has taken no action to rescind the  
26 permit, the department may petition the hearings board for a rescission  
27 of the permit upon written notice of the petition to the local  
28 government and the permittee if the request by the department is made  
29 to the hearings board within fifteen days of the termination of the  
30 thirty-day notice to the local government.

31 (9) The holder of a certification from the governor pursuant to  
32 chapter 80.50 RCW shall not be required to obtain a permit under this  
33 section.

34 ~~(10) ((A permit shall not be required for any development on  
35 shorelines of the state included within a preliminary or final plat  
36 approved by the applicable state agency or local government before  
37 April 1, 1971, if:~~

38 ~~(a) The final plat was approved after April 13, 1961, or the  
39 preliminary plat was approved after April 30, 1969; and~~

1       ~~(b) The development is completed within two years after June 1,~~  
2 ~~1971.~~

3       ~~(11) The applicable state agency or local government is authorized~~  
4 ~~to approve a final plat with respect to shorelines of the state~~  
5 ~~included within a preliminary plat approved after April 30, 1969, and~~  
6 ~~before April 1, 1971: PROVIDED, That any substantial development~~  
7 ~~within the platted shorelines of the state is authorized by a permit~~  
8 ~~granted pursuant to this section, or does not require a permit as~~  
9 ~~provided in subsection (10) of this section, or does not require a~~  
10 ~~permit because of substantial development occurred before June 1, 1971.~~

11       ~~(12))~~ Any permit for a variance or a conditional use by local  
12 government under approved master programs must be submitted to the  
13 department for its approval or disapproval.

14       ~~((13))~~ (11)(a) An application for a substantial development  
15 permit for a limited utility extension or for the construction of a  
16 bulkhead or other measures to protect a single family residence and its  
17 appurtenant structures from shoreline erosion shall be subject to the  
18 following procedures:

19       (i) The public comment period under subsection (4) of this section  
20 shall be twenty days. The notice provided under subsection (4) of this  
21 section shall state the manner in which the public may obtain a copy of  
22 the local government decision on the application no later than two days  
23 following its issuance;

24       (ii) The local government shall issue its decision to grant or deny  
25 the permit within twenty-one days of the last day of the comment period  
26 specified in (i) of this subsection; and

27       (iii) If there is an appeal of the decision to grant or deny the  
28 permit to the local government legislative authority, the appeal shall  
29 be finally determined by the legislative authority within thirty days.

30       (b) For purposes of this section, a limited utility extension means  
31 the extension of a utility service that:

32       (i) Is categorically exempt under chapter 43.21C RCW for one or  
33 more of the following: Natural gas, electricity, telephone, water, or  
34 sewer;

35       (ii) Will serve an existing use in compliance with this chapter;  
36 and

37       (iii) Will not extend more than twenty-five hundred linear feet  
38 within the shorelines of the state.



1       **Sec. 125.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to  
2 read as follows:

3       (1) Any person aggrieved by the granting, denying, or rescinding of  
4 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek  
5 review from the shorelines hearings board by filing a ~~((request for the~~  
6 ~~same))~~ petition for review within ~~((thirty))~~ twenty-one days of the  
7 date of filing as defined in RCW 90.58.140(6).

8       ~~((Concurrently with))~~ Within seven days of the filing of any  
9 ~~((request))~~ petition for review with the board as provided in this  
10 section pertaining to a final ~~((order))~~ decision of a local government,  
11 the ~~((requestor))~~ petitioner shall ~~((file a copy))~~ serve copies of  
12 ~~((his or her request with))~~ the petition on the department and the  
13 office of the attorney general. ~~((If it appears to the department or~~  
14 ~~the attorney general that the requestor has valid reasons to seek~~  
15 ~~review, either the department or the attorney general may certify the~~  
16 ~~request within thirty days after its receipt to the shorelines hearings~~  
17 ~~board following which the board shall then, but not otherwise, review~~  
18 ~~the matter covered by the requestor. The failure to obtain such~~  
19 ~~certification shall not preclude the requestor from obtaining a review~~  
20 ~~in the superior court under any right to review otherwise available to~~  
21 ~~the requestor.))~~ The department and the attorney general may intervene  
22 to protect the public interest and insure that the provisions of this  
23 chapter are complied with at any time within fifteen days from the date  
24 of the receipt by the department or the attorney general of a copy of  
25 the ~~((request))~~ petition for review filed pursuant to this section.  
26 The shorelines hearings board shall ~~((initially))~~ schedule review  
27 proceedings on ~~((such requests))~~ the petition for review without regard  
28 as to whether ~~((such requests have or have not been certified or as to~~  
29 ~~whether))~~ the period for the department or the attorney general to  
30 intervene has or has not expired~~((, unless such review is to begin~~  
31 ~~within thirty days of such scheduling. If at the end of the thirty day~~  
32 ~~period for certification neither the department nor the attorney~~  
33 ~~general has certified a request for review, the hearings board shall~~  
34 ~~remove the request from its review schedule)).~~

35       (2) The department or the attorney general may obtain review of any  
36 final ~~((order))~~ decision granting a permit, or granting or denying an  
37 application for a permit issued by a local government by filing a  
38 written ~~((request))~~ petition with the shorelines hearings board and the  
39 appropriate local government within ~~((thirty))~~ twenty-one days from the

1 date the final (~~order~~) decision was filed as provided in RCW  
2 90.58.140(6).

3 (3) The review proceedings authorized in subsections (1) and (2) of  
4 this section are subject to the provisions of chapter 34.05 RCW  
5 pertaining to procedures in adjudicative proceedings. Judicial review  
6 of such proceedings of the shorelines hearings board is governed by  
7 chapter 34.05 RCW. The board shall issue its decision on the appeal  
8 authorized under subsections (1) and (2) of this section within one  
9 hundred eighty days after the date the petition is filed with the board  
10 or a petition to intervene is filed by the department or the attorney  
11 general, whichever is later. The time period may be waived by the  
12 parties or may be extended by the board for a period of thirty days  
13 upon a showing of good cause.

14 (4) (~~A local government may appeal to the shorelines hearings~~  
15 ~~board~~) Any person may appeal any rules, regulations, or guidelines  
16 adopted or approved by the department within thirty days of the date of  
17 the adoption or approval. The board shall make a final decision within  
18 sixty days following the hearing held thereon.

19 (~~If the board~~) (5) The board shall find the rule, regulation, or  
20 guideline to be valid and enter a final decision to that effect unless  
21 it determines that the rule, regulation, or guideline:

22 (a) Is clearly erroneous in light of the policy of this chapter; or

23 (b) Constitutes an implementation of this chapter in violation of  
24 constitutional or statutory provisions; or

25 (c) Is arbitrary and capricious; or

26 (d) Was developed without fully considering and evaluating all  
27 material submitted to the department (~~by the local government~~) during  
28 public review and comment; or

29 (e) Was not adopted in accordance with required procedures(~~it~~).

30 (6) If the board makes a determination under subsection (5) (a)  
31 through (e) of this section, it shall enter a final decision declaring  
32 the rule, regulation, or guideline invalid, remanding the rule,  
33 regulation, or guideline to the department with a statement of the  
34 reasons in support of the determination, and directing the department  
35 to adopt, after a thorough consultation with the affected local  
36 government and any other interested party, a new rule, regulation, or  
37 guideline consistent with the board's decision. (~~Unless the board~~  
38 makes one or more of the determinations as hereinbefore provided, the  
39 board shall find the rule, regulation, or guideline to be valid and

1 enter a final decision to that effect.

2 ~~(5) Rules, regulations, and guidelines)) (7) A decision of the~~  
3 board on the validity of a rule, regulation, or guideline shall be  
4 subject to review in superior court, if authorized pursuant to ((RCW  
5 34.05.570(2). No review shall be granted by a superior court on  
6 petition from a local government unless the local government shall  
7 first have obtained review under subsection (4) of this section and the  
8 petition for court review is)) chapter 34.05 RCW. A petition for  
9 review of the decision of the shorelines hearings board on a rule,  
10 regulation, or guideline shall be filed within ((three months)) thirty  
11 days after the date of final decision by the shorelines hearings board.

12 **Sec. 126.** RCW 90.58.190 and 1989 c 175 s 184 are each amended to  
13 read as follows:

14 (1) ~~((The department and each local government shall periodically~~  
15 ~~review any master programs under its jurisdiction and make such~~  
16 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~  
17 ~~local government to its master program shall be forwarded to the~~  
18 ~~department for review. The department shall approve, reject, or~~  
19 ~~propose modification to the adjustment. If the department either~~  
20 ~~rejects or proposes modification to the master program adjustment, it~~  
21 ~~shall provide substantive written comments as to why the proposal is~~  
22 ~~being rejected or modified.)) The appeal of the department s decision  
23 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or  
24 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.~~

25 (2)(a) The department's decision to approve, reject, or modify a  
26 proposed master program or amendment adopted by a local government  
27 planning under RCW 36.70A.040 shall be appealed to the growth  
28 management hearings board with jurisdiction over the local government.  
29 The appeal shall be initiated by filing a petition as provided in RCW  
30 36.70A.250 through 36.70A.320.

31 (b) If the appeal to the growth management hearings board concerns  
32 shorelines, the growth management hearings board shall review the  
33 proposed master program or amendment for compliance with the  
34 requirements of this chapter and chapter 36.70A RCW, the policy of RCW  
35 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it  
36 relates to the adoption of master programs and amendments under chapter  
37 90.58 RCW.

38 (c) If the appeal to the growth management hearings board concerns

1 a shoreline of state-wide significance, the board shall uphold the  
2 decision by the department unless the board, by clear and convincing  
3 evidence, determines that the decision of the department is  
4 inconsistent with the policy of RCW 90.58.020 and the applicable  
5 guidelines.

6 (d) The appellant has the burden of proof in all appeals to the  
7 growth management hearings board under this subsection.

8 (e) Any party aggrieved by a final decision of a growth management  
9 hearings board under this subsection may appeal the decision to  
10 superior court as provided in RCW 36.70A.300.

11 (3)(a) Except as provided in subsection (2) of this section, any  
12 local government not planning under RCW 36.70A.040 that is aggrieved by  
13 the department's decision to approve, reject, or modify ((a)) its  
14 proposed master program or master program ((adjustment)) amendment may  
15 appeal the department's decision by filing a petition to the shorelines  
16 hearings board within thirty days of the date of the department s  
17 written notice to the local government of the department s decision to  
18 approve, reject, or modify a proposed master program or master program  
19 amendment as provided in RCW 90.58.090(2).

20 (b) In an appeal relating to shorelines, the shorelines hearings  
21 board shall review the proposed master program or master program  
22 ((adjustment)) amendment and, after full consideration of the  
23 presentations of the local government and the department, shall  
24 determine the validity of the local government's ((adjustment)) master  
25 program or amendment in light of the policy of RCW 90.58.020 and the  
26 applicable guidelines.

27 (c) In an appeal relating to shorelines of state-wide significance,  
28 the shorelines hearings board shall uphold the decision by the  
29 department unless ((a local government shall)) the board determines, by  
30 clear and convincing evidence ((and argument, persuade the board)) that  
31 the decision of the department is inconsistent with the policy of RCW  
32 90.58.020 and the applicable guidelines.

33 (d) Review by the shorelines hearings board shall be considered an  
34 adjudicative proceeding under chapter 34.05 RCW, the Administrative  
35 Procedure Act. The aggrieved local government shall have the burden of  
36 proof in all such reviews.

37 (e) Whenever possible, the review by the shorelines hearings board  
38 shall be heard within the county where the land subject to the proposed  
39 master program or master program ((adjustment)) amendment is primarily

1 located. The department and any local government aggrieved by a final  
2 decision of the hearings board may appeal the decision to ~~((the))~~  
3 superior court ~~((of Thurston county))~~ as provided in chapter 34.05 RCW.

4 ~~((+3+))~~ (4) A master program amendment shall become effective after  
5 the approval of the department or after the decision of the shorelines  
6 hearings board to uphold the master program or master program  
7 ~~((adjustment))~~ amendment, provided that the board may remand the master  
8 program or master program adjustment to the local government or the  
9 department for modification prior to the final adoption of the master  
10 program or master program ~~((adjustment))~~ amendment.

11 **Sec. 127.** RCW 34.05.461 and 1989 c 175 s 19 are each amended to  
12 read as follows:

13 (1) Except as provided in subsection (2) of this section:

14 (a) If the presiding officer is the agency head or one or more  
15 members of the agency head, the presiding officer may enter an initial  
16 order if further review is available within the agency, or a final  
17 order if further review is not available;

18 (b) If the presiding officer is a person designated by the agency  
19 to make the final decision and enter the final order, the presiding  
20 officer shall enter a final order; and

21 (c) If the presiding officer is one or more administrative law  
22 judges, the presiding officer shall enter an initial order.

23 (2) With respect to agencies exempt from chapter 34.12 RCW or an  
24 institution of higher education, the presiding officer shall transmit  
25 a full and complete record of the proceedings, including such comments  
26 upon demeanor of witnesses as the presiding officer deems relevant, to  
27 each agency official who is to enter a final or initial order after  
28 considering the record and evidence so transmitted.

29 (3) Initial and final orders shall include a statement of findings  
30 and conclusions, and the reasons and basis therefor, on all the  
31 material issues of fact, law, or discretion presented on the record,  
32 including the remedy or sanction and, if applicable, the action taken  
33 on a petition for a stay of effectiveness. Any findings based  
34 substantially on credibility of evidence or demeanor of witnesses shall  
35 be so identified. Findings set forth in language that is essentially  
36 a repetition or paraphrase of the relevant provision of law shall be  
37 accompanied by a concise and explicit statement of the underlying  
38 evidence of record to support the findings. The order shall also

1 include a statement of the available procedures and time limits for  
2 seeking reconsideration or other administrative relief. An initial  
3 order shall include a statement of any circumstances under which the  
4 initial order, without further notice, may become a final order.

5 (4) Findings of fact shall be based exclusively on the evidence of  
6 record in the adjudicative proceeding and on matters officially noticed  
7 in that proceeding. Findings shall be based on the kind of evidence on  
8 which reasonably prudent persons are accustomed to rely in the conduct  
9 of their affairs. Findings may be based on such evidence even if it  
10 would be inadmissible in a civil trial. However, the presiding officer  
11 shall not base a finding exclusively on such inadmissible evidence  
12 unless the presiding officer determines that doing so would not unduly  
13 abridge the parties' opportunities to confront witnesses and rebut  
14 evidence. The basis for this determination shall appear in the order.

15 (5) Where it bears on the issues presented, the agency's  
16 experience, technical competency, and specialized knowledge may be used  
17 in the evaluation of evidence.

18 (6) If a person serving or designated to serve as presiding officer  
19 becomes unavailable for any reason before entry of the order, a  
20 substitute presiding officer shall be appointed as provided in RCW  
21 34.05.425. The substitute presiding officer shall use any existing  
22 record and may conduct any further proceedings appropriate in the  
23 interests of justice.

24 (7) The presiding officer may allow the parties a designated time  
25 after conclusion of the hearing for the submission of memos, briefs, or  
26 proposed findings.

27 (8)(a) Except as otherwise provided in (b) of this subsection,  
28 initial or final orders shall be served in writing within ninety days  
29 after conclusion of the hearing or after submission of memos, briefs,  
30 or proposed findings in accordance with subsection (7) of this section  
31 unless this period is waived or extended for good cause shown.

