

2 **SSB 5489** - S AMD - 211

3 By Senators Sheldon, A. Anderson, Fraser, Swecker, Drew, Hale,  
4 Haugen, Winsley, Spanel, Snyder and Gaspard

5

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

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

1 **PART I - GROWTH MANAGEMENT ACT**

2 NEW SECTION. **Sec. 101.** The legislature finds that during project  
3 review, a county or city planning under RCW 36.70A.040 is likely to  
4 discover the need to make various improvements in comprehensive plans  
5 and development regulations. There is no current requirement or  
6 process for applicants, citizens, or agency staff to ensure that these  
7 improvements are considered in the plan review process. The  
8 legislature also finds that in the past environmental review and  
9 permitting of proposed projects have been used to reopen and make land  
10 use planning decisions that should have been made through the  
11 comprehensive planning process, in part because agency staff and  
12 hearing examiners have not been able to ensure consideration of all  
13 issues in the local planning process. The legislature further finds  
14 that, while plans and regulations should be improved and refined over  
15 time, it is unfair to penalize applicants that have submitted permit  
16 applications that meet current requirements. It is the intent of the  
17 legislature in enacting section 102 of this act to establish a means by  
18 which cities and counties will docket suggested plan or development  
19 regulation amendments and ensure their consideration during the  
20 planning process.

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

23 (1) Project review, which shall be conducted pursuant to the  
24 provisions of chapter 36.-- RCW (the new chapter created in section 431  
25 of this act), shall be used to make individual project decisions, not  
26 land use planning decisions. If, during project review, a county or  
27 city planning under RCW 36.70A.040 identifies deficiencies in plans or  
28 regulations:

29 (a) The permitting process shall not be used as a comprehensive  
30 planning process;

31 (b) Project review shall continue; and

32 (c) The identified deficiencies shall be docketed for possible  
33 future plan or development regulation amendments.

34 (2) Each county and city planning under RCW 36.70A.040 shall  
35 include in its development regulations a procedure for any interested  
36 person, including applicants, citizens, hearing examiners, and staff of  
37 other agencies, to suggest plan or development regulation amendments.

1 The suggested amendments shall be docketed and considered on at least  
2 an annual basis, consistent with the provisions of RCW 36.70A.130.

3 (3) For purposes of this section, a deficiency in a comprehensive  
4 plan or development regulation refers to the absence of required or  
5 potentially desirable contents of a comprehensive plan or development  
6 regulation. It does not refer to whether a development regulation  
7 addresses a project's probable specific adverse environmental impacts  
8 which the permitting agency could mitigate in the normal project review  
9 process.

10 (4) For purposes of this section, docketing refers to compiling and  
11 maintaining a list of suggested changes to the comprehensive plan or  
12 development regulations in a manner that will ensure such suggested  
13 changes will be considered by the county or city and will be available  
14 for review by the public.

15 **Sec. 103.** RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5 are  
16 each reenacted and amended to read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Adopt a comprehensive land use plan" means to enact a new  
20 comprehensive land use plan or to update an existing comprehensive land  
21 use plan.

22 (2) "Agricultural land" means land primarily devoted to the  
23 commercial production of horticultural, viticultural, floricultural,  
24 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
25 straw, turf, seed, Christmas trees not subject to the excise tax  
26 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
27 hatcheries, or livestock, and that has long-term commercial  
28 significance for agricultural production.

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

30 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
31 means a generalized coordinated land use policy statement of the  
32 governing body of a county or city that is adopted pursuant to this  
33 chapter.

34 (5) "Critical areas" include the following areas and ecosystems:  
35 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
36 used for potable water; (c) fish and wildlife habitat conservation  
37 areas; (d) frequently flooded areas; and (e) geologically hazardous  
38 areas.

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

3 (~~(7)~~) (~~For purposes of RCW 36.70A.065 and 36.70A.440, "development~~  
4 ~~permit application" means any application for a development proposal~~  
5 ~~for a use that could be permitted under a plan adopted pursuant to this~~  
6 ~~chapter and is consistent with the underlying land use and zoning,~~  
7 ~~including but not limited to building permits, subdivisions, binding~~  
8 ~~site plans, planned unit developments, conditional uses or other~~  
9 ~~applications pertaining to land uses, but shall not include rezones,~~  
10 ~~proposed amendments to comprehensive plans or the adoption or amendment~~  
11 ~~of development regulations.~~

12 (~~8~~)) "Development regulations" means (~~(any)~~) the controls placed  
13 on development or land use activities by a county or city, including,  
14 but not limited to, zoning ordinances, critical areas ordinances,  
15 shoreline master programs, official controls, planned unit development  
16 ordinances, subdivision ordinances, and binding site plan ordinances  
17 together with any amendments thereto. A development regulation does  
18 not include a decision to approve a project permit application, as  
19 defined in section 402 of this act, even though the decision may be  
20 expressed in a resolution or ordinance of the legislative body of the  
21 county or city.

22 (~~(9)~~) (8) "Forest land" means land primarily devoted to growing  
23 trees for long-term commercial timber production on land that can be  
24 economically and practically managed for such production, including  
25 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
26 through 84.33.140, and that has long-term commercial significance. In  
27 determining whether forest land is primarily devoted to growing trees  
28 for long-term commercial timber production on land that can be  
29 economically and practically managed for such production, the following  
30 factors shall be considered: (a) The proximity of the land to urban,  
31 suburban, and rural settlements; (b) surrounding parcel size and the  
32 compatibility and intensity of adjacent and nearby land uses; (c) long-  
33 term local economic conditions that affect the ability to manage for  
34 timber production; and (d) the availability of public facilities and  
35 services conducive to conversion of forest land to other uses.

36 (~~(10)~~) (9) "Geologically hazardous areas" means areas that  
37 because of their susceptibility to erosion, sliding, earthquake, or  
38 other geological events, are not suited to the siting of commercial,  
39 residential, or industrial development consistent with public health or

1 safety concerns.

2 ~~((11))~~ (10) "Long-term commercial significance" includes the  
3 growing capacity, productivity, and soil composition of the land for  
4 long-term commercial production, in consideration with the land's  
5 proximity to population areas, and the possibility of more intense  
6 uses of the land.

7 ~~((12))~~ (11) "Minerals" include gravel, sand, and valuable  
8 metallic substances.

9 ~~((13))~~ (12) "Public facilities" include streets, roads, highways,  
10 sidewalks, street and road lighting systems, traffic signals, domestic  
11 water systems, storm and sanitary sewer systems, parks and recreational  
12 facilities, and schools.