32 (b) This subsection does not apply to the final order of the  
33 shorelines hearings board on appeal under RCW 90.58.180(3).

34 (9) The presiding officer shall cause copies of the order to be  
35 served on each party and the agency.

36 **Sec. 128.** RCW 34.05.514 and 1994 c 257 s 23 are each amended to  
37 read as follows:

38 (1) Except as provided in subsection (2) of this section (~~and RCW~~

1 36.70A.300(3)), proceedings for review under this chapter shall be  
2 instituted by filing a petition in the superior court, at the  
3 petitioner's option, for (a) Thurston county, (b) the county of the  
4 petitioner's residence or principal place of business, or (c) in any  
5 county where the property owned by the petitioner and affected by the  
6 contested decision is located.

7 (2) For proceedings involving institutions of higher education, the  
8 petition shall be filed either in the county in which the principal  
9 office of the institution involved is located or in the county of a  
10 branch campus if the action involves such branch.

11 NEW SECTION. **Sec. 129.** A new section is added to chapter 36.70A  
12 RCW to read as follows:

13 For shorelines of the state, the goals and policies of the  
14 shoreline management act as set forth in RCW 90.58.020 are added as one  
15 of the goals of this chapter as set forth in RCW 36.70A.020. The  
16 comprehensive plan of a county or city planning under RCW 36.70A.040  
17 must also include a separate shorelines element consisting of the  
18 goals, policies, and use guidelines segments of the shoreline master  
19 program adopted under chapter 90.58 RCW. All other portions of the  
20 shoreline master program, including regulations, shall be considered  
21 part of the county's or city's development regulations.

22 The shoreline master program shall be adopted pursuant to the  
23 procedures of chapter 90.58 RCW rather than the procedures set forth in  
24 this chapter for the adoption of a comprehensive plan and development  
25 regulations, including approval by the department of ecology, except  
26 that an appeal from the actions by the department of ecology are  
27 appealable to the appropriate growth management hearings board rather  
28 than the shorelines hearings board.

29 **Sec. 130.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each  
30 amended to read as follows:

31 (1) Each comprehensive land use plan and development regulations  
32 shall be subject to continuing evaluation and review by the county or  
33 city that adopted them.

34 Any amendment or revision to a comprehensive land use plan shall  
35 conform to this chapter, and any change to development regulations  
36 shall be consistent with and implement the comprehensive plan.

37 (2)(a) Each county and city shall establish and broadly disseminate

1 to the public a public participation program identifying procedures  
2 whereby proposed amendments or revisions of the comprehensive plan are  
3 considered by the governing body of the county or city no more  
4 frequently than once every year except under the following  
5 circumstances:

6 (i) The initial adoption of a subarea plan; and

7 (ii) The adoption or amendment of a shoreline master program under  
8 the procedures set forth in chapter 90.58 RCW.

9 (b) All proposals shall be considered by the governing body  
10 concurrently so the cumulative effect of the various proposals can be  
11 ascertained. However, after appropriate public participation, a county  
12 or city may adopt amendments or revisions to its comprehensive plan  
13 that conform with this chapter whenever an emergency exists or to  
14 resolve an appeal of a comprehensive plan filed with the growth  
15 management hearings board or with the court.

16 (3) Each county that designates urban growth areas under RCW  
17 36.70A.110 shall review, at least every ten years, its designated urban  
18 growth area or areas, and the densities permitted within both the  
19 incorporated and unincorporated portions of each urban growth area. In  
20 conjunction with this review by the county, each city located within an  
21 urban growth area shall review the densities permitted within its  
22 boundaries, and the extent to which the urban growth occurring within  
23 the county has located within each city and the unincorporated portions  
24 of the urban growth areas. The county comprehensive plan designating  
25 urban growth areas, and the densities permitted in the urban growth  
26 areas by the comprehensive plans of the county and each city located  
27 within the urban growth areas, shall be revised to accommodate the  
28 urban growth projected to occur in the county for the succeeding  
29 twenty-year period.

30 **Sec. 131.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26  
31 are each reenacted and amended to read as follows:

32 (1) All requests for review to a growth management hearings board  
33 shall be initiated by filing a petition that includes a detailed  
34 statement of issues presented for resolution by the board.

35 (2) All petitions relating to whether or not an adopted  
36 comprehensive plan, development regulation, or permanent amendment  
37 thereto, is in compliance with the goals and requirements of this  
38 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days



1 after publication by the legislative bodies of the county or city.

2 (a) Except as provided in (c) of this subsection, the date of  
3 publication for a city shall be the date the city publishes the  
4 ordinance, or summary of the ordinance, adopting the comprehensive plan  
5 or development regulations, or amendment thereto, as is required to be  
6 published.

7 (b) Promptly after adoption, a county shall publish a notice that  
8 it has adopted the comprehensive plan or development regulations, or  
9 amendment thereto.

10 Except as provided in (c) of this subsection, for purposes of this  
11 section the date of publication for a county shall be the date the  
12 county publishes the notice that it has adopted the comprehensive plan  
13 or development regulations, or amendment thereto.

14 (c) For local governments planning under RCW 36.70A.040, promptly  
15 after approval or disapproval of a local government s shoreline master  
16 program or amendment thereto by the department of ecology as provided  
17 in RCW 90.58.090, the local government shall publish a notice that the  
18 shoreline master program or amendment thereto has been approved or  
19 disapproved by the department of ecology. For purposes of this  
20 section, the date of publication for the adoption or amendment of a  
21 shoreline master program is the date the local government publishes  
22 notice that the shoreline master program or amendment thereto has been  
23 approved or disapproved by the department of ecology.

24 (3) Unless the board dismisses the petition as frivolous or finds  
25 that the person filing the petition lacks standing, the board shall,  
26 within ten days of receipt of the petition, set a time for hearing the  
27 matter.

28 (4) The board shall base its decision on the record developed by  
29 the city, county, or the state and supplemented with additional  
30 evidence if the board determines that such additional evidence would be  
31 necessary or of substantial assistance to the board in reaching its  
32 decision.

33 (5) The board, shall consolidate, when appropriate, all petitions  
34 involving the review of the same comprehensive plan or the same  
35 development regulation or regulations.

36 **Sec. 132.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended  
37 to read as follows:

38 (1) Except as provided in subsection (2) of this section,

1 comprehensive plans and development regulations, and amendments  
2 thereto, adopted under this chapter are presumed valid upon adoption.  
3 In any petition under this chapter, the board, after full consideration  
4 of the petition, shall determine whether there is compliance with the  
5 requirements of this chapter. In making its determination, the board  
6 shall consider the criteria adopted by the department under RCW  
7 36.70A.190(4). The board shall find compliance unless it finds by a  
8 preponderance of the evidence that the state agency, county, or city  
9 erroneously interpreted or applied this chapter.

10 (2) The shoreline element of a comprehensive plan and the  
11 applicable development regulations adopted by a county or city shall  
12 take effect as provided in chapter 90.58 RCW.

13 **Sec. 133.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each  
14 amended to read as follows:

15 Unless the context clearly requires otherwise, the following  
16 definitions shall apply ~~((in RCW 82.02.050 through 82.02.090))~~  
17 throughout this chapter:

18 (1) "Development" means any proposed change in use of land for  
19 which review of environmental impacts is required under chapter 43.21C  
20 RCW, any proposed construction or expansion of a building, structure,  
21 or use, or any proposed change in use of a building or structure.

22 (2) "Development activity" means any construction or expansion of  
23 a building, structure, or use, any change in use of a building or  
24 structure, or any changes in the use of land, that creates additional  
25 demand and need for public facilities.

26 ~~((+2))~~ (3) "Development approval" means any written authorization  
27 from a county, city, or town which authorizes the commencement of  
28 development activity.

29 ~~((+3))~~ (4) "Environmental analysis" means review under chapter  
30 43.21C RCW of environmental impacts of an action required or authorized  
31 by chapter 36.70A RCW.

32 (5) "Environmental analysis fees" means a payment of money imposed  
33 on development as a condition of development approval to pay for  
34 environmental analysis needed to establish the system capacity  
35 projected to accommodate implementation of a comprehensive plan adopted  
36 under chapter 36.70A RCW.

37 (6) "Impact fee" means a payment of money imposed upon development  
38 as a condition of development approval to pay for public facilities

1 needed to serve new growth and development, and that is reasonably  
2 related to the new development that creates additional demand and need  
3 for public facilities, that is a proportionate share of the cost of the  
4 public facilities, and that is used for facilities that reasonably  
5 benefit the new development. "Impact fee" does not include a  
6 reasonable permit or application fee.

7 ~~((+4))~~ (7) "Owner" means the owner of record of real property,  
8 although when real property is being purchased under a real estate  
9 contract, the purchaser shall be considered the owner of the real  
10 property if the contract is recorded.

11 ~~((+5))~~ (8) "Proportionate share" means that portion of the cost of  
12 public facility improvements that are reasonably related to the service  
13 demands and needs of new development.

14 ~~((+6))~~ (9) "Project improvements" mean site improvements and  
15 facilities that are planned and designed to provide service for a  
16 particular development project and that are necessary for the use and  
17 convenience of the occupants or users of the project, and are not  
18 system improvements. No improvement or facility included in a capital  
19 facilities plan approved by the governing body of the county, city, or  
20 town shall be considered a project improvement.

21 ~~((+7))~~ (10) "Public facilities" means the following capital  
22 facilities owned or operated by government entities: (a) Public  
23 streets and roads; (b) publicly owned parks, open space, and recreation  
24 facilities; (c) school facilities; and (d) fire protection facilities  
25 in jurisdictions that are not part of a fire district.

26 ~~((+8))~~ (11) "Service area" means a geographic area defined by a  
27 county, city, town, or intergovernmental agreement in which a defined  
28 set of public facilities provide service to development within the  
29 area. Service areas shall be designated on the basis of sound planning  
30 or engineering principles.

31 ~~((+9))~~ (12) "System capacity" means the capacity of a county,  
32 city, or town to accommodate new development determined by the limiting  
33 capacities of specific natural or built systems identified in the  
34 comprehensive plan adopted pursuant to RCW 36.70A.040.

35 (13) "System improvements" mean public facilities that are included  
36 in the capital facilities plan and are designed to provide service to  
37 service areas within the community at large, in contrast to project  
38 improvements.

1        NEW SECTION.    **Sec. 134.**    A new section is added to chapter 82.02  
2    RCW to read as follows:

3        Except only as expressly provided in RCW 67.28.180 and 67.28.190  
4    and in chapter 82.14 RCW, the state preempts the field of imposing  
5    taxes upon retail sales of tangible personal property, the use of  
6    tangible personal property, parimutuel wagering authorized pursuant to  
7    RCW 67.16.060, conveyances, and cigarettes, and no county, town, or  
8    other municipal subdivision has the right to impose taxes of that  
9    nature.

10       **Sec. 135.**    RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 are each  
11    amended to read as follows:

12        (~~Except only as expressly provided in RCW 67.28.180 and 67.28.190~~  
13    ~~and the provisions of chapter 82.14 RCW, the state preempts the field~~  
14    ~~of imposing taxes upon retail sales of tangible personal property, the~~  
15    ~~use of tangible personal property, parimutuel wagering authorized~~  
16    ~~pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,~~  
17    ~~town, or other municipal subdivision shall have the right to impose~~  
18    ~~taxes of that nature.)) (1) Except as provided in ((RCW 82.02.050~~  
19    ~~through 82.02.090)) this chapter, ((no)) a county, city, town, or other  
20    municipal corporation shall not impose any tax, fee, or charge, either  
21    direct or indirect, on the construction or reconstruction of  
22    residential buildings, commercial buildings, industrial buildings, or  
23    on any other building or building space or appurtenance thereto, or on  
24    the development, subdivision, classification, or reclassification of  
25    land. However, this section does not preclude dedications of land or  
26    easements within the proposed development or plat which the county,  
27    city, town, or other municipal corporation can demonstrate are  
28    reasonably necessary as a direct result of the proposed development or  
29    plat to which the dedication of land or easement is to apply.~~

30        (2) This section does not prohibit voluntary agreements with  
31    (~~counties, cities, towns~~) a county, city, town, or other municipal  
32    corporation((s)) that allows a payment in lieu of a dedication of land  
33    or to mitigate a direct impact that has been identified as a  
34    consequence of a proposed development, subdivision, or plat. A local  
35    government shall not use such voluntary agreements for local off-site  
36    transportation improvements within the geographic boundaries of the  
37    area or areas covered by an adopted transportation program authorized  
38    by chapter 39.92 RCW. Any such voluntary agreement is subject to the

1 following provisions:

2 ~~((+1))~~ (a) The payment shall be held in a reserve account and may  
3 only be expended to fund a capital improvement agreed upon by the  
4 parties to mitigate the identified, direct impact;

5 ~~((+2))~~ (b) The payment shall be expended in all cases within five  
6 years of collection; and

7 ~~((+3))~~ (c) Any payment not so expended shall be refunded with  
8 interest at the rate applied to judgments to the property owners of  
9 record at the time of the refund; however, if the payment is not  
10 expended within five years due to delay attributable to the developer,  
11 the payment shall be refunded without interest.

12 ~~((No))~~ (3) A county, city, town, or other municipal corporation  
13 shall not require any payment as part of such a voluntary agreement  
14 which the county, city, town, or other municipal corporation cannot  
15 establish is reasonably necessary as a direct result of the proposed  
16 development or plat.

17 (4)(a) Nothing in this section prohibits cities, towns, counties,  
18 or other municipal corporations from collecting reasonable fees from an  
19 applicant for a permit or other governmental approval to cover the cost  
20 to the city, town, county, or other municipal corporation of processing  
21 applications, inspecting and reviewing plans, or preparing detailed  
22 statements required by chapter 43.21C RCW.

23 (b) This section does not limit the existing authority of any  
24 county, city, town, or other municipal corporation to impose special  
25 assessments on property specifically benefitted thereby in the manner  
26 prescribed by law.

27 (c) Nothing in this section prohibits counties, cities, or towns  
28 from imposing or permits counties, cities, or towns to impose water,  
29 sewer, natural gas, drainage utility, and drainage system charges(~~(+  
30 PROVIDED, That)~~). No such charge (~~(shall)~~) may exceed the  
31 proportionate share of such utility or system's capital costs which the  
32 county, city, or town can demonstrate are attributable to the property  
33 being charged(~~(+ PROVIDED FURTHER, That)~~). These provisions shall not  
34 be interpreted to expand or contract any existing authority of  
35 counties, cities, or towns to impose such charges.

36 (d) Nothing in this section prohibits a transportation benefit  
37 district from imposing fees or charges authorized in RCW 36.73.120 nor  
38 prohibits the legislative authority of a county, city, or town from  
39 approving the imposition of such fees within a transportation benefit

1 district.

2 (e) Nothing in this section prohibits counties, cities, or towns  
3 from imposing transportation impact fees authorized pursuant to chapter  
4 39.92 RCW.

5 (f) Nothing in this section prohibits counties, cities, or towns  
6 from requiring property owners to provide relocation assistance to  
7 tenants under RCW 59.18.440 and 59.18.450.

8 (5) This section does not apply to special purpose districts formed  
9 and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the  
10 authority conferred by these titles affected.

11 NEW SECTION. **Sec. 136.** (1) The legislature finds that:

12 (a) As of the effective date of this section, twenty-nine counties  
13 and two hundred eight cities are conducting comprehensive planning  
14 under the growth management act, chapter 36.70A RCW, which together  
15 comprise over ninety percent of the state's population;

16 (b) Comprehensive plans for many of the jurisdictions were due by  
17 July 1, 1994, and the remaining jurisdictions must complete plans under  
18 due dates ranging from October 1994 to September 1997;

19 (c) Concurrently with these comprehensive planning activities,  
20 local governments must conduct several other planning requirements  
21 under the growth management act, such as the adoption of capital  
22 facilities plans, urban growth areas, and development regulations;

23 (d) Local governments must also comply with the state environmental  
24 policy act, chapter 43.21C RCW, in the development of comprehensive  
25 plans;

26 (e) The combined activities of comprehensive planning and the state  
27 environmental policy act present a serious fiscal burden upon counties,  
28 cities, and towns;

29 (f) This fiscal burden will be experienced over a relatively short  
30 period of time, whereas the benefits of growth management and  
31 environmental protection achieved through the comprehensive plans will  
32 accrue to each area over a much longer period in the future; and

33 (g) The revenues from fees assessed at the time of county, city, or  
34 town government approval of projects that are consistent with the  
35 comprehensive plan may provide the basis for these local governments to  
36 issue both general obligations and revenue obligations in order to  
37 provide the early funding necessary to carry out their comprehensive  
38 planning and accompanying environmental analysis responsibilities.

1 (2) Therefore it is the intent of the legislature by enacting this  
2 chapter to authorize counties, cities, and towns planning under RCW  
3 36.70A.040 to assess environmental analysis fees at the time of project  
4 review, issue both general indebtedness and revenue indebtedness  
5 payable from the environmental analysis fees, and assist in financing  
6 the enhanced environmental review of comprehensive plans, subarea  
7 plans, and development regulations.

8 NEW SECTION. Sec. 137. (1) A county, city, or town planning under  
9 RCW 36.70A.040 may impose environmental analysis fees on development to  
10 partially finance the enhanced environmental analysis of its  
11 comprehensive plan, subarea plans, and development regulations, as  
12 provided in section 103 of this act.

13 (2) Environmental analysis fees may not be assessed or collected on  
14 development that is categorically exempt from a threshold determination  
15 under chapter 43.21C RCW.

16 (3) Environmental analysis fees shall be proportionate to the  
17 amount of system capacity or capacities projected to be consumed by the  
18 new development.

19 (4) Environmental analysis fees shall be collected and spent only  
20 for the costs of environmental analysis upon which the system capacity  
21 forecast in a comprehensive plan adopted pursuant to RCW 36.70A.070 or  
22 subarea plan is based.

23 (5) Environmental analysis fees shall not be used to recover more  
24 than seventy-five percent of the costs previously incurred by a county,  
25 city, or town for environmental analysis required to establish the  
26 system capacity forecast in a comprehensive plan or subarea plan.

27 NEW SECTION. Sec. 138. A county, city, or town in its ordinance  
28 establishing environmental analysis fees shall:

29 (1) Include a schedule of environmental analysis fees based upon a  
30 formula or other method of calculating such fees. The formula or  
31 calculation shall incorporate at least the following:

32 (a) The amount of system capacity to be used by the new  
33 development;

34 (b) The total cost of environmental analysis required to establish  
35 the system capacity forecast in the comprehensive plan; and

36 (c) The amount of the total cost of environmental analysis  
37 allocated to each capacity element used to determine the amount of the

1 fee;

2 (2) Allow the county, city, or town to adjust the standard fee at  
3 the time the fee is imposed to consider unusual circumstances in  
4 specific cases to ensure that environmental analysis fees are imposed  
5 fairly;

6 (3) Not assess or collect environmental analysis fees to recover  
7 costs of environmental analysis that have already been fully recovered  
8 through environmental impact fees or through other sources.

9 NEW SECTION. **Sec. 139.** A county, city, or town planning under RCW  
10 36.70A.040 may issue general obligations and revenue obligations  
11 payable from environmental analysis fees to assist in financing the  
12 enhanced environmental review of comprehensive plans, subarea plans,  
13 and development regulations that is in sufficient detail to allow the  
14 environmental impact statement to be used in whole or in part by an  
15 applicant for a development within the geographic area covered by the  
16 plan or regulations that receives the enhanced environmental review.  
17 The comprehensive plan, subarea plan, or development regulations must  
18 include mechanisms to monitor the usefulness of the enhanced  
19 environmental review by applicants for development permits authorizing  
20 development consistent with the plan and regulations.

21 The obligations issued to finance the enhanced environmental review  
22 may not have a maturity in excess of ten years. The obligations shall  
23 be issued as provided in chapter 39.46 RCW.

24 At least twenty-five percent of the funding for the enhanced  
25 environmental review must come from sources other than the  
26 environmental analysis fees.

27 NEW SECTION. **Sec. 140.** A new section is added to chapter 36.70A  
28 RCW to read as follows:

29 The growth management planning and environmental review loan fund  
30 is hereby established in the state treasury. Moneys may be placed in  
31 the fund from the proceeds of bond sales, tax revenues, budget  
32 transfers, federal appropriations, gifts, or any other lawful source.  
33 Moneys in the fund may be spent only after appropriation. Moneys in  
34 the fund shall be used to make low-interest loans to counties and  
35 cities for the purposes set forth in section 103 of this act or RCW  
36 43.21C.031. Loans from the fund shall be made by loan agreement under  
37 chapter 39.69 RCW.



1        NEW SECTION.    **Sec. 141.**    A new section is added to chapter 36.70A  
2 RCW to read as follows:

3        (1) The department of community, trade, and economic development  
4 shall provide management services for the fund created by section 140  
5 of this act. The department by rule shall establish procedures for  
6 fund management.

7        (2) A county or city applicant must be making substantial progress  
8 towards compliance with the requirements of chapter 36.70A RCW in order  
9 to qualify for financial assistance from the fund established pursuant  
10 to section 140 of this act. A county or city that is more than six  
11 months out of compliance with a requirement of this chapter is deemed  
12 not to be making substantial progress towards compliance.

13        (3) The department by loan agreement may permit a deferred payment  
14 on the principal repayment of any loan for a period not to exceed two  
15 years. Interest shall continue to accrue during this period.

16        NEW SECTION.    **Sec. 142.**    Capitalization of the growth management  
17 planning and environmental review loan fund shall be made by:

18        (1) A transfer of four million dollars from the public works  
19 assistance account; and

20        (2) A transfer of two million dollars from the transportation fund.

21        NEW SECTION.    **Sec. 143.**    A new section is added to chapter 35.22  
22 RCW to read as follows:

23        A first class city may directly contract with the owner of real  
24 estate that is proposed to be developed, or with the developer of the  
25 real estate, without following competitive bidding procedures under RCW  
26 35.22.620 to construct or improve transportation improvements, sanitary  
27 sewer facilities, storm sewer facilities, and water facilities, that  
28 will in whole or in part serve or be used by the proposed development.

29        NEW SECTION.    **Sec. 144.**    A new section is added to chapter 35.23  
30 RCW to read as follows:

31        A second class city or town may directly contract with the owner of  
32 real estate that is proposed to be developed, or with the developer of  
33 the real estate, without following competitive bidding procedures under  
34 RCW 35.23.352 to construct or improve transportation improvements,  
35 sanitary sewer facilities, storm sewer facilities, and water  
36 facilities, that will in whole or in part serve or be used by the

1 proposed development.

2 NEW SECTION. **Sec. 145.** A new section is added to chapter 35.43  
3 RCW to read as follows:

4 A city, town, or public corporation may directly contract with the  
5 owner of real estate that is proposed to be developed, or with the  
6 developer of the real estate, within a local improvement district or  
7 utility local improvement district, without following competitive  
8 bidding procedures under RCW 35.43.190 to construct or improve  
9 transportation improvements, sanitary sewer facilities, storm sewer  
10 facilities, and water facilities, that are proposed to be financed by  
11 special assessments imposed within the improvement district that will  
12 in whole or in part serve or be used by the proposed development.

13 **Sec. 146.** RCW 35A.40.210 and 1989 c 11 s 8 are each amended to  
14 read as follows:

15 Procedures for any public work or improvement contracts or  
16 purchases for code cities shall be governed by the following statutes,  
17 as indicated:

18 (1) For code cities of twenty thousand population or over, RCW  
19 35.22.620 and section 143 of this act; and

20 (2) For code cities under twenty thousand population((?)), RCW  
21 35.23.352 and section 144 of this act.

22 NEW SECTION. **Sec. 147.** A new section is added to chapter 36.32  
23 RCW to read as follows:

24 A county may directly contract with the owner of real estate that  
25 is proposed to be developed, or with the developer of the real estate,  
26 without following competitive bidding procedures under RCW 36.32.250 to  
27 construct or improve sanitary sewer facilities, storm sewer facilities,  
28 and water facilities, that will in whole or in part serve or be used by  
29 the proposed development, including facilities that are financed by  
30 special assessments imposed within a local improvement district or  
31 utility local improvement district created under chapter 36.94 RCW.

32 NEW SECTION. **Sec. 148.** A new section is added to chapter 36.77  
33 RCW to read as follows:

34 A county may directly contract with the owner of real estate that  
35 is proposed to be developed, or with the developer of the real estate,

1 without following competitive bidding procedures under this chapter to  
2 construct or improve transportation improvements that will in whole or  
3 in part serve or be used by the proposed development, including  
4 facilities that are financed by special assessments imposed within a  
5 road improvement district created under chapter 36.88 RCW.

6 NEW SECTION. **Sec. 149.** A new section is added to chapter 56.08  
7 RCW to read as follows:

8 A sewer district may directly contract with the owner of real  
9 estate that is proposed to be developed, or with the developer of the  
10 real estate, without following competitive bidding procedures under RCW  
11 56.08.070 to construct or improve sanitary sewer facilities or storm  
12 sewer facilities, that will in whole or in part serve or be used by the  
13 proposed development, including facilities that are financed by special  
14 assessments imposed within a local improvement district or utility  
15 local improvement district created under chapter 56.20 RCW.

16 NEW SECTION. **Sec. 150.** A new section is added to chapter 57.08  
17 RCW to read as follows:

18 A water district may directly contract with the owner of real  
19 estate that is proposed to be developed, or with the developer of the  
20 real estate, without following competitive bidding procedures under RCW  
21 57.08.050 to construct or improve water facilities that will in whole  
22 or in part serve or be used by the proposed development, including  
23 facilities that are financed by special assessments imposed within a  
24 local improvement district or utility local improvement district  
25 created under chapter 57.16 RCW.

26 NEW SECTION. **Sec. 151.** A new section is added to chapter 35.63  
27 RCW to read as follows:

28 A city or county planning under this chapter must allow cellular  
29 antenna facilities to be sited in any zone within its planning  
30 jurisdiction, but may establish conditions and requirements on the  
31 siting of such facilities and require the issuance of a conditional use  
32 permit or special use permit before a cellular antenna facility is  
33 authorized.

34 NEW SECTION. **Sec. 152.** A new section is added to chapter 35A.63  
35 RCW to read as follows:

1 A code city must allow cellular antenna facilities to be sited in  
2 any zone within its planning jurisdiction, but may establish conditions  
3 and requirements on the siting of such facilities and require the  
4 issuance of a conditional use permit or special use permit before a  
5 cellular antenna facility is authorized.

6 NEW SECTION. **Sec. 153.** A new section is added to chapter 36.70  
7 RCW to read as follows:

8 A county planning under this chapter must allow cellular antenna  
9 facilities to be sited in any zone within its planning jurisdiction,  
10 but may establish conditions and requirements on the siting of such  
11 facilities and require the issuance of a conditional use permit or  
12 special use permit before a cellular antenna facility is authorized.

13 NEW SECTION. **Sec. 154.** A new section is added to chapter 36.70A  
14 RCW to read as follows:

15 A county or city planning under RCW 36.70A.040 must allow cellular  
16 antenna facilities to be sited in any zone within its planning  
17 jurisdiction, but may establish conditions and requirements on the  
18 siting of such facilities and require the issuance of a conditional use  
19 permit or special use permit before a cellular antenna facility is  
20 authorized.

21 NEW SECTION. **Sec. 155.** A new section is added to chapter 43.21C  
22 RCW to read as follows:

23 An authorization of cellular antenna facilities shall be  
24 categorically exempt from a threshold decision under the rules adopted  
25 by the department for categorical exemptions.

26 NEW SECTION. **Sec. 156.** Sections 136 through 139 of this act shall  
27 constitute a new chapter in Title 36 RCW.

28 NEW SECTION. **Sec. 157.** RCW 82.02.020, 82.02.050, 82.02.060,  
29 82.02.070, 82.02.080, 82.02.090, and 82.02.100 are each recodified as  
30 sections within a new chapter created in Title 36 RCW.

31 NEW SECTION. **Sec. 158.** RCW 90.58.145 and 1979 ex.s. c 84 s 4 are  
32 each repealed.

PART II - PERMITTING

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NEW SECTION. **Sec. 201.** The legislature finds and declares the following:

(1) As the number of environmental laws and development regulations has increased for land uses and development, so has the number of required local land use permits, each with its own separate approval process.

(2) The increasing number of local and state land use permits and separate environmental review processes required by agencies has generated continuing potential for conflict, overlap, and duplication between the various permit and review processes.

(3) This regulatory burden has significantly added to the cost and time needed to obtain local and state land use permits and has made it difficult for the public to know how and when to provide timely comments on land use proposals that require multiple permits and have separate environmental review processes.

NEW SECTION. **Sec. 202.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Closed record appeal" means an appeal to a local government body or officer, including the legislative body, following an open record hearing and a decision by the body or officer on a development permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

(2) "Development permit" or "development permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, and other land use applications, but does not include proposed amendments to comprehensive plans or the adoption or amendment of development regulations.

(3) "Development regulations" means the controls placed on development or land use activities by a local government, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development

1 ordinances, subdivision ordinances, and binding site plan ordinances,  
2 together with any amendments, but does not include decisions to approve  
3 a development permit application, even though such decisions may be  
4 expressed in a resolution or ordinance of the legislative body of the  
5 local government.

6 (4) "Local government" means a county, city, or town.

7 (5) "Open record hearing" means a hearing conducted by a hearing  
8 body or officer of the local government that creates a record through  
9 testimony and submission of evidence and information, whether the  
10 hearing is open to members of the general public for purposes of  
11 hearing public comments prior to a decision on a development permit  
12 application or is limited to those filing an appeal of a staff  
13 decision.

14 NEW SECTION. **Sec. 203.** Not later than December 31, 1996, each  
15 local government that does not plan under RCW 36.70A.040 shall provide  
16 by ordinance or resolution for review of development permit  
17 applications to achieve the following objectives:

18 (1) Combine the environmental review process, both procedural and  
19 substantive, with the procedure for review of development permits;

20 (2) Except as provided in RCW 43.21C.075(3), provide for no more  
21 than one open record hearing and one closed record appeal; and

22 (3) Eliminate any appeal period for judicial appeals that conflicts  
23 with the uniform twenty-one day appeal period provided in section 305  
24 of this act.