13 ~~((14))~~ (13) "Public services" include fire protection and  
14 suppression, law enforcement, public health, education, recreation,  
15 environmental protection, and other governmental services.

16 ~~((15))~~ (14) "Urban growth" refers to growth that makes intensive  
17 use of land for the location of buildings, structures, and impermeable  
18 surfaces to such a degree as to be incompatible with the primary use of  
19 such land for the production of food, other agricultural products, or  
20 fiber, or the extraction of mineral resources. When allowed to spread  
21 over wide areas, urban growth typically requires urban governmental  
22 services. "Characterized by urban growth" refers to land having urban  
23 growth located on it, or to land located in relationship to an area  
24 with urban growth on it as to be appropriate for urban growth.

25 ~~((16))~~ (15) "Urban growth areas" means those areas designated by  
26 a county pursuant to RCW 36.70A.110.

27 ~~((17))~~ (16) "Urban governmental services" include those  
28 governmental services historically and typically delivered by cities,  
29 and include storm and sanitary sewer systems, domestic water systems,  
30 street cleaning services, fire and police protection services, public  
31 transit services, and other public utilities associated with urban  
32 areas and normally not associated with nonurban areas.

33 ~~((18))~~ (17) "Wetland" or "wetlands" means areas that are  
34 inundated or saturated by surface water or ground water at a frequency  
35 and duration sufficient to support, and that under normal circumstances  
36 do support, a prevalence of vegetation typically adapted for life in  
37 saturated soil conditions. Wetlands generally include swamps, marshes,  
38 bogs, and similar areas. Wetlands do not include those artificial  
39 wetlands intentionally created from nonwetland sites, including, but

1 not limited to, irrigation and drainage ditches, grass-lined swales,  
2 canals, detention facilities, wastewater treatment facilities, farm  
3 ponds, and landscape amenities. (~~However,~~) Wetlands may include  
4 those artificial wetlands intentionally created from nonwetland areas  
5 created to mitigate conversion of wetlands(~~(, if permitted by the~~  
6 ~~county or city)~~).

7 NEW SECTION. **Sec. 104.** A new section is added to chapter 36.70A  
8 RCW to read as follows:

9 (1) For shorelines of the state, the goals and policies of the  
10 shoreline management act as set forth in RCW 90.58.020 are added as one  
11 of the goals of this chapter as set forth in RCW 36.70A.020. The goals  
12 and policies of a shoreline master program for a county or city  
13 approved under chapter 90.58 RCW shall be considered an element of the  
14 county or city's comprehensive plan. All other portions of the  
15 shoreline master program for a county or city adopted under chapter  
16 90.58 RCW, including use regulations, shall be considered a part of the  
17 county or city's development regulations.

18 (2) The shoreline master program shall be adopted pursuant to the  
19 procedures of chapter 90.58 RCW rather than the procedures set forth in  
20 this chapter for the adoption of a comprehensive plan or development  
21 regulations.

22 NEW SECTION. **Sec. 105.** A new section is added to chapter 36.70A  
23 RCW to read as follows:

24 (1) In designating and protecting critical areas under this  
25 chapter, counties and cities shall include the best available science  
26 in developing policies and development regulations to protect the  
27 functions and values of critical areas. In addition, counties and  
28 cities shall give special consideration to conservation or protection  
29 measures necessary to preserve or enhance anadromous fisheries.

30 (2) If it determines that advice from scientific or other experts  
31 is necessary or will be of substantial assistance in reaching its  
32 decision, a growth management hearings board may retain scientific or  
33 other expert advice to assist in reviewing a petition under RCW  
34 36.70A.290 that involves critical areas.

35 **Sec. 106.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each  
36 amended to read as follows:

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

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

7 (2)(a) Each county and city shall establish and broadly disseminate  
8 to the public a public participation program identifying procedures  
9 whereby proposed amendments or revisions of the comprehensive plan are  
10 considered by the governing body of the county or city no more  
11 frequently than once every year except that amendments may be  
12 considered more frequently under the following circumstances:

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

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

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

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

37 **Sec. 107.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each  
38 amended to read as follows:

1 Each county and city that is required or chooses to plan under RCW  
2 36.70A.040 shall establish and broadly disseminate to the public a  
3 public participation program identifying procedures providing for early  
4 and continuous public participation in the development and amendment of  
5 comprehensive land use plans and development regulations implementing  
6 such plans. The procedures shall provide for broad dissemination of  
7 proposals and alternatives, opportunity for written comments, public  
8 meetings after effective notice, provision for open discussion,  
9 communication programs, information services, and consideration of and  
10 response to public comments. In enacting legislation in response to  
11 the board's decision pursuant to RCW 36.70A.300 declaring part or all  
12 of a comprehensive plan or development regulation invalid, the county  
13 or city shall provide for public participation that is appropriate and  
14 effective under the circumstances presented by the board's order.  
15 Errors in exact compliance with the established program and procedures  
16 shall not render the comprehensive land use plan or development  
17 regulations invalid if the spirit of the program and procedures is  
18 observed.

19 **Sec. 108.** RCW 36.70A.280 and 1994 c 249 s 31 are each amended to  
20 read as follows:

21 (1) A growth management hearings board shall hear and determine  
22 only those petitions alleging either:

23 (a) That a state agency, county, or city planning under this  
24 chapter is not in compliance with the requirements of this chapter,  
25 chapter 90.58 RCW as it relates to the adoption of shoreline master  
26 programs or amendments thereto, or chapter 43.21C RCW as it relates to  
27 plans, development regulations, or amendments, adopted under RCW  
28 36.70A.040 or chapter 90.58 RCW; or

29 (b) That the twenty-year growth management planning population  
30 projections adopted by the office of financial management pursuant to  
31 RCW 43.62.035 should be adjusted.

32 (2) A petition may be filed only by the state, a county or city  
33 that plans under this chapter, a person who has either appeared before  
34 the county or city regarding the matter on which a review is being  
35 requested or is certified by the governor within sixty days of filing  
36 the request with the board, or a person qualified pursuant to RCW  
37 34.05.530.

38 (3) For purposes of this section "person" means any individual,



1 partnership, corporation, association, governmental subdivision or unit  
2 thereof, or public or private organization or entity of any character.

3 (4) When considering a possible adjustment to a growth management  
4 planning population projection prepared by the office of financial  
5 management, a board shall consider the implications of any such  
6 adjustment to the population forecast for the entire state.

7 The rationale for any adjustment that is adopted by a board must be  
8 documented and filed with the office of financial management within ten  
9 working days after adoption.

10 If adjusted by a board, a county growth management planning  
11 population projection shall only be used for the planning purposes set  
12 forth in this chapter and shall be known as a "board adjusted  
13 population projection". None of these changes shall affect the  
14 official state and county population forecasts prepared by the office  
15 of financial management, which shall continue to be used for state  
16 budget and planning purposes.

17 **Sec. 109.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26  
18 are each reenacted and amended to read as follows:

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

22 (2) All petitions relating to whether or not an adopted  
23 comprehensive plan, development regulation, or permanent amendment  
24 thereto, is in compliance with the goals and requirements of this  
25 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days  
26 after publication by the legislative bodies of the county or city.

27 (a) Except as provided in (c) of this subsection, the date of  
28 publication for a city shall be the date the city publishes the  
29 ordinance, or summary of the ordinance, adopting the comprehensive plan  
30 or development regulations, or amendment thereto, as is required to be  
31 published.

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

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

1        (c) For local governments planning under RCW 36.70A.040, promptly  
2 after approval or disapproval of a local government s shoreline master  
3 program or amendment thereto by the department of ecology as provided  
4 in RCW 90.58.090, the local government shall publish a notice that the  
5 shoreline master program or amendment thereto has been approved or  
6 disapproved by the department of ecology. For purposes of this  
7 section, the date of publication for the adoption or amendment of a  
8 shoreline master program is the date the local government publishes  
9 notice that the shoreline master program or amendment thereto has been  
10 approved or disapproved by the department of ecology.

11        (3) Unless the board dismisses the petition as frivolous or finds  
12 that the person filing the petition lacks standing, the board shall,  
13 within ten days of receipt of the petition, set a time for hearing the  
14 matter.

15        (4) The board shall base its decision on the record developed by  
16 the city, county, or the state and supplemented with additional  
17 evidence if the board determines that such additional evidence would be  
18 necessary or of substantial assistance to the board in reaching its  
19 decision.

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

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

25        (1) The board shall issue a final order within one hundred eighty  
26 days of receipt of the petition for review, or, when multiple petitions  
27 are filed, within one hundred eighty days of receipt of the last  
28 petition that is consolidated. Such a final order shall be based  
29 exclusively on whether or not a state agency, county, or city is in  
30 compliance with the requirements of this chapter, chapter 90.58 RCW as  
31 it relates to adoption or amendment of shoreline master programs, or  
32 chapter 43.21C RCW as it relates to plans, development regulations, and  
33 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.  
34 In the final order, the board shall either: (a) Find that the state  
35 agency, county, or city is in compliance with the requirements of this  
36 chapter or chapter 90.58 RCW as it relates to the adoption or amendment  
37 of shoreline master programs; or (b) find that the state agency,  
38 county, or city is not in compliance with the requirements of this

1 chapter or chapter 90.58 RCW as it relates to the adoption or amendment  
2 of shoreline master programs, in which case the board shall remand the  
3 matter to the affected state agency, county, or city and specify a  
4 reasonable time not in excess of one hundred eighty days within which  
5 the state agency, county, or city shall comply with the requirements of  
6 this chapter.

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

10 (a) Includes a determination, supported by findings of fact and  
11 conclusions of law, that the continued validity of the plan or  
12 regulation would substantially interfere with the fulfillment of the  
13 goals of this chapter; and

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

17 (3) A determination of invalidity shall:

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

21 (b) Subject any development application that would otherwise vest  
22 after the date of the board's order to the local ordinance or  
23 resolution that both is enacted in response to the order of remand and  
24 determined by the board pursuant to RCW 36.70A.330 to comply with the  
25 requirements of this chapter.

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

32 (5) Any party aggrieved by a final decision of the hearings board  
33 may appeal the decision as provided in RCW 34.05.514 to ((Thurston  
34 county)) superior court within thirty days of the final order of the  
35 board.

36 **Sec. 111.** 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. 112.** RCW 36.70A.330 and 1991 sp.s. c 32 s 14 are each amended  
14 to read as follows:

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

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

31 (3) If the board finds that the state agency, county, or city is  
32 not in compliance, the board shall transmit its finding to the  
33 governor. The board may recommend to the governor that the sanctions  
34 authorized by this chapter be imposed.

35 (4) The board shall also reconsider its final order and decide:

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

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

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

5        **Sec. 113.** RCW 34.05.514 and 1994 c 257 s 23 are each amended to  
6 read as follows:

7        (1) Except as provided in subsection (2) of this section (~~and RCW~~  
8 ~~36.70A.300(3)~~), proceedings for review under this chapter shall be  
9 instituted by filing a petition in the superior court, at the  
10 petitioner's option, for (a) Thurston county, (b) the county of the  
11 petitioner's residence or principal place of business, or (c) in any  
12 county where the property owned by the petitioner and affected by the  
13 contested decision is located.

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

18        NEW SECTION.    **Sec. 114.** (1) The legislature finds that:

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

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

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

30        (d) Local governments must also comply with the state environmental  
31 policy act, chapter 43.21C RCW, in the development of comprehensive  
32 plans and development regulations;

33        (e) The combined activities of comprehensive planning and the state  
34 environmental policy act present a serious fiscal burden upon local  
35 governments; and

36        (f) Detailed environmental analysis integrated with comprehensive  
37 plans, subarea plans, and development regulations will facilitate

1 planning for and managing growth, allow greater protection of the  
2 environment, and benefit both the general public and private property  
3 owners.

4 (2) In order to provide financial assistance to cities and counties  
5 planning under chapter 36.70A RCW and to improve the usefulness of  
6 plans and integrated environmental analyses, the legislature has  
7 created the fund described in section 115 of this act.

8 NEW SECTION. **Sec. 115.** A new section is added to chapter 36.70A  
9 RCW to read as follows:

10 The growth management planning and environmental review fund is  
11 hereby established in the state treasury. Moneys may be placed in the  
12 fund from the proceeds of bond sales, tax revenues, budget transfers,  
13 federal appropriations, gifts, or any other lawful source. Moneys in  
14 the fund may be spent only after appropriation. Moneys in the fund  
15 shall be used to make grants to local governments for the purposes set  
16 forth in section 202 of this act, RCW 43.21C.031, or section 116 of  
17 this act.

18 NEW SECTION. **Sec. 116.** A new section is added to chapter 36.70A  
19 RCW to read as follows:

20 (1) The department of community, trade, and economic development  
21 shall provide management services for the fund created by section 115  
22 of this act. The department by rule shall establish procedures for  
23 fund management.