25 NEW SECTION. **Sec. 204.** Not later than December 31, 1996, each  
26 local government planning under RCW 36.70A.040 shall establish by  
27 ordinance or resolution an integrated and consolidated development  
28 permit process that includes the following required elements:

29 (1) A notice of completion to the applicant as required by RCW  
30 36.70A.440 (as recodified by this act);

31 (2) A notice of application to the public and agencies with  
32 jurisdiction as required by section 208 of this act;

33 (3) With the exception of a determination of significance, which  
34 shall be issued in advance of the agency decision or recommendation on  
35 the project action as provided in chapter 43.21C RCW, a single report  
36 by the decision maker that combines the local government's threshold  
37 determination, if required under chapter 43.21C RCW, with the agency's

1 decision or recommendation on all development permits included in the  
2 consolidated permit review and also includes any mitigation required  
3 pursuant to the development regulations or the agency's authority under  
4 RCW 43.21C.060;

5 (4) Except as provided in section 211 of this act, the  
6 consolidation into a single review process of all development permits  
7 requested by an applicant for part or all of a project action,  
8 including no more than one consolidated open record hearing before a  
9 single hearing body or officer;

10 (5) Except for the appeal of a determination of significance as  
11 provided in RCW 43.21C.075, if a local government elects to provide an  
12 appeal of its threshold determinations or development permit decisions,  
13 the local government shall provide for no more than one consolidated  
14 open record hearing before a single hearing body or officer. The local  
15 government need not provide for any further appeal. If a closed record  
16 appeal is provided, the appeal shall be on the record before a single  
17 decision-making body or officer;

18 (6) A notice of decision as required by section 210 of this act and  
19 issued within the time period provided in RCW 36.70A.065 (as recodified  
20 by this act) and section 207 of this act; and

21 (7) Any other provisions not inconsistent with the requirements of  
22 this chapter or chapter 43.21C RCW.

23 **Sec. 205.** RCW 36.70A.440 and 1994 c 257 s 4 are each amended to  
24 read as follows:

25 ~~((Each city and county))~~ (1) Within twenty-eight days after  
26 receiving a development permit application, a local government planning  
27 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~  
28 ~~receiving a development permit application as defined in RCW~~  
29 ~~36.70A.030(7),))~~ mail or provide in person a written ~~((notice))~~  
30 determination to the applicant, stating either:

31 (a) That the application is complete; or

32 (b) That the application is incomplete and what is necessary to  
33 make the application complete.

34 (2)(a) An application shall be deemed complete under this section  
35 if the local government does not provide a written determination to the  
36 applicant that the application is incomplete as provided in subsection  
37 (1)(b) of this section.

38 (b) Within ten days after an applicant has submitted to a local

1 government additional information identified by the local government as  
2 being necessary for a complete application, the local government shall  
3 notify the applicant whether the information submitted adequately  
4 responds to the notice given under (a) of this subsection and thereby  
5 makes the application complete or what additional information is  
6 necessary.

7 (3) To the extent known by the ((~~city or county~~)) local government,  
8 the ((~~notice~~)) local government shall identify other agencies of local,  
9 state, or federal governments that may have jurisdiction over some  
10 aspect of the application.

11 **Sec. 206.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to  
12 read as follows:

13 Development regulations adopted pursuant to RCW 36.70A.040 shall  
14 establish time periods consistent with section 207 of this act for  
15 local government actions on specific development permit applications  
16 and provide timely and predictable procedures to determine whether a  
17 completed development permit application meets the requirements of  
18 those development regulations. Such development regulations shall  
19 specify the contents of a completed development permit application  
20 necessary for the application of such time periods and procedures.

21 NEW SECTION. **Sec. 207.** (1) Except as otherwise provided in  
22 subsection (2) of this section, a local government planning under RCW  
23 36.70A.040 shall issue its notice of final decision within one hundred  
24 twenty days after the local government notifies the applicant for a  
25 project that the application is complete or is deemed complete, as  
26 provided in RCW 36.70A.440 (as recodified by this act). In determining  
27 the number of days that have elapsed after the local government has  
28 notified the applicant that the application is complete, the following  
29 periods shall be excluded:

30 (a) Any period during which an environmental impact statement is  
31 being prepared following a determination of significance pursuant to  
32 chapter 43.21C RCW, if the local government by ordinance or resolution  
33 has established time periods for completion of environmental impact  
34 statements, or if the local government and the applicant in writing  
35 agree to a time period for completion of an environmental impact  
36 statement; and

37 (b) A period, not to exceed sixty days, to consider and decide



1 closed record appeals, unless the parties voluntarily agree to extend  
2 the period.

3 (2) The time limits established by subsection (1) of this section  
4 do not apply if a development permit:

5 (a) Requires an amendment to the comprehensive plan or a  
6 development regulation;

7 (b) Involves a new fully contained community as provided in RCW  
8 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or  
9 the siting of an essential public facility as provided in RCW  
10 36.70A.200; or

11 (c) Involves substantial revisions to the project proposal at the  
12 applicant's request, in which case the time period shall start from the  
13 date at which the revised project application is determined to be  
14 complete under RCW 36.70A.440 (as recodified by this act).

15 (3) If the local government has failed to issue its notice of final  
16 decision within one hundred twenty days after the local government  
17 notifies the applicant for a project that the application is complete  
18 or is deemed complete, as provided in RCW 36.70A.440 (as recodified by  
19 this act), but not including time excluded under subsections (1) and  
20 (2) of this section the application shall be deemed approved, in the  
21 absence of extraordinary circumstances.

22 (4) After an application is complete as provided in RCW 36.70A.440  
23 (as recodified by this act), the local government may not require the  
24 applicant to submit additional information. The local government may,  
25 in the course of processing the application, request the applicant to  
26 clarify, explain, or correct information the applicant has submitted.

27 (5) Failure of an applicant to submit adequate information required  
28 pursuant to RCW 36.70A.440 (as recodified by this act) may constitute  
29 grounds for disapproving the application.

30 (6) The notice of completeness may include the following as  
31 optional information:

32 (a) A preliminary determination of those development regulations  
33 that will be used for project mitigation;

34 (b) A preliminary determination of consistency, as provided under  
35 section 101 of this act; or

36 (c) Other information the local government chooses to include.

37 (7) A local government may require the applicant for a development  
38 permit to designate a single person or entity to receive notice  
39 required by this section.

1        NEW SECTION.    **Sec. 208.**    (1) Not later than December 31, 1996, a  
2 local government planning under RCW 36.70A.040 shall provide a notice  
3 of application to the public and the departments and agencies with  
4 jurisdiction as provided in this section.

5        (2) The notice of application shall include the following:

6        (a) The date of application;

7        (b) The proposed project action and the development permits  
8 included in the application and, if applicable, any studies requested  
9 under RCW 36.70A.440 (as recodified by this act) or section 207 of this  
10 act;

11       (c) The identification of other development or related permits not  
12 included in the application to the extent known by the local  
13 government;

14       (d) A public comment period of not less than fourteen nor more than  
15 twenty-eight days following the date of notice of application, and  
16 statements of the right of any person to request a copy of the decision  
17 once made and any appeal rights;

18       (e) The date for open record hearing, if applicable and scheduled  
19 at the date of notice of the application;

20       (f) A statement of the preliminary determination, if one has been  
21 made at the time of notice, of those development regulations that will  
22 be used for project mitigation and of consistency as provided in  
23 section 101 of this act; and

24       (g) Any other information determined appropriate by the local  
25 government, including the optional information required in  
26 section 207(5) of this act.

27       (3) If an open record hearing is required for the requested  
28 development permits, the notice of application shall be provided at  
29 least fourteen days prior to the open record hearing.

30       (4) A local government shall use reasonable methods to give the  
31 notice of application to the public and agencies with jurisdiction and  
32 may use its existing notice procedures. A local government may use  
33 different types of notice for different categories of development  
34 permits or types or project actions. Examples of reasonable methods to  
35 inform the public are:

36       (a) Posting the property for site-specific proposals;

37       (b) Publishing notice in the newspaper of general circulation in  
38 the local government or general area where the proposal is located;

39       (c) Notifying public or private groups with known interest in a

1 certain proposal or in the type of proposal being considered;

2 (d) Notifying the news media;

3 (e) Placing notices in appropriate regional or neighborhood  
4 newspapers or trade journals;

5 (f) Publishing notice in agency newsletters or sending notice to  
6 agency mailing lists, either general lists or lists for specific  
7 proposals or subject areas; and

8 (g) Mailing to neighboring property owners.

9 (5) A notice of application shall not be required for development  
10 permits that are categorically exempt under chapter 43.21C RCW, unless  
11 an open record hearing is required.

12 (6) The local government may not issue its threshold determination  
13 or issue a decision or recommendation on a development permit until  
14 expiration of the public comment period. Comments shall be as specific  
15 as possible. If an agency with jurisdiction or a member of the public  
16 does not respond with written comments within the public comment  
17 period, the local government shall assume that such agency or person  
18 has no objection to the proposed development permit if the procedures  
19 of this section have been met.

20 NEW SECTION. **Sec. 209.** (1) Each local government planning under  
21 RCW 36.70A.040 shall establish a permit review process that provides  
22 for the integrated and consolidated review and decision on two or more  
23 development permits relating to a proposed project action, including a  
24 single application review and approval process covering all development  
25 permits requested by an applicant for all or part of a project action  
26 and a designated permit coordinator. If an applicant elects the  
27 consolidated permit review process, the notice of completion, notice of  
28 application, and notice of final decision must include all development  
29 permits being reviewed through the consolidated permit review process.

30 (2) Consolidated permit review may provide different procedures for  
31 different categories of development permits, but if a project action  
32 requires development permits from more than one category, the local  
33 government shall provide for consolidated permit review with a single  
34 open record hearing and no more than one closed record appeal. Each  
35 local government shall determine which development permits are subject  
36 to an open record hearing and a closed record appeal. Examples of  
37 categories of development permits include but are not limited to:

38 (a) Categorically exempt proposals, such as variances, lot boundary

1 adjustments, and certain construction permits, which require no  
2 environmental review or public notice;

3 (b) Administrative permits that require environmental review, but  
4 no open record hearing except on appeal;

5 (c) Administrative permits that require a threshold determination  
6 and an open record hearing; and

7 (d) Permits that require environmental review and a decision by the  
8 local government legislative body.

9 (3) A local government is not required to provide for appeals. If  
10 provided, an appeal must be filed within fourteen days after notice of  
11 the decision being appealed. The applicant for a development permit is  
12 deemed to be a participant in any comment period, open record hearing,  
13 and closed record appeal.

14 (4) A local government may provide by ordinance or resolution for  
15 the same or a different decision maker or hearing body or officer for  
16 different categories of development permits. In the case of  
17 consolidated development permit review, the local government shall  
18 specify which decision makers shall make the decision or  
19 recommendation, conduct the hearing, or decide the appeal to ensure  
20 that consolidated permit review occurs as provided in this section.  
21 The consolidated permit review may combine an open record public  
22 hearing with an open record appeal hearing. In such cases, the local  
23 government by ordinance or resolution shall specify which development  
24 permits, if any, shall be subject to a closed record appeal.

25 (5) Each local government planning under RCW 36.70A.040 shall adopt  
26 procedures for administrative interpretation of its development  
27 regulations.

28 NEW SECTION. **Sec. 210.** A local government planning under RCW  
29 36.70A.040 shall provide a notice of decision, which may be a copy of  
30 the report, recommendation, or decision, to the applicant and to any  
31 person requesting notice of the decision prior to the rendering of the  
32 decision. The local government may publish or otherwise provide for  
33 additional notice of its decision.

34 NEW SECTION. **Sec. 211.** A local government by ordinance or  
35 resolution may exclude the following development permits from the  
36 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065  
37 (as recodified by this act), sections 204, and 207 through 210 of this

1 act:

2 (1) Variances, lot line or boundary adjustments, short subdivision  
3 approval, building and other construction permits categorically exempt  
4 from environmental review under chapter 43.21C RCW or similar  
5 administrative approvals; and

6 (2) Landmark designations, street vacations, or other approvals  
7 relating to the use of public areas or facilities, or other development  
8 permits that the local government by ordinance or resolution has  
9 determined present special circumstances that warrant a review process  
10 different from that provided in RCW 36.70A.440 (as recodified by this  
11 act), 36.70A.065 (as recodified by this act), sections 204, and 207  
12 through 210 of this act.

13 NEW SECTION. **Sec. 212.** A local government not planning under RCW  
14 36.70A.040 may incorporate some or all of the provisions of sections  
15 204 and 207 through 210 of this act and RCW 36.70A.065 and 36.70A.440  
16 (as recodified by this act) into its procedures for review of  
17 development permits or other project actions.

18 NEW SECTION. **Sec. 213.** (1) Each local government is encouraged to  
19 adopt further project review provisions to provide prompt, coordinated  
20 review and ensure accountability to applicants and the public,  
21 including expedited review for development permits for projects that  
22 are consistent with adopted development regulations and within the  
23 capacity of system-wide infrastructure improvements.

24 (2) Nothing in this chapter is intended or shall be construed to  
25 prevent a local government from requiring by rule, ordinance, or  
26 resolution a preapplication conference or meeting, design review, or  
27 hearing on some or all proposed projects to obtain public comments on  
28 scoping or a draft environmental impact statement pursuant to chapter  
29 43.21C RCW and its applicable rules.

30 (3) Each local government is encouraged to develop a system of  
31 professional certification whereby qualified engineers or other  
32 professionals certify an application's compliance with adopted  
33 development regulations for the purpose of expediting or eliminating  
34 certain aspects of agency review of compliance with those regulations.

35 (4) Each local government shall adopt procedures to monitor and  
36 enforce permit decisions and conditions.

37 (5) Nothing in this chapter modifies any independent statutory

1 authority for a government agency to appeal a development permit issued  
2 by a local government.

3 NEW SECTION. **Sec. 214.** A new section is added to chapter 64.40  
4 RCW to read as follows:

5 A local government is not liable for damages under this chapter due  
6 to the local government s failure to make a final decision within the  
7 time limits established in section 207 of this act.

8 **Sec. 215.** RCW 58.17.090 and 1981 c 293 s 5 are each amended to  
9 read as follows:

10 (1) Upon receipt of an application for preliminary plat approval  
11 the administrative officer charged by ordinance with responsibility for  
12 administration of regulations pertaining to platting and subdivisions  
13 shall provide public notice and set a date for a public hearing.  
14 Except as provided in section 208 of this act, at a minimum, notice of  
15 the hearing shall be given in the following manner:

16 ((+1)) (a) Notice shall be published not less than ten days prior  
17 to the hearing in a newspaper of general circulation within the county  
18 and a newspaper of general circulation in the area where the real  
19 property which is proposed to be subdivided is located; and

20 ((+2)) (b) Special notice of the hearing shall be given to  
21 adjacent landowners by any other reasonable method local authorities  
22 deem necessary. Adjacent landowners are the owners of real property,  
23 as shown by the records of the county assessor, located within three  
24 hundred feet of any portion of the boundary of the proposed  
25 subdivision. If the owner of the real property which is proposed to be  
26 subdivided owns another parcel or parcels of real property which lie  
27 adjacent to the real property proposed to be subdivided, notice under  
28 this subsection (1)(b) shall be given to owners of real property  
29 located within three hundred feet of any portion of the boundaries of  
30 such adjacently located parcels of real property owned by the owner of  
31 the real property proposed to be subdivided.

32 (2) All hearings shall be public. All hearing notices shall  
33 include a description of the location of the proposed subdivision. The  
34 description may be in the form of either a vicinity location sketch or  
35 a written description other than a legal description.

36 **Sec. 216.** RCW 58.17.092 and 1988 c 168 s 12 are each amended to

1 read as follows:

2 Any notice made under chapter 58.17 or 36.--- (sections 101, 201  
3 through 204, and 207 through 213 of this act) RCW that identifies  
4 affected property may identify this affected property without using a  
5 legal description of the property including, but not limited to,  
6 identification by an address, written description, vicinity sketch, or  
7 other reasonable means.

8 **Sec. 217.** RCW 58.17.100 and 1981 c 293 s 6 are each amended to  
9 read as follows:

10 If a city, town or county has established a planning commission or  
11 planning agency in accordance with state law or local charter, such  
12 commission or agency shall review all preliminary plats and make  
13 recommendations thereon to the city, town or county legislative body to  
14 assure conformance of the proposed subdivision to the general purposes  
15 of the comprehensive plan and to planning standards and specifications  
16 as adopted by the city, town or county. Reports of the planning  
17 commission or agency shall be advisory only: PROVIDED, That the  
18 legislative body of the city, town or county may, by ordinance, assign  
19 to such commission or agency, or any department official or group of  
20 officials, such administrative functions, powers and duties as may be  
21 appropriate, including the holding of hearings, and recommendations for  
22 approval or disapproval of preliminary plats of proposed subdivisions.

23 Such recommendation shall be submitted to the legislative body not  
24 later than fourteen days following action by the hearing body. Upon  
25 receipt of the recommendation on any preliminary plat the legislative  
26 body shall at its next public meeting set the date for the public  
27 meeting where it shall consider the recommendations of the hearing body  
28 and may adopt or reject the recommendations of such hearing body based  
29 on the record established at the public hearing. If, after considering  
30 the matter at a public meeting, the legislative body deems a change in  
31 the planning commission's or planning agency's recommendation approving  
32 or disapproving any preliminary plat is necessary, (~~the change of the~~  
33 ~~recommendation shall not be made until~~) the legislative body shall  
34 (~~conduct a public hearing and thereupon~~) adopt its own  
35 recommendations and approve or disapprove the preliminary plat. (~~Such~~  
36 ~~public hearing may be held before a committee constituting a majority~~  
37 ~~of the legislative body. If the hearing is before a committee, the~~  
38 ~~committee shall report its recommendations on the matter to the~~

1 ~~legislative body for final action.))~~

2 Every decision or recommendation made under this section shall be  
3 in writing and shall include findings of fact and conclusions to  
4 support the decision or recommendation.

5 A record of all public meetings and public hearings shall be kept  
6 by the appropriate city, town or county authority and shall be open to  
7 public inspection.

8 Sole authority to approve final plats, and to adopt or amend  
9 platting ordinances shall reside in the legislative bodies.

10 **Sec. 218.** RCW 58.17.330 and 1994 c 257 s 6 are each amended to  
11 read as follows:

12 (1) As an alternative to those provisions of this chapter requiring  
13 a planning commission to hear and issue recommendations for plat  
14 approval, the county or city legislative body may adopt a hearing  
15 examiner system and shall specify by ordinance the legal effect of the  
16 decisions made by the examiner. ~~((Except as provided in subsection (2)  
17 of this section,))~~ The legal effect of such decisions shall include one  
18 of the following:

19 (a) The decision may be given the effect of a recommendation to the  
20 legislative body;

21 (b) The decision may be given the effect of an administrative  
22 decision appealable within a specified time limit to the legislative  
23 body; or

24 (c) The decision may be given the effect of a final decision of the  
25 legislative body.

26 The legislative authority shall prescribe procedures to be followed by  
27 a hearing examiner.

28 ~~((The legislative body shall specify the legal effect of a  
29 hearing examiner's procedural determination under the state  
30 environmental policy act, as defined in RCW 43.21C.075(3)(a). It may  
31 have the effect under subsection (1) (a) or (b) of this section, or may  
32 be given the effect of a final decision of the legislative body.~~

33 ~~(3))~~ Each final decision of a hearing examiner shall be in writing  
34 and shall include findings and conclusions, based on the record, to  
35 support the decision. Each final decision of a hearing examiner,  
36 unless a longer period is mutually agreed to by the applicant and the  
37 hearing examiner, shall be rendered within ten working days following  
38 conclusion of all testimony and hearings.



1        NEW SECTION.    **Sec. 219.**    The legislature finds that the lack of  
2    certainty in the approval of development projects can result in a waste  
3    of public and private resources, escalate housing costs for consumers  
4    and discourage the commitment to comprehensive planning which would  
5    make maximum efficient use of resources at the least economic cost to  
6    the public.    Assurance to a development project applicant that upon  
7    government approval the project may proceed in accordance with existing  
8    policies and regulations, and subject to conditions of approval, all as  
9    set forth in a development agreement, will strengthen the public  
10   planning process, encourage private participation and comprehensive  
11   planning, and reduce the economic costs of development.    Further, the  
12   lack of public facilities and services is a serious impediment to  
13   development of new housing and commercial uses.    Project applicants and  
14   local governments may include provisions and agreements whereby  
15   applicants are reimbursed over time for financing public facilities.  
16   It is the intent of the legislature by sections 220 through 224 of this  
17   act to allow local governments and owners and developers of real  
18   property to enter into development agreements.

19        NEW SECTION.    **Sec. 220.**    A new section is added to chapter 36.70A  
20    RCW to read as follows:

21        (1) A county or city may enter into a development agreement with a  
22    person having ownership or control of real property within its  
23    jurisdiction.    A city may enter into a development agreement for real  
24    property outside its boundaries as part of a proposed annexation or a  
25    service agreement.    A development agreement must set forth the  
26    development standards and other provisions that shall apply to and  
27    govern and vest the development, use, and mitigation of the development  
28    of the real property for the duration specified in the agreement.

29        (2) Sections 219 through 222 of this act do not affect the validity  
30    of a contract rezone, concomitant agreement, annexation agreement, or  
31    other agreement in existence on the effective date of sections 219  
32    through 222 of this act, or adopted under separate authority, that  
33    includes some or all of the development standards provided in  
34    subsection (3) of this section.

35        (3) For the purposes of this section, "development standards"  
36    includes, but is not limited to:

37        (a) Project elements such as permitted uses, residential densities,  
38    and nonresidential densities and intensities or building sizes;

1 (b) The amount and payment of impact fees imposed or agreed to in  
2 accordance with chapter 36.-- RCW (the new chapter created in section  
3 157 of this act) or any other applicable provisions of state law, other  
4 financial contributions by the property owner, inspection fees, or  
5 dedications;

6 (c) Mitigation measures, development conditions, and other  
7 requirements under chapter 43.21C RCW;

8 (d) Design standards such as maximum heights, setbacks, drainage  
9 and water quality requirements, landscaping, and other development  
10 features;

11 (e) Affordable housing;

12 (f) Parks and open space preservation;

13 (g) Phasing;

14 (h) Review procedures and standards for implementing decisions;

15 (i) A build-out or vesting period for applicable standards; and

16 (j) Any other appropriate development requirement or procedure.

17 (4) The execution of a development agreement is a proper exercise  
18 of county and city police power and contract authority. A development  
19 agreement may obligate a party to fund or provide services,  
20 infrastructure, or other facilities. A development agreement shall  
21 reserve authority to impose new or different regulations to the extent  
22 required by a serious threat to public health and safety.

23 NEW SECTION. **Sec. 221.** A new section is added to chapter 36.70A  
24 RCW to read as follows:

25 Unless amended or terminated, a development agreement is  
26 enforceable during its term by a party. A development agreement and  
27 the development standards in the agreement govern during the term of  
28 the agreement, or for all or that part of the build-out period  
29 specified in the agreement, and may not be subject to an amendment to  
30 a zoning ordinance or development standard or regulation or a new  
31 zoning ordinance or development standard or regulation adopted after  
32 the effective date of the agreement. A permit or approval issued by  
33 the county or city after the execution of the development agreement  
34 must be consistent with the development agreement.

35 NEW SECTION. **Sec. 222.** A new section is added to chapter 36.70A  
36 RCW to read as follows:

37 A development agreement may be recorded with the real property

1 records of the county in which the property is located. During the  
2 term of the development agreement, the agreement is binding on and will  
3 inure to the benefit of the parties and their successors, including a  
4 city that assumes jurisdiction through incorporation or annexation of  
5 the area covering the property covered by the development agreement.

6 NEW SECTION. **Sec. 223.** A new section is added to chapter 36.70A  
7 RCW to read as follows:

8 A county or city shall only approve a development agreement by  
9 ordinance or resolution after a public hearing. The county or city  
10 legislative body or a planning commission, hearing examiner, or other  
11 body designated by the legislative body to conduct the public hearing  
12 may conduct the hearing. If the development agreement relates to a  
13 development permit application, the provisions of chapter 36.-- RCW  
14 (sections 301 through 312 of this act) shall apply to the appeal of the  
15 decision on the development agreement.

16 NEW SECTION. **Sec. 224.** Nothing in sections 219 through 223 of  
17 this act is intended to authorize local governments to impose impact  
18 fees, inspection fees, or dedications or to require any other financial  
19 contributions or mitigation measures except as authorized in RCW  
20 82.02.020 (as recodified by this act) and as otherwise expressly  
21 authorized by other applicable provisions of state law.

22 **Sec. 225.** RCW 35.63.130 and 1994 c 257 s 8 are each amended to  
23 read as follows:

24 (1) As an alternative to those provisions of this chapter relating  
25 to powers or duties of the planning commission to hear and report on  
26 any proposal to amend a zoning ordinance, the legislative body of a  
27 city or county may adopt a hearing examiner system under which a  
28 hearing examiner or hearing examiners may hear and decide applications  
29 for amending the zoning ordinance when the amendment which is applied  
30 for is not of general applicability. In addition, the legislative body  
31 may vest in a hearing examiner the power to hear and decide those  
32 issues it believes should be reviewed and decided by a hearing  
33 examiner, including but not limited to:

34 (a) Applications for conditional uses, variances, subdivisions,  
35 shoreline permits, or any other class of applications for or pertaining  
36 to development of land or land use(~~s which the legislative body~~

1 ~~believes should be reviewed and decided by a hearing examiner))~~;  
2 (b) Appeals of administrative decisions or determinations; and  
3 (c) Appeals of administrative decisions or determinations pursuant  
4 to chapter 43.21C RCW.

5 The legislative body shall prescribe procedures to be followed by  
6 the hearing examiner.

7 (2) Each city or county legislative body electing to use a hearing  
8 examiner pursuant to this section shall by ordinance specify the legal  
9 effect of the decisions made by the examiner. ((Except as provided in  
10 subsection (2) of this section,)) The legal effect of such decisions  
11 may vary for the different classes of applications decided by the  
12 examiner but shall include one of the following:

13 (a) The decision may be given the effect of a recommendation to the  
14 legislative body;

15 (b) The decision may be given the effect of an administrative  
16 decision appealable within a specified time limit to the legislative  
17 body((-

18 ~~(2) The legislative body may specify the legal effect of a hearing~~  
19 ~~examiner's procedural determination under the state environmental~~  
20 ~~policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect~~  
21 ~~under subsection (1) (a) or (b) of this section, or))~~;  
22 or

23 (c) The decision may be given the effect of a final decision of the  
24 legislative body, except that applications for rezones may not be given  
25 the effect of a final decision of a legislative body.

26 (3) Each final decision of a hearing examiner shall be in writing  
27 and shall include findings and conclusions, based on the record, to  
28 support the decision. Such findings and conclusions shall also set  
29 forth the manner in which the decision would carry out and conform to  
30 the city's or county's comprehensive plan and the city's or county's  
31 development regulations. Each final decision of a hearing examiner,  
32 unless a longer period is mutually agreed to in writing by the  
33 applicant and the hearing examiner, shall be rendered within ten  
34 working days following conclusion of all testimony and hearings.

35 **Sec. 226.** RCW 35A.63.170 and 1994 c 257 s 7 are each amended to  
36 read as follows:

37 (1) As an alternative to those provisions of this chapter relating  
38 to powers or duties of the planning commission to hear and report on  
any proposal to amend a zoning ordinance, the legislative body of a

1 city may adopt a hearing examiner system under which a hearing examiner  
2 or hearing examiners may hear and decide applications for amending the  
3 zoning ordinance when the amendment which is applied for is not of  
4 general applicability. In addition, the legislative body may vest in  
5 a hearing examiner the power to hear and decide those issues it  
6 believes should be reviewed and decided by a hearing examiner,  
7 including but not limited to:

8 (a) Applications for conditional uses, variances, subdivisions,  
9 shoreline permits, or any other class of applications for or pertaining  
10 to development of land or land use((s which the legislative body  
11 believes should be reviewed and decided by a hearing examiner))i

12 (b) Appeals of administrative decisions or determinations; and

13 (c) Appeals of administrative decisions or determinations pursuant  
14 to chapter 43.21C RCW.

15 The legislative body shall prescribe procedures to be followed by  
16 a hearing examiner. If the legislative authority vests in a hearing  
17 examiner the authority to hear and decide variances, then the  
18 provisions of RCW 35A.63.110 shall not apply to the city.

19 (2) Each city legislative body electing to use a hearing examiner  
20 pursuant to this section shall by ordinance specify the legal effect of  
21 the decisions made by the examiner. (~~Except as provided in subsection~~  
22 ~~(2) of this section,~~) The legal effect of such decisions may vary for  
23 the different classes of applications decided by the examiner but shall  
24 include one of the following:

25 (a) The decision may be given the effect of a recommendation to the  
26 legislative body;

27 (b) The decision may be given the effect of an administrative  
28 decision appealable within a specified time limit to the legislative  
29 body((-

30 ~~(2) The legislative body shall specify the legal effect of a~~  
31 ~~hearing examiner's procedural determination under the state~~  
32 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~  
33 ~~have the effect under subsection (1) (a) or (b) of this section, or))i~~  
34 or

35 (c) The decision may be given the effect of a final decision of the  
36 legislative body, except that applications for a rezone may not be  
37 given the effect of a final decision of a legislative body.

38 (3) Each final decision of a hearing examiner shall be in writing  
39 and shall include findings and conclusions, based on the record, to

1 support the decision. Such findings and conclusions shall also set  
2 forth the manner in which the decision would carry out and conform to  
3 the city's comprehensive plan and the city's development regulations.  
4 Each final decision of a hearing examiner, unless a longer period is  
5 mutually agreed to in writing by the applicant and the hearing  
6 examiner, shall be rendered within ten working days following  
7 conclusion of all testimony and hearings.

8 **Sec. 227.** RCW 36.70.970 and 1994 c 257 s 9 are each amended to  
9 read as follows:

10 (1) As an alternative to those provisions of this chapter relating  
11 to powers or duties of the planning commission to hear and issue  
12 recommendations on applications for plat approval and applications for  
13 amendments to the zoning ordinance, the county legislative authority  
14 may adopt a hearing examiner system under which a hearing examiner or  
15 hearing examiners may hear and issue decisions on proposals for plat  
16 approval and for amendments to the zoning ordinance when the amendment  
17 which is applied for is not of general applicability. In addition, the  
18 legislative authority may vest in a hearing examiner the power to hear  
19 and decide those issues it believes should be reviewed and decided by  
20 a hearing examiner, including but not limited to:

21 (a) Applications for conditional uses ((applications)), variances  
22 ((applications)), ((applications for)) shoreline permits, or any other  
23 class of applications for or pertaining to development of land or land  
24 use((s));

25 (b) Appeals of administrative decisions or determinations; and

26 (c) Appeals of administrative decisions or determinations pursuant  
27 to chapter 43.21C RCW.