24 (2) A grant may be awarded to a county or city that is required to  
25 or has chosen to plan under RCW 36.70A.040 and that is qualified  
26 pursuant to this section. The grant shall be provided to assist a  
27 county or city in paying for the cost of preparing a detailed  
28 environmental impact statement that is integrated with a comprehensive  
29 plan or subarea plan and development regulations.

30 (3) In order to qualify for a grant, a county or city shall:

31 (a) Demonstrate that it will prepare an environmental analysis  
32 pursuant to chapter 43.21C RCW that is integrated with a comprehensive  
33 plan or subarea plan and development regulations;

34 (b) Address environmental impacts and consequences, alternatives,  
35 and mitigation measures in sufficient detail to allow the analysis to  
36 be adopted in whole or in part by subsequent applicants for development  
37 permits within the geographic area analyzed in the plan;

1 (c) Include mechanisms in the plan to monitor the consequences of  
2 growth as it occurs in the plan area and provide ongoing data to update  
3 the plan and environmental analysis;

4 (d) Be making substantial progress towards compliance with the  
5 requirements of this chapter. A county or city that is more than six  
6 months out of compliance with a requirement of this chapter is deemed  
7 not to be making substantial progress towards compliance; and

8 (e) Provide local funding, which may include financial  
9 participation by the private sector.

10 (4) In awarding grants, the department shall give preference to  
11 proposals that include one or more of the following elements:

12 (a) Financial participation by the private sector, or a public/  
13 private partnering approach;

14 (b) Comprehensive and subarea plan proposals that are designed to  
15 identify and monitor system capacities for elements of the built  
16 environment, and to the extent appropriate, of the natural environment;

17 (c) Programs to improve the efficiency and effectiveness of the  
18 permitting process by greater reliance on integrated plans;

19 (d) Programs for effective citizen and neighborhood involvement  
20 that contribute to greater certainty that planning decisions will be  
21 implemented; and

22 (e) Plans that identify environmental impacts and establish  
23 mitigation measures that provide effective means to satisfy concurrency  
24 requirements and establish project consistency with the plans.

25 (5) If the local funding includes funding provided by other state  
26 functional planning programs, including open space planning and  
27 watershed or basin planning, the functional plan shall be integrated  
28 into and be consistent with the comprehensive plan.

29 NEW SECTION. **Sec. 117.** During the 1995-1997 biennium, funding for  
30 the growth management planning and environmental review fund shall be  
31 provided by:

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

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

35 **PART II - STATE ENVIRONMENTAL POLICY ACT**

36 NEW SECTION. **Sec. 201.** (1) The legislature finds in adopting

1 section 202 of this act that:

2 (a) Comprehensive plans and development regulations adopted by  
3 counties, cities, and towns under chapter 36.70A RCW and environmental  
4 laws and rules adopted by the state and federal government have  
5 addressed a wide range of environmental subjects and impacts. These  
6 plans, regulations, rules, and laws often provide environmental  
7 analysis and mitigation measures for project actions without the need  
8 for an environmental impact statement or further project mitigation.

9 (b) Existing plans, regulations, rules, or laws provide  
10 environmental analysis and measures that avoid or otherwise mitigate  
11 the probable specific adverse environmental impacts of proposed  
12 projects should be integrated with, and should not be duplicated by,  
13 environmental review under chapter 43.21C RCW.

14 (c) Proposed projects should continue to receive environmental  
15 review, which should be conducted in a manner that is integrated with  
16 and does not duplicate other requirements.

17 (2) The legislature intends that a primary role of environmental  
18 review under chapter 43.21C RCW is to focus on the gaps and overlaps  
19 that may exist in applicable laws and requirements related to a  
20 proposed action. The review of project actions conducted by counties,  
21 cities, and towns planning under RCW 36.70A.040 should integrate  
22 environmental review with project review. Chapter 43.21C RCW should  
23 not be used as a substitute for other land use planning and  
24 environmental requirements.

25 NEW SECTION. **Sec. 202.** A new section is added to chapter 43.21C  
26 RCW to read as follows:

27 (1) If the requirements of subsection (2) of this section are  
28 satisfied, a county, city, or town reviewing a project action may  
29 determine that the requirements for environmental analysis, protection,  
30 and mitigation measures in the county, city, or town's development  
31 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
32 and in other applicable local, state, or federal laws and rules provide  
33 adequate analysis of and mitigation for the specific adverse  
34 environmental impacts of the project action to which the requirements  
35 apply.

36 (2) A county, city, or town may make the determination provided for  
37 in subsection (1) of this section if:

38 (a) In the course of project review, including any required



1 environmental analysis, the local government considers the specific  
2 probable adverse environmental impacts of the proposed action and  
3 determines that these specific impacts are adequately addressed by the  
4 development regulations or other applicable requirements of the  
5 comprehensive plan, subarea plan element of the comprehensive plan, or  
6 other local, state, or federal rules or laws; and

7 (b) The local government bases or conditions its approval on  
8 compliance with these requirements or mitigation measures.

9 (3) If a county, city, or town's comprehensive plans, subarea  
10 plans, and development regulations adequately address a project's  
11 probable specific adverse environmental impacts, as determined under  
12 subsections (1) and (2) of this section, the county, city, or town  
13 shall not impose additional mitigation under this chapter during  
14 project review. Project review shall be integrated with environmental  
15 analysis under this chapter.

16 (4) A comprehensive plan, subarea plan, or development regulation  
17 shall be considered to adequately address an impact if the county,  
18 city, or town, through the planning and environmental review process  
19 under chapter 36.70A RCW and this chapter, has identified the specific  
20 adverse environmental impacts and:

21 (a) The impacts have been avoided or otherwise mitigated; or

22 (b) The legislative body of the county, city, or town has  
23 designated as acceptable certain levels of service, land use  
24 designations, development standards, or other land use planning  
25 required or allowed by chapter 36.70A RCW.

26 (5) In deciding whether a specific adverse environmental impact has  
27 been addressed by an existing rule or law of another agency with  
28 jurisdiction with environmental expertise with regard to a specific  
29 environmental impact, the county, city, or town shall consult orally  
30 or in writing with that agency and may expressly defer to that agency.  
31 In making this deferral, the county, city, or town shall base or  
32 condition its project approval on compliance with these other existing  
33 rules or laws.