28 The legislative authority shall prescribe procedures to be followed  
29 by a hearing examiner.

30 Any county which vests in a hearing examiner the authority to hear  
31 and decide conditional uses and variances shall not be required to have  
32 a zoning adjuster or board of adjustment.

33 (2) Each county legislative authority electing to use a hearing  
34 examiner pursuant to this section shall by ordinance specify the legal  
35 effect of the decisions made by the examiner. ~~((Except as provided in~~  
36 ~~subsection (2) of this section,)) Such legal effect may vary for the  
37 different classes of applications decided by the examiner but shall  
38 include one of the following:~~

1 (a) The decision may be given the effect of a recommendation to the  
2 legislative authority;

3 (b) The decision may be given the effect of an administrative  
4 decision appealable within a specified time limit to the legislative  
5 authority((-

6 ~~(2) The legislative authority may specify the legal effect of a  
7 hearing examiner's procedural determination under the state  
8 environmental policy act, as defined in RCW 43.21C.075(3)(a). It may  
9 have the effect under subsection (1) (a) or (b) of this section, or))i  
10 or~~

11 (c) The decision may be given the effect of a final decision of the  
12 legislative authority, except that applications for rezones may not be  
13 given the effect of a final decision of a legislative authority.

14 (3) Each final decision of a hearing examiner shall be in writing  
15 and shall include findings and conclusions, based on the record, to  
16 support the decision. Such findings and conclusions shall also set  
17 forth the manner in which the decision would carry out and conform to  
18 the county's comprehensive plan and the county's development  
19 regulations. Each final decision of a hearing examiner, unless a  
20 longer period is mutually agreed to in writing by the applicant and the  
21 hearing examiner, shall be rendered within ten working days following  
22 conclusion of all testimony and hearings.

23 NEW SECTION. Sec. 228. The legislature hereby finds and declares:

24 (1) Washington's environmental protection programs have established  
25 strict standards to reduce pollution and protect the public health and  
26 safety and the environment. The single-purpose programs instituted to  
27 achieve these standards have been successful in many respects, and have  
28 produced significant gains in protecting Washington's environment in  
29 the face of substantial population growth.

30 (2) Continued progress to achieve the environmental standards in  
31 the face of continued population growth will require greater  
32 coordination between the single-purpose environmental programs and more  
33 efficient operation of these programs overall. Pollution must be  
34 prevented and controlled and not simply transferred to another media or  
35 another place. This goal can only be achieved by maintaining the  
36 current environmental protection standards and by greater integration  
37 of the existing programs.

38 (3) As the number of environmental laws and regulations have grown

1 in Washington, so have the number of permits required of business and  
2 government. This regulatory burden has significantly added to the cost  
3 and time needed to obtain essential permits in Washington. The  
4 increasing number of individual permits and permit authorities has  
5 generated the continuing potential for conflict, overlap, and  
6 duplication between the various state, local, and federal permits.

7 (4) To ensure that local needs and environmental conditions receive  
8 the proper attention, the issuance and renewal of permits should  
9 continue to be made, to the extent feasible, at the regional and local  
10 levels of the environmental programs.

11 (5) The purpose of this chapter is to require the department of  
12 ecology to institute new, efficient procedures that will assist  
13 businesses and public agencies in complying with the environmental  
14 quality laws in an expedited fashion, without reducing protection of  
15 public health and safety and the environment.

16 (6) Those procedures need to provide a permit process that promotes  
17 effective dialogue and ensures ease in the transfer and clarification  
18 of technical information, while preventing duplication. It is  
19 necessary that the procedures establish a process for preliminary and  
20 ongoing meetings between the applicant, the consolidated permit agency,  
21 and the participating permit agencies, but do not preclude the  
22 applicant or participating permit agencies from individually  
23 coordinating with each other.

24 (7) It is necessary, to the maximum extent practicable, that the  
25 procedures established in this chapter ensure that the consolidated  
26 permit agency process and applicable permit requirements and criteria  
27 are integrated and run concurrently, rather than consecutively.

28 (8) It is necessary to provide a reliable and consolidated source  
29 of information concerning the environmental and land use laws and  
30 procedures that apply to any given proposal. This information is to be  
31 current and encompass all state and local jurisdictions. To the extent  
32 possible, it is to encompass federal jurisdictions and functions, as  
33 well.

34 (9) The process shall provide an optional process by which a  
35 project proponent may obtain active coordination of all applicable  
36 regulatory and land-use permitting procedures. This process is not to  
37 replace individual laws, or diminish the substantive decision-making  
38 role of individual jurisdictions. Rather it is to provide  
39 predictability, administrative consolidation, and, where possible,



1 consolidation of appeal processes.

2 (10) The process shall provide consolidated, effective, and easier  
3 opportunities for members of the public to receive information and  
4 present their views about proposed projects.

5 NEW SECTION. **Sec. 229.** Unless the context clearly requires  
6 otherwise, the definitions in this section apply throughout this  
7 chapter.

8 (1) "Center" means the permit assistance center established in the  
9 department by section 230 of this act.

10 (2) "Consolidated permit agency" means the permit agency that has  
11 the greatest overall jurisdiction over a project.

12 (3) "Department" means the department of ecology.

13 (4) "Participating permit agency" means a permit agency, other than  
14 the consolidated permit agency, that is responsible for the issuance of  
15 a permit for a project.

16 (5) "Permit" means any license, certificate, registration, permit,  
17 or other form of authorization required by a permit agency to engage in  
18 a particular activity.

19 (6) "Permit agency" means:

20 (a) The department of ecology, an air pollution control authority,  
21 the department of natural resources, the department of fish and  
22 wildlife, and the department of health; and

23 (b) Any other state or federal agency, county, city, or town for  
24 the project that participates at the request of the permit applicant  
25 and upon the agency's agreement to be subject to this chapter.

26 (7) "Project" means an activity, the conduct of which requires a  
27 permit from two or more permit agencies.

28 NEW SECTION. **Sec. 230.** The permit assistance center is  
29 established within the department. The center shall:

30 (1) Publish and keep current one or more handbooks containing lists  
31 and explanations of all permit laws. The center shall coordinate with  
32 the business assistance center in providing and maintaining this  
33 information to applicants and others. To the extent possible, the  
34 handbook shall include relevant federal laws. A state agency or local  
35 government shall provide a reasonable number of copies of application  
36 forms, statutes, ordinances, rules, handbooks, and other informational  
37 material requested by the center and shall otherwise fully cooperate

1 with the center. The center shall seek the cooperation of relevant  
2 federal agencies;

3 (2) Establish, and make known, a point of contact for distribution  
4 of the handbook and advice to the public as to its interpretation in  
5 any given case;

6 (3) Work closely and cooperatively with the business license center  
7 and the business assistance center in providing efficient and  
8 nonduplicative service to the public; and

9 (4) Provide a permit coordination training program designed to:

10 (a) Educate project facilitators as to the role and requirements of  
11 all jurisdictions;

12 (b) Share permit coordination experiences;

13 (c) Improve the quality and efficiency of project facilitation; and

14 (d) Certify project facilitators.

15 NEW SECTION. **Sec. 231.** (1) Not later than January 1, 1996, the  
16 center shall establish by rule an administrative process for the  
17 designation of a consolidated permit agency for a project.

18 (2) The administrative process shall consist of the establishment  
19 of guidelines for designating the consolidated permit agency for a  
20 project. If a permit agency is the lead agency for purposes of chapter  
21 43.21C RCW, that permit agency shall be the consolidated permit agency.  
22 In other cases, the guidelines shall require that at least the  
23 following factors be considered in determining which permit agency has  
24 the greatest overall jurisdiction over the project:

25 (a) The types of facilities or activities that make up the project;

26 (b) The types of public health and safety and environmental  
27 concerns that should be considered in issuing permits for the project;

28 (c) The environmental medium that may be affected by the project,  
29 the extent of those potential effects, and the environmental protection  
30 measures that may be taken to prevent the occurrence of, or to  
31 mitigate, those potential effects;

32 (d) The regulatory activity that is of greatest importance in  
33 preventing or mitigating the effects that the project may have on  
34 public health and safety or the environment; and

35 (e) The statutory and regulatory requirements that apply to the  
36 project and the complexity of those requirements.

37 NEW SECTION. **Sec. 232.** Upon the request of a project applicant,

1 the center shall appoint a project facilitator to assist the applicant  
2 in determining which regulatory requirements, processes, and permits  
3 may be required for development and operation of the proposed project.  
4 The project facilitator shall provide the information to the applicant  
5 and explain the options available to the applicant in obtaining the  
6 required permits. If the applicant requests, the center shall  
7 designate a coordinating permit agency as provided in section 233 of  
8 this act.

9 NEW SECTION. **Sec. 233.** (1) A permit applicant who requests the  
10 designation of a consolidated permit agency shall provide the center  
11 with a description of the project, a preliminary list of the permits  
12 that the project may require, the identity of any public agency that  
13 has been designated the lead agency for the project pursuant to chapter  
14 43.21C RCW, and the identity of the participating permit agencies. The  
15 center may request any information from the permit applicant that is  
16 necessary to make the designation under this section, and may convene  
17 a scoping meeting of the likely consolidated permit agency and  
18 participating permit agencies in order to make that designation.

19 (2) The consolidated permit agency shall serve as the main point of  
20 contact for the permit applicant with regard to the processing of the  
21 consolidated permit process for the project and shall manage the  
22 procedural aspects of that processing consistent with existing laws  
23 governing the consolidated permit agency and participating permit  
24 agencies, and with the procedures agreed to by those agencies in  
25 accordance with section 234 of this act. In carrying out these  
26 responsibilities, the consolidated permit agency shall ensure that the  
27 permit applicant has all the information needed to apply for all the  
28 component permits that are incorporated in the consolidated permit  
29 process for the project, coordinate the review of those permits by the  
30 respective participating permit agencies, ensure that timely permit  
31 decisions are made by the participating permit agencies, and assist in  
32 resolving any conflict or inconsistency among the permit requirements  
33 and conditions that are to be imposed by the participating permit  
34 agencies with regard to the project. The coordinating permit agency  
35 shall keep in contact with the applicant as well as other permit  
36 agencies in order to assure that the process is progressing as  
37 scheduled. The coordinating permit agency shall recommend appropriate  
38 alternatives that may be more efficient and identify potential problems

1 to successful completion of the process.

2 (3) This chapter shall not be construed to limit or abridge the  
3 powers and duties granted to a participating permit agency under the  
4 law that authorizes or requires the agency to issue a permit for a  
5 project. Each participating permit agency shall retain its authority  
6 to make all decisions on all nonprocedural matters with regard to the  
7 respective component permit that is within its scope of its  
8 responsibility, including, but not limited to, the determination of  
9 permit application completeness, permit approval or approval with  
10 conditions, or permit denial. The consolidated permit agency may not  
11 substitute its judgment for that of a participating permit agency on  
12 any such nonprocedural matters.

13 NEW SECTION. **Sec. 234.** (1) Within twenty-one days of the date  
14 that the consolidated permit agency is designated, it shall convene a  
15 meeting with the permit applicant for the project and the participating  
16 permit agencies. The meeting agenda shall include at least all of the  
17 following matters:

18 (a) A determination of the permits that are required for the  
19 project;

20 (b) A review of the permit application forms and other application  
21 requirements of the agencies that are participating in the consolidated  
22 permit process;

23 (c)(i) A determination of the timelines that will be used by the  
24 consolidated permit agency and each participating permit agency to make  
25 permit decisions, including the time periods required to determine if  
26 the permit applications are complete, to review the application or  
27 applications, and to process the component permits, and the timelines  
28 that will be used by the consolidated permit agency to aggregate the  
29 component permits into, and to issue the consolidated permit process.  
30 In the development of this time line, full attention shall be given to  
31 achieving the maximum efficiencies possible through concurrent studies,  
32 consolidated applications, hearings, and comment periods. Except as  
33 provided in (c)(ii) of this subsection, the timelines established under  
34 this subsection, with the assent of the consolidated permit agency and  
35 each participating permit agency, shall commit the consolidated permit  
36 agency and each participating permit agency to act on the component  
37 permit within time periods that are different than those required by  
38 other applicable provisions of law.

1 (ii) An accelerated time period for the consideration of a permit  
2 application may not be set if that accelerated time period would be  
3 inconsistent with, or in conflict with, any time period or series of  
4 time periods set by statute for that consideration, or with any  
5 statute, rule, or regulation, or adopted state policy, standard, or  
6 guideline that requires any of the following:

7 (A) Other agencies, interested persons, federally recognized Indian  
8 tribes, or the public to be given adequate notice of the application;

9 (B) Other agencies to be given a role in, or be allowed to  
10 participate in, the decision to approve or disapprove the application;  
11 or

12 (C) Interested persons or the public to be provided the opportunity  
13 to challenge, comment on, or otherwise voice their concerns regarding  
14 the application;

15 (d) The scheduling of any public hearings that are required to  
16 issue permits for the project and a determination of the feasibility of  
17 coordinating or consolidating any of those required public hearings;  
18 and

19 (e) A discussion of fee arrangements for the consolidated permit  
20 process, including an estimate of the costs allowed under section 237  
21 of this act and the billing schedule.

22 (2) Each agency shall send at least one representative qualified to  
23 make decisions concerning the applicability and timelines associated  
24 with all permits administered by that jurisdiction. At the request of  
25 the applicant, the consolidated permit agency shall notify any relevant  
26 federal agency of the date of the meeting and invite that agency's  
27 participation in the process.

28 (3) If a permit agency or the applicant foresees, at any time, that  
29 it will be unable to meet its obligations under the agreement, it shall  
30 notify the consolidated permit agency of the problem. The coordinating  
31 permit agency shall notify the permit agencies and the applicant and,  
32 upon agreement of all parties, adjust the schedule, or, if necessary,  
33 schedule another work plan meeting.

34 (4) The consolidated permit agency may request any information from  
35 the applicant that is necessary to comply with its obligations under  
36 this section, consistent with the timelines set pursuant to this  
37 section.

38 (5) A summary of the decisions made under this section shall be  
39 made available for public review upon the filing of the consolidated

1 permit process application or permit applications.

2 NEW SECTION. **Sec. 235.** (1) The permit applicant may withdraw from  
3 the consolidated permit process by submitting to the consolidated  
4 permit agency a written request that the process be terminated. Upon  
5 receipt of the request, the consolidated permit agency shall notify the  
6 center and each participating permit agency that a consolidated permit  
7 process is no longer applicable to the project.

8 (2) The permit applicant may submit a written request to the  
9 consolidated permit agency that the permit applicant wishes a  
10 participating permit agency to withdraw from participation on the basis  
11 of a reasonable belief that the issuance of the consolidated permit  
12 process would be accelerated if the participating permit agency  
13 withdraws. In that event, the participating permit agency shall  
14 withdraw from participation if the consolidated permit agency approves  
15 the request.