34 (6) Nothing in this section limits the authority of an agency in  
35 its review or mitigation of a project to adopt or otherwise rely on  
36 environmental analyses and requirements under other laws, as provided  
37 by this chapter.

38 (7) This section shall apply only to a county, city, or town  
39 planning under RCW 36.70A.040.

1       **Sec. 203.** RCW 43.21C.031 and 1983 c 117 s 1 are each amended to  
2 read as follows:

3       (1) An environmental impact statement (the detailed statement  
4 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for  
5 legislation and other major actions having a probable significant,  
6 adverse environmental impact. The environmental impact statement may  
7 be combined with the recommendation or report on the proposal or issued  
8 as a separate document. The substantive decisions or recommendations  
9 shall be clearly identifiable and easy to find. Actions categorically  
10 exempt under RCW 43.21C.110(1)(a) do not require environmental review  
11 or the preparation of an environmental impact statement under this  
12 chapter. In a county, city, or town planning under RCW 36.70A.040, a  
13 planned action, as provided for in subsection (2) of this section, does  
14 not require a threshold determination or the preparation of an  
15 environmental impact statement under this chapter, but is subject to  
16 environmental review and mitigation as provided in this chapter.

17       An environmental impact statement is required to analyze only those  
18 probable adverse environmental impacts which are significant.  
19 Beneficial environmental impacts may be discussed. The responsible  
20 official shall consult with agencies and the public to identify such  
21 impacts and limit the scope of an environmental impact statement. The  
22 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate  
23 sections of an environmental impact statement. Discussions of  
24 significant short-term and long-term environmental impacts, significant  
25 irrevocable commitments of natural resources, significant alternatives  
26 including mitigation measures, and significant environmental impacts  
27 which cannot be mitigated should be consolidated or included, as  
28 applicable, in those sections of an environmental impact statement  
29 where the responsible official decides they logically belong.

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

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

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

39       (iii) Are subsequent or implementing projects for the proposals

1 listed in (a)(ii) of this subsection;

2 (iv) Are located within an urban growth area, as defined in RCW  
3 36.70A.030;

4 (v) Are not essential public facilities, as defined in RCW  
5 36.70A.200; and

6 (vi) Are consistent with a comprehensive plan adopted under chapter  
7 36.70A RCW.

8 (b) A county, city, or town shall limit planned actions to certain  
9 types of development or to specific geographical areas that are less  
10 extensive than the jurisdictional boundaries of the county, city, or  
11 town and may limit a planned action to a time period identified in the  
12 environmental impact statement or the ordinance or resolution adopted  
13 under this subsection.

14 **Sec. 204.** RCW 43.21C.075 and 1994 c 253 s 4 are each amended to  
15 read as follows:

16 (1) Because a major purpose of this chapter is to combine  
17 environmental considerations with public decisions, any appeal brought  
18 under this chapter shall be linked to a specific governmental action.  
19 The State Environmental Policy Act provides a basis for challenging  
20 whether governmental action is in compliance with the substantive and  
21 procedural provisions of this chapter. The State Environmental Policy  
22 Act is not intended to create a cause of action unrelated to a specific  
23 governmental action.

24 (2) Unless otherwise provided by this section:

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

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

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

32 (a) Shall not allow more than one agency appeal proceeding on a  
33 procedural determination (the adequacy of a determination of  
34 significance/nonsignificance or of a final environmental impact  
35 statement)(~~(, consistent with any state statutory requirements for~~  
36 ~~appeals to local legislative bodies)).~~ The appeal proceeding on a  
37 determination of significance/nonsignificance may occur before the  
38 agency's final decision on a proposed action. Such an appeal shall

1 also be allowed for a determination of significance/nonsignificance  
2 which may be issued by the agency after supplemental review;

3 (b) Shall consolidate an appeal of procedural issues and of  
4 substantive determinations made under this chapter (such as a decision  
5 to require particular mitigation measures or to deny a proposal) with  
6 a hearing or appeal on the underlying governmental action by providing  
7 for a single simultaneous ((~~appeal of an~~)) hearing before one hearing  
8 officer or body to consider the agency decision on a proposal and any  
9 environmental determinations made under this chapter, with the  
10 exception of the ((~~threshold determination~~)) appeal, if any, of a  
11 determination of significance as provided in (a) of this subsection or  
12 an appeal to the local legislative authority under RCW 43.21C.060 or  
13 other applicable state statutes;

14 (c) Shall provide for the preparation of a record for use in any  
15 subsequent appeal proceedings, and shall provide for any subsequent  
16 appeal proceedings to be conducted on the record, consistent with other  
17 applicable law. An adequate record consists of findings and  
18 conclusions, testimony under oath, and taped or written transcript. An  
19 electronically recorded transcript will suffice for purposes of review  
20 under this subsection; and

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

23 (4) If a person aggrieved by an agency action has the right to  
24 judicial appeal and if an agency has an appeal procedure, such person  
25 shall, prior to seeking any judicial review, use such agency procedure  
26 if any such procedure is available, unless expressly provided otherwise  
27 by state statute.

28 (5) ((~~RCW 43.21C.080 establishes an optional "notice of action"~~  
29 ~~procedure which, if used, imposes a time period for appealing decisions~~  
30 ~~under this chapter.~~)) Some statutes and ordinances contain time  
31 periods for challenging governmental actions which are subject to  
32 review under this chapter, such as various local land use approvals  
33 (the "underlying governmental action"). RCW 43.21C.080 establishes an  
34 optional "notice of action" procedure which, if used, imposes a time  
35 period for appealing decisions under this chapter. This ((~~section~~))  
36 subsection does not modify any such time periods. ((~~This section~~  
37 ~~governs when a judicial appeal must be brought under this chapter where~~  
38 ~~a "notice of action" is used, and/or where there is another time period~~  
39 ~~which is required by statute or ordinance for challenging the~~

1 ~~underlying governmental action.~~) In this subsection, the term "appeal"  
2 refers to a judicial appeal only.

3 (a) If there is a time period for appealing the underlying  
4 governmental action, appeals under this chapter shall be commenced  
5 within ~~((thirty days))~~ such time period. The agency shall give  
6 official notice stating the date and place for commencing an appeal.  
7 ~~((If there is an agency proceeding under subsection (3) of this~~  
8 ~~section, the appellant shall, prior to commencing a judicial appeal,~~  
9 ~~submit to the responsible official a notice of intent to commence a~~  
10 ~~judicial appeal. This notice of intent shall be given within the time~~  
11 ~~period for commencing a judicial appeal on the underlying governmental~~  
12 ~~action.))~~

13 (b) If there is no time period for appealing the underlying  
14 governmental action, and a notice of action under RCW 43.21C.080 ~~((may~~  
15 ~~be used. If a notice of action))~~ is used, ~~((judicial))~~ appeals shall  
16 be commenced within the time period specified by RCW 43.21C.080~~((~~  
17 ~~unless there is a time period for appealing the underlying governmental~~  
18 ~~action in which case (a) of this subsection shall apply.~~

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

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

26 (b) A taped or written transcript may be used. If a taped  
27 transcript is to be reviewed, a record shall identify the location on  
28 the taped transcript of testimony and evidence to be reviewed. Parties  
29 are encouraged to designate only those portions of the testimony  
30 necessary to present the issues raised on review, but if a party  
31 alleges that a finding of fact is not supported by evidence, the party  
32 should include in the record all evidence relevant to the disputed  
33 finding. Any other party may designate additional portions of the  
34 taped transcript relating to issues raised on review. A party may  
35 provide a written transcript of portions of the testimony at the  
36 party's own expense or apply to that court for an order requiring the  
37 party seeking review to pay for additional portions of the written  
38 transcript.

39 (c) Judicial review under this chapter shall without exception be

1 of the governmental action together with its accompanying environmental  
2 determinations.

3 (7) Jurisdiction over the review of determinations under this  
4 chapter in an appeal before an agency or superior court shall upon  
5 consent of the parties be transferred in whole or part to the  
6 shorelines hearings board. The shorelines hearings board shall hear  
7 the matter and sign the final order expeditiously. The superior court  
8 shall certify the final order of the shorelines hearings board and said  
9 certified final order may only be appealed to an appellate court. In  
10 the case of an appeal under this chapter regarding a project or other  
11 matter that is also the subject of an appeal to the shorelines hearings  
12 board under chapter 90.58 RCW, the shorelines hearings board shall have  
13 sole jurisdiction over both the appeal under this section and the  
14 appeal under chapter 90.58 RCW, shall consider them together, and shall  
15 issue a final order within one hundred eighty days as provided in RCW  
16 90.58.180.

17 (8) For purposes of this section and RCW 43.21C.080, the words  
18 "action", "decision", and "determination" mean substantive agency  
19 action including any accompanying procedural determinations under this  
20 chapter (except where the word "action" means "appeal" in RCW  
21 43.21C.080(2) (~~and (3)~~)). The word "action" in this section and RCW  
22 43.21C.080 does not mean a procedural determination by itself made  
23 under this chapter. The word "determination" includes any  
24 environmental document required by this chapter and state or local  
25 implementing rules. The word "agency" refers to any state or local  
26 unit of government. Except as provided in subsection (5) of this  
27 section, the word "appeal" refers to administrative, legislative, or  
28 judicial appeals.

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

34 **Sec. 205.** RCW 43.21C.080 and 1977 ex.s. c 278 s 1 are each amended  
35 to read as follows:

36 (1) Notice of any action taken by a governmental agency may be  
37 publicized by the acting governmental agency, the applicant for, or the  
38 proponent of such action, in substantially the form as set forth in

1 (~~subsection (3) of this section and in the following manner~~) rules  
2 adopted under RCW 43.21C.110:

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

6 (b) By filing notice of such action with the department of ecology  
7 at its main office in Olympia prior to the date of the last newspaper  
8 publication; and

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

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

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

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

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

1 require further environmental evaluation.

2 ~~((b) Any action to challenge a subsequent governmental action~~  
3 ~~based upon any provisions of this chapter shall be commenced within~~  
4 ~~thirty days from the date of last newspaper publication of the~~  
5 ~~subsequent governmental action except (i) for projects to be performed~~  
6 ~~by a governmental agency or to be performed under governmental~~  
7 ~~contract, or (ii) for thermal power plant projects which shall be~~  
8 ~~challenged within ninety days from the date of last newspaper~~  
9 ~~publication of the subsequent governmental action, or be barred.~~

10 ~~(3) The form for such notice of action shall be issued by the~~  
11 ~~department of ecology and shall be made available by the governmental~~  
12 ~~agency taking an action subject to being publicized pursuant to this~~  
13 ~~section, by the county auditor, and/or the city clerk to the project~~  
14 ~~applicant or proposer. The form of such notice shall be substantially~~  
15 ~~as follows:~~

16 NOTICE OF ACTION BY

17 ~~.....~~

18 ~~(Government agency or entity)~~

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

21 The ~~..... (Government agency or entity) did on~~  
22 ~~..... (date), take the action described below.~~

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

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

29 (1) ~~..... (Here insert description of action taken such~~  
30 ~~as: Adoption Ordinance No. ....; Issued Building Permit; Approved~~  
31 ~~preliminary (or final) plat, etc.)~~

32 (2) ~~..... (Here insert brief description of the~~  
33 ~~complete project or proposal.)~~

34 (3) Said action pertained to property commonly known as:  
35 ~~.....~~  
36 ~~.....~~



1 .....  
2 .....  
3 ~~(Sufficient description to locate property, but complete legal~~  
4 ~~description not required)~~  
5     ~~(4) Pertinent documents may be examined during regular business~~  
6 ~~hours at the office of: ..... located at:~~  
7 .....  
8 ~~(Location, including room number)~~  
9 .....  
10 ~~(Name of government agency, proponent, or applicant giving notice)~~  
11 Filed by .....  
12 ~~(Signature of individual and capacity in which such individual is~~  
13 ~~signing))~~

14     **Sec. 206.** RCW 43.21C.110 and 1983 c 117 s 7 are each amended to  
15 read as follows:

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

19     (1) To adopt and amend thereafter rules of interpretation and  
20 implementation of this chapter (~~((the state environmental policy act of~~  
21 ~~1971))~~), subject to the requirements of chapter 34.05 RCW, for the  
22 purpose of providing uniform rules and guidelines to all branches of  
23 government including state agencies, political subdivisions, public and  
24 municipal corporations, and counties. The proposed rules shall be  
25 subject to full public hearings requirements associated with rule  
26 promulgation. Suggestions for modifications of the proposed rules  
27 shall be considered on their merits, and the department shall have the  
28 authority and responsibility for full and appropriate independent  
29 promulgation and adoption of rules, assuring consistency with this  
30 chapter as amended and with the preservation of protections afforded by  
31 this chapter. The rule making powers authorized in this section shall  
32 include, but shall not be limited to, the following phases of  
33 interpretation and implementation of this chapter (~~((the state~~  
34 ~~environmental policy act of 1971))~~):

35     (a) Categories of governmental actions which are not to be  
36 considered as potential major actions significantly affecting the  
37 quality of the environment, including categories pertaining to  
38 applications for water right permits pursuant to chapters 90.03 and

1 90.44 RCW. The types of actions included as categorical exemptions in  
2 the rules shall be limited to those types which are not major actions  
3 significantly affecting the quality of the environment. The rules  
4 shall provide for certain circumstances where actions which potentially  
5 are categorically exempt require environmental review. An action that  
6 is categorically exempt under the rules adopted by the department may  
7 not be conditioned or denied under this chapter.