16 NEW SECTION. **Sec. 236.** The consolidated permit agency shall  
17 ensure that the participating permit agencies make all the permit  
18 decisions that are necessary for the incorporation of the permits into  
19 the consolidated permit process and act on the component permits within  
20 the time periods established pursuant to section 234 of this act.

21 NEW SECTION. **Sec. 237.** (1) The consolidated permit agency may  
22 enter into a written agreement with the applicant to recover from the  
23 applicant the reasonable costs incurred by the consolidated permit  
24 agency in carrying out the requirements of this chapter.

25 (2) The consolidated permit agency may recover only the costs of  
26 performing those consolidated permit services and shall be negotiated  
27 with the permit applicant in the meeting required pursuant to section  
28 234 of this act. The billing process shall provide for accurate time  
29 and cost accounting and may include a billing cycle that provides for  
30 progress payments.

31 NEW SECTION. **Sec. 238.** A petition by the permit applicant for  
32 review of an agency action in issuing, denying, or amending a permit,  
33 or any portion of a consolidated permit agency permit, shall be  
34 submitted by the permit applicant to the consolidated permit agency or  
35 the participating permit agency having jurisdiction over that permit

1 and shall be processed in accordance with the procedures of that permit  
2 agency. Within thirty days of receiving the petition, the consolidated  
3 permit agency shall notify the other environmental agencies  
4 participating in the original consolidated permit process.

5 NEW SECTION. **Sec. 239.** If an applicant petitions for a  
6 significant amendment or modification to a consolidated permit process  
7 application or any of its component permit applications, the  
8 consolidated permit agency shall reconvene a meeting of the  
9 participating permit agencies, conducted in accordance with section 234  
10 of this act.

11 NEW SECTION. **Sec. 240.** If an applicant fails to provide  
12 information required for the processing of the component permit  
13 applications for a consolidated permit process or for the designation  
14 of a consolidated permit agency, the time requirements of this chapter  
15 shall be tolled until such time as the information is provided.

16 NEW SECTION. **Sec. 241.** (1) The center, by rule, shall establish  
17 an expedited appeals process by which a petitioner or applicant may  
18 appeal any failure by a permit agency to take timely action on the  
19 issuance or denial of a permit in accordance with the time limits  
20 established under this chapter.

21 (2) If the center finds that the time limits under appeal have been  
22 violated without good cause, it shall establish a date certain by which  
23 the permit agency shall act on the permit application with adequate  
24 provision for the requirements of section 234(1)(c)(ii) (A) through (C)  
25 of this act, and provide for the full reimbursement of any filing or  
26 permit processing fees paid by the applicant to the permit agency for  
27 the permit application under appeal.

28 NEW SECTION. **Sec. 242.** By December 1, 1997, the center shall  
29 submit a report to the appropriate committees of both houses of the  
30 legislature detailing the following information:

31 (1) The number of instances in which a consolidated permit agency  
32 has been requested and used, and the disposition of those cases;

33 (2) The amount of time elapsed between an initial request by a  
34 permit applicant for a consolidated permit process and the ultimate  
35 approval or disapproval of the permits included in the process;

1 (3) The number of instances in which the expedited appeals process  
2 was requested, and the disposition of those cases; and

3 (4) Potential conflicts and perceived inconsistencies among  
4 existing statutes.

5 NEW SECTION. **Sec. 243.** The sum of seventy thousand dollars, or as  
6 much thereof as may be necessary, is appropriated for the biennium  
7 ending June 30, 1997, from the general fund; the sum of ninety thousand  
8 dollars, or as much thereof as may be necessary, is appropriated for  
9 the biennium ending June 30, 1997, from the state toxics account; the  
10 sum of one hundred sixty thousand dollars, or as much thereof as may be  
11 necessary, is appropriated for the biennium ending June 30, 1997, from  
12 the water quality permit fee account; and the sum of fifty-five  
13 thousand dollars, or as much thereof as may be necessary, is  
14 appropriated for the biennium ending June 30, 1997, from the air  
15 operating permit fee account to the department of ecology for the  
16 purposes of sections 228 through 242 of this act.

17 NEW SECTION. **Sec. 244.** A new section is added to chapter 43.131  
18 RCW to read as follows:

19 The permit assistance center and its powers and duties shall be  
20 terminated June 30, 1999, as provided in section 245 of this act.

21 NEW SECTION. **Sec. 245.** A new section is added to chapter 43.131  
22 RCW to read as follows:

23 The following acts or parts of acts, as now existing or hereafter  
24 amended, are each repealed, effective June 30, 2000:

- 25 (1) RCW 90.---.--- and 1995 c -- s 228 (section 228 of this act);
- 26 (2) RCW 90.---.--- and 1995 c -- s 229 (section 229 of this act);
- 27 (3) RCW 90.---.--- and 1995 c -- s 230 (section 230 of this act);
- 28 (4) RCW 90.---.--- and 1995 c -- s 231 (section 231 of this act);
- 29 (5) RCW 90.---.--- and 1995 c -- s 232 (section 232 of this act);
- 30 (6) RCW 90.---.--- and 1995 c -- s 233 (section 233 of this act);
- 31 (7) RCW 90.---.--- and 1995 c -- s 234 (section 234 of this act);
- 32 (8) RCW 90.---.--- and 1995 c -- s 235 (section 235 of this act);
- 33 (9) RCW 90.---.--- and 1995 c -- s 236 (section 236 of this act);
- 34 (10) RCW 90.---.--- and 1995 c -- s 237 (section 237 of this act);
- 35 (11) RCW 90.---.--- and 1995 c -- s 238 (section 238 of this act);
- 36 (12) RCW 90.---.--- and 1995 c -- s 239 (section 239 of this act);



1 (13) RCW 90.---.--- and 1995 c -- s 240 (section 240 of this act);  
2 and  
3 (14) RCW 90.---.--- and 1995 c -- s 241 (section 241 of this act).

4 NEW SECTION. **Sec. 246.** The following acts or parts of acts are  
5 each repealed:

6 (1) RCW 90.62.010 and 1982 c 179 s 1, 1977 c 54 s 1, & 1973 1st  
7 ex.s. c 185 s 1;

8 (2) RCW 90.62.020 and 1994 c 264 s 96, 1988 c 36 s 71, 1977 c 54 s  
9 2, & 1973 1st ex.s. c 185 s 2;

10 (3) RCW 90.62.030 and 1973 1st ex.s. c 185 s 3;

11 (4) RCW 90.62.040 and 1990 c 137 s 1, 1977 c 54 s 3, & 1973 1st  
12 ex.s. c 185 s 4;

13 (5) RCW 90.62.050 and 1977 c 54 s 4 & 1973 1st ex.s. c 185 s 5;

14 (6) RCW 90.62.060 and 1982 c 179 s 2, 1977 c 54 s 5, & 1973 1st  
15 ex.s. c 185 s 6;

16 (7) RCW 90.62.070 and 1973 1st ex.s. c 185 s 7;

17 (8) RCW 90.62.080 and 1987 c 109 s 156, 1977 c 54 s 6, & 1973 1st  
18 ex.s. c 185 s 8;

19 (9) RCW 90.62.090 and 1977 c 54 s 7 & 1973 1st ex.s. c 185 s 9;

20 (10) RCW 90.62.100 and 1977 c 54 s 8 & 1973 1st ex.s. c 185 s 10;

21 (11) RCW 90.62.110 and 1973 1st ex.s. c 185 s 11;

22 (12) RCW 90.62.120 and 1973 1st ex.s. c 185 s 12;

23 (13) RCW 90.62.130 and 1977 c 54 s 9;

24 (14) RCW 90.62.900 and 1973 1st ex.s. c 185 s 13;

25 (15) RCW 90.62.901 and 1973 1st ex.s. c 185 s 14;

26 (16) RCW 90.62.904 and 1973 1st ex.s. c 185 s 15;

27 (17) RCW 90.62.905 and 1973 1st ex.s. c 185 s 16;

28 (18) RCW 90.62.906 and 1973 1st ex.s. c 185 s 18;

29 (19) RCW 90.62.907 and 1973 1st ex.s. c 185 s 19; and

30 (20) RCW 90.62.908 and 1977 c 54 s 10.

31 NEW SECTION. **Sec. 247.** Sections 101, 201 through 204, and 207  
32 through 213 of this act shall constitute a new chapter in Title 36 RCW.

33 NEW SECTION. **Sec. 248.** Sections 228 through 241 of this act shall  
34 constitute a new chapter in Title 90 RCW.

35 NEW SECTION. **Sec. 249.** RCW 36.70A.065 and 36.70A.440 are

1 recodified as sections within the new chapter created in section 247 of  
2 this act.

3 NEW SECTION. **Sec. 250.** The department of community, trade, and  
4 economic development shall provide training and technical assistance to  
5 counties and cities to assist them in fulfilling the requirements of  
6 chapter 36.-- RCW (sections 101, 201 through 204, and 207 through 213  
7 of this act). The land use study commission created by section 401 of  
8 this act shall monitor local government consolidated permit procedures  
9 and the effectiveness of the timelines established by section 207 of  
10 this act. The commission shall include in its report submitted to the  
11 governor and the legislature on November 30, 1997, its recommendation  
12 about what timelines, if any, should be imposed on the local government  
13 consolidated permit process required by chapter 36.-- RCW (sections  
14 101, 201 through 204, and 207 through 213 of this act).

15 **PART III - APPEALS**

16 NEW SECTION. **Sec. 301.** This chapter may be known and cited as the  
17 land use petition act. A petition brought under this chapter must be  
18 called a land use petition.

19 NEW SECTION. **Sec. 302.** The purpose of this chapter is to reform  
20 the process for judicial review of land use decisions made by local  
21 jurisdictions, by establishing uniform, expedited appeal procedures and  
22 uniform criteria for reviewing such decisions, in order to provide  
23 consistent, predictable, and timely judicial review.

24 NEW SECTION. **Sec. 303.** Unless the context clearly requires  
25 otherwise, the definitions in this section apply throughout this  
26 chapter.

27 (1) "Land use decision" means a final determination by a local  
28 jurisdiction's body or officer with the highest level of authority to  
29 make the determination, including those with authority to hear appeals,  
30 on:

31 (a) An application for a development permit or other governmental  
32 approval required by law before real property may be improved,  
33 developed, modified, sold, transferred, or used, but excluding  
34 applications for permits or approvals to use streets, parks, and

1 similar types of public property and excluding applications for  
2 legislative approvals such as rezones;

3 (b) An interpretative or declaratory decision regarding the  
4 application to a specific property of zoning or other ordinances or  
5 rules regulating the development, modification, maintenance, or use of  
6 real property; and

7 (c) The enforcement of ordinances regulating the development,  
8 modification, maintenance, or use of real property. However, when a  
9 local jurisdiction is required by law to enforce the ordinances in a  
10 court of limited jurisdiction, a petition may not be brought under this  
11 chapter.

12 (2) "Local jurisdiction" means a county, city, or town, or special  
13 purpose district as defined in RCW 36.96.010.

14 (3) "Person" means an individual, partnership, corporation,  
15 association, public or private organization, or governmental agency.

16 NEW SECTION. **Sec. 304.** (1) This chapter replaces the writ of  
17 certiorari for judicial review of local jurisdictions' land use  
18 decisions.

19 (2) This chapter does not apply to judicial review procedures  
20 established by other laws, including, but not limited to judicial  
21 review of:

22 (a) Land use decisions made by bodies that are not part of a local  
23 jurisdiction;

24 (b) Land use decisions of a local jurisdiction that are subject to  
25 review by a quasi-judicial body created by state law, such as the  
26 shorelines hearings board or the growth management hearings board;

27 (c) Claims provided by any law for monetary damages or  
28 compensation; or

29 (d) Applications for injunctive relief, including a writ of  
30 prohibition or mandamus.

31 (3) If one or more claims for damages or compensation are set forth  
32 in the same complaint with a land use petition brought under this  
33 chapter, the procedures and standards, including deadlines, provided in  
34 this chapter for review of the petition do not apply to the claims for  
35 damages or compensation. The judge who hears the land use petition  
36 may, if appropriate, preside at a trial for damages or compensation.

37 (4) The court rules govern procedural matters under this chapter to  
38 the extent that the rules are consistent with this chapter.

1        NEW SECTION.    **Sec. 305.**    (1) Proceedings for review under this  
2 chapter must be commenced by filing a land use petition in superior  
3 court.

4        (2) A land use petition is barred, and the court may not grant  
5 review, unless the petition is timely filed with the court.    The  
6 petition must be served on the following parties:

7        (a) The local jurisdiction, which for purposes of the petition  
8 shall be the jurisdiction's corporate entity and not an individual  
9 decision maker or department; and

10       (b) Each of the following, if not the petitioner:

11       (i) Any person identified by name and address in the local  
12 jurisdiction's written decision as an applicant for the permit or  
13 approval at issue or as a property owner of the property at issue;

14       (ii) If no person is named in the decision as provided in (b)(i) of  
15 this subsection, any such person identified in the application for a  
16 permit or approval at issue; and

17       (iii) Any person who filed an appeal to a quasi-judicial decision  
18 maker regarding the land use decision at issue, unless the person has  
19 abandoned the appeal or the person's claims were dismissed before the  
20 quasi-judicial decision was rendered.    Any person who later intervened  
21 or joined in the appeal is not required to be made a party under this  
22 subsection.

23       (3) The petition is timely if it is filed within twenty-one days of  
24 the issuance of the land use decision.

25       (4) For the purposes of this section, a land use decision is issued  
26 on the date on which a written decision is mailed or if not mailed, the  
27 date on which the local jurisdiction provides notice that a written  
28 decision is publicly available.    However, if written notification is  
29 not required to be provided, the decision is issued on the later of:

30       (a) The date that the decision is made at a public meeting; or

31       (b) The date that the decision is entered into the public record.

32       (5) Service on the local jurisdiction must be by delivery of a copy  
33 of the petition pursuant to RCW 4.28.080.    Service on other parties  
34 must be in accordance with the civil rules or, for parties who provided  
35 an address to the local jurisdiction during a quasi-judicial proceeding  
36 regarding the land use decision at issue, service may be by deposit in  
37 the United States mail to the address.    Service by mail is effective on  
38 the date of mailing.    Proof of service must be evidenced by affidavit.

1        NEW SECTION.    **Sec. 306.**    Standing to bring a land use petition  
2 under this chapter, and to intervene in a proceeding under this  
3 chapter, is limited to the following parties:

4        (1) The applicant and the owner of property to which the land use  
5 decision is directed;

6        (2) Another person aggrieved or adversely affected by the land use  
7 decision, or who would be aggrieved or adversely affected by a reversal  
8 or modification of the land use decision, and who will suffer direct  
9 and substantial impacts from the decision, reversal, or modification.

10       NEW SECTION.    **Sec. 307.**    (1) A petitioner shall set forth in a land  
11 use petition:

12        (a) The name and mailing address of the petitioner;

13        (b) The name and mailing address of the petitioner's attorney, if  
14 any;

15        (c) The name and mailing address of the local jurisdiction whose  
16 land use decision is at issue;

17        (d) Identification of the decision-making body or officer, together  
18 with a duplicate copy of the decision, or if not a written decision, a  
19 summary or brief description of it;

20        (e) Identification of persons who were named petitioners or  
21 appellants in any quasi-judicial proceedings regarding the land use  
22 decision at issue;

23        (f) Facts demonstrating that the petitioner is entitled to seek  
24 judicial review; and

25        (g) A request for relief, specifying the type of relief requested.