8 (b) Rules for criteria and procedures applicable to the  
9 determination of when an act of a branch of government is a major  
10 action significantly affecting the quality of the environment for which  
11 a detailed statement is required to be prepared pursuant to RCW  
12 43.21C.030.

13 (c) Rules and procedures applicable to the preparation of detailed  
14 statements and other environmental documents, including but not limited  
15 to rules for timing of environmental review, obtaining comments, data  
16 and other information, and providing for and determining areas of  
17 public participation which shall include the scope and review of draft  
18 environmental impact statements.

19 (d) Scope of coverage and contents of detailed statements assuring  
20 that such statements are simple, uniform, and as short as practicable;  
21 statements are required to analyze only reasonable alternatives and  
22 probable adverse environmental impacts which are significant, and may  
23 analyze beneficial impacts.

24 (e) Rules and procedures for public notification of actions taken  
25 and documents prepared.

26 (f) Definition of terms relevant to the implementation of this  
27 chapter including the establishment of a list of elements of the  
28 environment. Analysis of environmental considerations under RCW  
29 43.21C.030(2) may be required only for those subjects listed as  
30 elements of the environment (or portions thereof). The list of  
31 elements of the environment shall consist of the "natural" and "built"  
32 environment. The elements of the built environment shall consist of  
33 public services and utilities (such as water, sewer, schools, fire and  
34 police protection), transportation, environmental health (such as  
35 explosive materials and toxic waste), and land and shoreline use  
36 (including housing, and a description of the relationships with land  
37 use and shoreline plans and designations, including population).

38 (g) Rules for determining the obligations and powers under this  
39 chapter of two or more branches of government involved in the same

1 project significantly affecting the quality of the environment.

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

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

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

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

13 (l) Rules relating to the use of environmental documents in  
14 planning and decision making and the implementation of the substantive  
15 policies and requirements of this chapter, including procedures for  
16 appeals under this chapter.

17 (m) Rules and procedures that provide for the integration of  
18 environmental review with project review as provided in section 202 of  
19 this act. The rules and procedures shall be jointly developed with the  
20 department of community, trade, and economic development and shall be  
21 applicable to the preparation of environmental documents for actions in  
22 counties, cities, and towns planning under RCW 36.70A.040. The rules  
23 and procedures shall also include criteria to analyze the consistency  
24 of project actions, including planned actions under RCW 43.21C.031(2),  
25 with development regulations adopted under chapter 36.70A RCW, or in  
26 the absence of applicable development regulations, the appropriate  
27 elements of a comprehensive plan or subarea plan adopted under chapter  
28 36.70A RCW. Ordinances or procedures adopted by a county, city, or  
29 town to implement the provisions of section 202 of this act prior to  
30 the effective date of rules adopted under this subsection (1)(m) shall  
31 continue to be effective until the adoption of any new or revised  
32 ordinances or procedures that may be required. If any revisions are  
33 required as a result of rules adopted under this subsection (1)(m),  
34 those revisions shall be made within the time limits specified in RCW  
35 43.21C.120.

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

38 (a) Consult with the state agencies and with representatives of  
39 science, industry, agriculture, labor, conservation organizations,

1 state and local governments and other groups, as it deems advisable;  
2 and

3 (b) Utilize, to the fullest extent possible, the services,  
4 facilities, and information (including statistical information) of  
5 public and private agencies, organizations, and individuals, in order  
6 to avoid duplication of effort and expense, overlap, or conflict with  
7 similar activities authorized by law and performed by established  
8 agencies.

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

11 **Sec. 207.** RCW 43.21C.900 and 1971 ex.s. c 109 s 7 are each amended  
12 to read as follows:

13 This chapter shall be known and may be cited as the "State  
14 Environmental Policy Act (~~(of 1971)~~)" or "SEPA".

15 **PART III - SHORELINE MANAGEMENT ACT**

16 **Sec. 301.** RCW 90.58.020 and 1992 c 105 s 1 are each amended to  
17 read as follows:

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

36 It is the policy of the state to provide for the management of the

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

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

16 (1) Recognize and protect the state-wide interest over local  
17 interest;

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

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

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

21 (5) Increase public access to publicly owned areas of the  
22 shorelines;

23 (6) Increase recreational opportunities for the public in the  
24 shoreline;

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

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

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

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

18 **Sec. 302.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to  
19 read as follows:

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

22 (1) Administration:

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

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

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

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

32 (e) "Hearing board" means the shoreline hearings board established  
33 by this chapter.

34 (2) Geographical:

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

37 (b) "Ordinary high water mark" on all lakes, streams, and tidal  
38 water is that mark that will be found by examining the bed and banks

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

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

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

21 (e) "Shorelines of state-wide significance" means the following  
22 shorelines of the state:

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

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

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

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

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

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

33 and

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

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

38 (iv) Those lakes, whether natural, artificial, or a combination  
39 thereof, with a surface acreage of one thousand acres or more measured

1 at the ordinary high water mark;

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

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

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

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

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

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

35 (h) "Wetlands" means areas that are inundated or saturated by  
36 surface water or ground water at a frequency and duration sufficient to  
37 support, and that under normal circumstances do support, a prevalence  
38 of vegetation typically adapted for life in saturated soil conditions.  
39 Wetlands generally include swamps, marshes, bogs, and similar areas.



1 Wetlands do not include those artificial wetlands intentionally created  
2 from nonwetland sites, including, but not limited to, irrigation and  
3 drainage ditches, grass-lined swales, canals, detention facilities,  
4 wastewater treatment facilities, farm ponds, and landscape amenities.  
5 Wetlands may include those artificial wetlands intentionally created  
6 from nonwetland areas to mitigate the conversion of wetlands.