26        (2) Within sixty days of service of a land use petition on the  
27 local jurisdiction, the local jurisdiction must certify and submit to  
28 the court and serve on all parties to the petition a complete record of  
29 the proceedings leading to the decision identified in the land use  
30 petition pursuant to subsection (1)(d) of this section.

31        (3) The local jurisdiction need not certify the record, if the  
32 court determines that the petition should be dismissed for any reason,  
33 including improper service, lack of standing, failure to join an  
34 indispensable party, or failure to comply with subsection (1) of this  
35 section.

36        (4) The court may grant additional time for the certification of  
37 the record, if additional time is determined by the court to be  
38 necessary.

1 (5) Within fifteen days of service of the petition, the local  
2 jurisdiction shall notify the petitioner of the estimated cost of  
3 preparing the record.

4 (6) The petitioner shall pay the cost of preparing the record  
5 within fifteen days of service of the record on the petitioner.

6 NEW SECTION. **Sec. 308.** The court shall provide expedited review  
7 of petitions filed under this chapter. If judicial review is granted,  
8 the matter must be set for hearing within sixty days of the date set  
9 for submitting the local jurisdiction's record, absent a showing of  
10 compelling reasons for a different date or a stipulation of the  
11 parties.

12 NEW SECTION. **Sec. 309.** (1) A petitioner for judicial review of a  
13 land use decision may request the court to stay or suspend an action by  
14 the local jurisdiction or another party to implement the decision under  
15 review, by including the request in the petition. The request must set  
16 forth a statement of grounds for the stay and the factual basis for the  
17 request. The court shall rule on the request at the hearing on the  
18 order to show cause.

19 (2) Another party to the judicial review proceedings may request a  
20 stay by making a motion in accordance with the court rules. The motion  
21 must be filed with the party's first pleading in the matter.

22 (3) The court shall deny a request for a stay that is made after  
23 the times required by subsections (1) and (2) of this section unless  
24 the party requesting the stay establishes that the reasons justifying  
25 the stay did not exist, or could not have been discovered, at the times  
26 set forth in subsections (1) and (2) of this section.

27 (4) A court may grant a stay only if the court finds that:

28 (a) The party requesting the stay is likely to prevail on the  
29 merits;

30 (b) Without the stay the party requesting it will suffer  
31 irreparable harm; and

32 (c) The grant of a stay will not substantially harm other parties  
33 to the proceedings or the public.

34 (5) The court may grant the request for a stay upon such terms and  
35 conditions, such as the filing of security, as are necessary to prevent  
36 harm to other parties from the stay.

1        NEW SECTION.    **Sec. 310.**    (1) If the land use decision being  
2 reviewed was made by a quasi-judicial body or officer who was making  
3 factual determinations and the parties had the opportunity to make a  
4 record on the factual issues, judicial review of factual issues, and  
5 the conclusions drawn from the factual issues, must be confined to the  
6 record created by the quasi-judicial body or officer, except as  
7 provided in this section.

8        (2) For decisions described in subsection (1) of this section, the  
9 record may be supplemented by additional evidence only if the  
10 additional evidence relates to:

11        (a) Disputed factual issues regarding the authority or jurisdiction  
12 of the body or officer that made the land use decision;

13        (b) Grounds for disqualification of a member of the body or of the  
14 officer that made the land use decision;

15        (c) Unlawfulness of the procedure used to make the decision;

16        (d) Matters that were improperly excluded from the record after  
17 being offered by a party to the quasi-judicial proceeding; or

18        (e) Matters that were outside the jurisdiction of the body or  
19 officer that made the land use decision.

20        (3) For land use decisions other than those described in subsection  
21 (1) of this section, the record for judicial review may be supplemented  
22 by evidence of material facts that were not required to be made part of  
23 the local jurisdiction's record.

24        (4) The parties may not conduct civil discovery prior to the  
25 determination of the land use petition except in regard to the issues  
26 listed in subsection (2) of this section. Requests made under chapter  
27 42.17 RCW for records relating to the matters at issue in the pending  
28 land use petition must be treated as requests for civil discovery and  
29 must meet the requirements of this section and the court rules.

30        NEW SECTION.    **Sec. 311.**    (1) The superior court, acting without a  
31 jury, shall review the record and such supplemental evidence as is  
32 permitted under RCW 36.70B.100. The court may grant relief only if the  
33 party seeking relief has carried the burden of establishing that one of  
34 the standards set forth in (a), (b), and (c) of this subsection have  
35 been met. The standards are:

36        (a) The party seeking relief has been substantially prejudiced as  
37 a result of the claimed error or errors, and:

38        (i) The body or officer that made the land use decision engaged in

1 unlawful procedure or failed to follow a prescribed process;

2 (ii) The land use decision under review is a clearly erroneous  
3 interpretation or application of the law, in light of the law's  
4 purpose; or

5 (iii) The land use decision under review is not supported by  
6 substantial evidence;

7 (b) The land use decision under review was outside the authority or  
8 jurisdiction of the body or officer making the decision; and

9 (c) The land use decision violates the constitutional rights of the  
10 party seeking relief.

11 (2) In order to grant relief under this chapter, it is not  
12 necessary for the court to find that the local jurisdiction engaged in  
13 arbitrary and capricious conduct.

14 NEW SECTION. Sec. 312. The court may affirm or reverse the land  
15 use decision under review, modify it, or remand it for modification or  
16 further proceedings. If the decision is remanded for modification or  
17 further proceedings, the court may make the order as it finds necessary  
18 to preserve the interests of the parties and the public, pending  
19 further proceedings or action by the local jurisdiction.

20 **Sec. 313.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to  
21 read as follows:

22 This chapter does not apply to state agency action reviewable under  
23 chapter 34.05 RCW or the land use decisions of local jurisdictions  
24 reviewable under chapter 36.-- RCW (sections 301 through 312 of this  
25 act).

26 **Sec. 314.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to  
27 read as follows:

28 Any decision approving or disapproving any plat shall be reviewable  
29 for ~~((unlawful, arbitrary, capricious or corrupt action or nonaction by~~  
30 ~~writ of review before))~~ under chapter 36.-- RCW (sections 301 through  
31 312 of this act) by the superior court of the county in which such  
32 matter is pending. ~~((Standing to bring the action is limited to the~~  
33 ~~following parties:~~

34 ~~(1) The applicant or owner of the property on which the subdivision~~  
35 ~~is proposed;~~

36 ~~(2) Any property owner entitled to special notice under RCW~~



1 58.17.090;

2 ~~(3) Any property owner who deems himself aggrieved thereby and who~~  
3 ~~will suffer direct and substantial impacts from the proposed~~  
4 ~~subdivision.~~

5 ~~Application for a writ of review shall be made to the court within~~  
6 ~~thirty days from any decision so to be reviewed. The cost of~~  
7 ~~transcription of all records ordered certified by the court for such~~  
8 ~~review shall be borne by the appellant.))~~

9 NEW SECTION. Sec. 315. A new section is added to chapter 4.84 RCW  
10 to read as follows:

11 Notwithstanding any other provisions of this chapter, reasonable  
12 attorneys fees and costs shall be awarded to the prevailing party or  
13 substantially prevailing party on appeal before the superior court,  
14 court of appeals, or the supreme court of a decision by a county, city,  
15 or town to issue, condition, or deny a development permit involving a  
16 site-specific rezone, zoning, plat, conditional use, variance,  
17 shoreline permit, building permit, site plan, or similar land use  
18 approval or decision.

19 NEW SECTION. Sec. 316. Sections 301 through 312 of this act  
20 constitute a new chapter in Title 36 RCW.

21 **PART IV - STUDY**

22 NEW SECTION. Sec. 401. The land use study commission is hereby  
23 established. The commission's goal shall be the integration and  
24 consolidation of the state's land use and environmental laws into a  
25 single, manageable statute. In fulfilling its responsibilities, the  
26 commission shall evaluate the effectiveness of the growth management  
27 act, the state environmental policy act, the shoreline management act,  
28 and other state land use, planning, environmental, and permitting  
29 statutes.

30 NEW SECTION. Sec. 402. The commission shall consist of not more  
31 than thirteen members. Seven members of the commission shall be  
32 appointed by the governor, two members shall be appointed by the  
33 speaker of the house of representatives, and two members shall be  
34 appointed by the president of the senate. Membership shall reflect the

1 interests of business, agriculture, labor, the environment, other  
2 citizens, the legislature, cities, counties, federally recognized  
3 Indian tribes, and state agencies. The director of the department of  
4 community, trade, and economic development, or the director's designee,  
5 shall serve in a nonvoting capacity as chair of the commission. The  
6 director of the department of ecology, or the director's designee,  
7 shall also be a member of the commission in a nonvoting capacity.  
8 Staff for the commission shall be provided by the department of  
9 community, trade, and economic development, with additional staff to be  
10 provided by other state agencies and the legislature, as may be  
11 required. State agencies shall provide the commission with information  
12 and assistance as needed.

13 NEW SECTION. **Sec. 403.** The commission shall convene commencing  
14 June 1, 1995, and shall complete its work by June 30, 1998. The  
15 commission shall submit a report to the governor and the legislature  
16 stating its findings, conclusions, and recommendations not later than  
17 November 1 of each year. The commission shall submit its final report  
18 to the governor and the legislature not later than November 1, 1997.

19 NEW SECTION. **Sec. 404.** The commission shall:

20 (1) Consider the effectiveness of state and local government  
21 efforts to consolidate and integrate the growth management act, the  
22 state environmental policy act, the shoreline management act, and other  
23 land use, planning, environmental, and permitting laws.

24 (2) Identify the revisions and modifications needed in state land  
25 use, planning, and environmental law and practice to adequately plan  
26 for growth, to adequately assess environmental impacts of comprehensive  
27 plans, development regulations, and growth, and to reduce the time and  
28 cost of obtaining project permits.

29 (3) Draft a consolidated land use procedure, following these  
30 guidelines:

31 (a) Conduct land use planning through the comprehensive planning  
32 process under chapter 36.70A RCW rather than through review of  
33 individual projects;

34 (b) Involve diverse sectors of the public in the planning process.  
35 Early and informal environmental analysis should be incorporated into  
36 planning and decision making;

37 (c) Recognize that different questions need to be answered and

1 different levels of detail applied at each planning phase, from the  
2 initial development of plan concepts or plan elements to implementation  
3 programs;

4 (d) Integrate and combine to the fullest extent possible the  
5 processes, analysis, and documents currently required under chapters  
6 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent  
7 implementation will incorporate measures to promote the environmental,  
8 economic, and other goals and to mitigate undesirable or unintended  
9 adverse impacts on a community's quality of life;

10 (e) Focus environmental review and the level of detail needed for  
11 different stages of plan and project decisions on the environmental  
12 considerations most relevant to that stage of the process;

13 (f) Avoid duplicating review that has occurred for plan decisions  
14 when specific projects are proposed;

15 (g) Use environmental review on projects to: (i) Review and  
16 document consistency with comprehensive plans and development  
17 regulations; (ii) provide prompt and coordinated review by agencies,  
18 tribes, and the public on compliance with applicable environmental laws  
19 and plans, including mitigation for site specific project impacts that  
20 have not been considered and addressed at the plan or development  
21 regulation level; and (iii) ensure accountability by local government  
22 to applicants and the public for requiring and implementing mitigation  
23 measures;

24 (h) Maintain or improve the quality of environmental analysis both  
25 for plan and for project decisions, while integrating these analyses  
26 with improved state and local planning and permitting processes;

27 (i) Examine existing land use and environmental permits for  
28 necessity and utility. To the extent possible, existing permits should  
29 be combined into fewer permits, assuring that the values and principles  
30 intended to be protected by those permits remain protected; and

31 (j) Consolidate local government appeal processes to allow a single  
32 appeal of permits at local government levels, a single state level  
33 administrative appeal, and a final judicial appeal.

34 (4) These guidelines are intended to guide the work of the  
35 commission, without limiting its charge to integrate and consolidate  
36 Washington's land use and environmental laws into a single, manageable  
37 code.

38 NEW SECTION. **Sec. 405.** Members of the commission shall be

1 reimbursed for travel expenses as provided in RCW 43.03.050 and  
2 43.03.060.

3 NEW SECTION. **Sec. 406.** Sections 401 through 405 of this act shall  
4 expire June 30, 1998.

5 **PART V - MISCELLANEOUS**

6 NEW SECTION. **Sec. 501.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 502.** Part headings and the table of contents as  
11 used in this act do not constitute any part of the law.

12 NEW SECTION. **Sec. 503.** Sections 401 through 406 of this act are  
13 necessary for the immediate preservation of the public peace, health,  
14 or safety, or support of the state government and its existing public  
15 institutions, and shall take effect June 1, 1995."

16 **SHB 1724** - H AMD  
17 By Representative

18

19 On page 1, line 3 of the title, after "review;" strike the  
20 remainder of the title and insert "amending RCW 43.21C.075, 43.21C.031,  
21 43.21C.110, 43.21C.080, 36.70A.140, 36.70A.300, 36.70A.330, 90.58.020,  
22 90.58.030, 90.58.050, 90.58.060, 90.58.080, 90.58.090, 90.58.100,  
23 90.58.120, 90.58.140, 90.58.180, 90.58.190, 34.05.461, 34.05.514,  
24 36.70A.130, 36.70A.320, 82.02.090, 82.02.020, 35A.40.210, 36.70A.440,  
25 36.70A.065, 58.17.090, 58.17.092, 58.17.100, 58.17.330, 35.63.130,  
26 35A.63.170, 36.70.970, 7.16.360, and 58.17.180; reenacting and amending  
27 RCW 36.70A.030 and 36.70A.290; adding new sections to chapter 36.70A  
28 RCW; adding new sections to chapter 43.21C RCW; adding a new section to  
29 chapter 82.02 RCW; adding a new section to chapter 35.22 RCW; adding a  
30 new section to chapter 35.23 RCW; adding a new section to chapter 35.43  
31 RCW; adding a new section to chapter 36.32 RCW; adding a new section to  
32 chapter 36.77 RCW; adding a new section to chapter 56.08 RCW; adding a

1 new section to chapter 57.08 RCW; adding a new section to chapter 35.63  
2 RCW; adding a new section to chapter 35A.63 RCW; adding a new section  
3 to chapter 36.70 RCW; adding a new section to chapter 64.40 RCW; adding  
4 new sections to chapter 43.131 RCW; adding a new section to chapter  
5 4.84 RCW; adding new chapters to Title 36 RCW; adding a new chapter to  
6 Title 90 RCW; creating new sections; recodifying RCW 82.02.020,  
7 82.02.050, 82.02.060, 82.02.070, 82.02.080, 82.02.090, 82.02.100,  
8 36.70A.065, and 36.70A.440; repealing RCW 90.58.145, 90.62.010,  
9 90.62.020, 90.62.030, 90.62.040, 90.62.050, 90.62.060, 90.62.070,  
10 90.62.080, 90.62.090, 90.62.100, 90.62.110, 90.62.120, 90.62.130,  
11 90.62.900, 90.62.901, 90.62.904, 90.62.905, 90.62.906, 90.62.907, and  
12 90.62.908; making an appropriation; providing an effective date;  
13 providing an expiration date; and declaring an emergency."

--- END ---