7 (3) Procedural terms:

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

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

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

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

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

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

35 (ii) Construction of the normal protective bulkhead common to  
36 single family residences;

37 (iii) Emergency construction necessary to protect property from  
38 damage by the elements;

39 (iv) Construction and practices normal or necessary for farming,

1 irrigation, and ranching activities, including agricultural service  
2 roads and utilities on ((wetlands)) shorelands, and the construction  
3 and maintenance of irrigation structures including but not limited to  
4 head gates, pumping facilities, and irrigation channels(~~(:—PROVIDED,~~  
5 ~~That)~~). A feedlot of any size, all processing plants, other activities  
6 of a commercial nature, alteration of the contour of the ((wetlands))  
7 shorelands by leveling or filling other than that which results from  
8 normal cultivation, shall not be considered normal or necessary farming  
9 or ranching activities. A feedlot shall be an enclosure or facility  
10 used or capable of being used for feeding livestock hay, grain, silage,  
11 or other livestock feed, but shall not include land for growing crops  
12 or vegetation for livestock feeding and/or grazing, nor shall it  
13 include normal livestock wintering operations;

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

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

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

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

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

37 (x) Operation and maintenance of any system of dikes, ditches,  
38 drains, or other facilities existing on September 8, 1975, which were  
39 created, developed, or utilized primarily as a part of an agricultural

1 drainage or diking system((+

2 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~  
3 ~~(A) the restoration of interim transportation services as may be~~  
4 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~  
5 ~~including, but not limited to, improvements to highways, development of~~  
6 ~~park and ride facilities, and development of ferry terminal facilities~~  
7 ~~until a new or reconstructed Hood Canal bridge is open to traffic; and~~  
8 ~~(B) the reconstruction of a permanent bridge at the site of the~~  
9 ~~original Hood Canal bridge)).~~

10 **Sec. 303.** RCW 90.58.050 and 1971 ex.s. c 286 s 5 are each amended  
11 to read as follows:

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

20 **Sec. 304.** RCW 90.58.060 and 1971 ex.s. c 286 s 6 are each amended  
21 to read as follows:

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

26 (a) Development of master programs for regulation of the uses of  
27 shorelines; and

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

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

33 (a) The department shall mail copies of the proposal to all cities,  
34 counties, and federally recognized Indian tribes, and to any other  
35 person who has requested a copy, and shall publish the proposed  
36 guidelines in the Washington state register. Comments shall be  
37 submitted in writing to the department within sixty days from ((receipt

1 of such proposed guidelines, local governments shall submit to the  
2 department in writing proposed changes, if any, and comments upon the  
3 proposed guidelines.

4 ~~(3) Thereafter and within one hundred twenty days from the~~  
5 ~~submission of such proposed guidelines to local governments, the~~  
6 ~~department, after review and consideration of the comments and~~  
7 ~~suggestions submitted to it, shall resubmit final proposed guidelines.~~

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

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

25 (c) At the conclusion of the public comment period, the department  
26 shall review the comments received and modify the proposal consistent  
27 with the provisions of this chapter. The proposal shall then be  
28 published for adoption pursuant to the provisions of chapter 34.05 RCW.

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

35 **Sec. 305.** RCW 90.58.080 and 1974 ex.s. c 61 s 1 are each amended  
36 to read as follows:

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

1       ~~(1) To complete within eighteen months after June 1, 1971, a~~  
2 ~~comprehensive inventory of such shorelines. Such inventory shall~~  
3 ~~include but not be limited to the general ownership patterns of the~~  
4 ~~lands located therein in terms of public and private ownership, a~~  
5 ~~survey of the general natural characteristics thereof, present uses~~  
6 ~~conducted therein and initial projected uses thereof;~~

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

12       **Sec. 306.** RCW 90.58.090 and 1971 ex.s. c 286 s 9 are each amended  
13 to read as follows:

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

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

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

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

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

38       (d) Within thirty days after receipt of the local government

1 response pursuant to (c) of this subsection, make written findings and  
2 conclusions regarding the consistency of the proposal with the policy  
3 of RCW 90.58.020 and the applicable guidelines, provide a response to  
4 the issues identified in (c) of this subsection, and either approve the  
5 proposal as submitted, recommend specific changes necessary to make the  
6 proposal approvable, or deny approval of the proposal in those  
7 instances where no alteration of the proposal appears likely to be  
8 consistent with the policy of RCW 90.58.020 and the applicable  
9 guidelines. The written findings and conclusions shall be provided to  
10 the local government, all interested persons, parties, groups, and  
11 agencies of record on the proposal;

12 (e) If the department recommends changes to the proposed master  
13 program or amendment, within thirty days after the department mails the  
14 written findings and conclusions to the local government, the local  
15 government may:

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

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

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

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

1 ~~resubmit the program to the department for approval. Any resubmitted~~  
2 ~~program shall take effect when and in such form and content as is~~  
3 ~~approved by the department.~~

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

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

29 Upon approval of such master program by the department it shall  
30 supersede such master program as may have been adopted by the  
31 department for such shorelines.

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

38 **Sec. 307.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to

1 read as follows:

2 (1) The master programs provided for in this chapter, when adopted  
3 ((and)) or approved by the department(~~(, as appropriate,)~~) shall  
4 constitute use regulations for the various shorelines of the state. In  
5 preparing the master programs, and any amendments thereto, the  
6 department and local governments shall to the extent feasible:

7 (a) Utilize a systematic interdisciplinary approach which will  
8 insure the integrated use of the natural and social sciences and the  
9 environmental design arts;

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

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

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

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

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

24 (2) The master programs shall include, when appropriate, the  
25 following:

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

30 (b) A public access element making provision for public access to  
31 publicly owned areas;

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

35 (d) A circulation element consisting of the general location and  
36 extent of existing and proposed major thoroughfares, transportation  
37 routes, terminals, and other public utilities and facilities, all  
38 correlated with the shoreline use element;

39 (e) A use element which considers the proposed general distribution



1 and general location and extent of the use on shorelines and adjacent  
2 land areas for housing, business, industry, transportation,  
3 agriculture, natural resources, recreation, education, public buildings  
4 and grounds, and other categories of public and private uses of the  
5 land;

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

9 (g) An historic, cultural, scientific, and educational element for  
10 the protection and restoration of buildings, sites, and areas having  
11 historic, cultural, scientific, or educational values;

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

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

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

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

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

33 (6) Each master program shall contain standards governing the  
34 protection of single family residences and appurtenant structures  
35 against damage or loss due to shoreline erosion. The standards shall  
36 govern the issuance of substantial development permits for shoreline  
37 protection, including structural methods such as construction of  
38 bulkheads, and nonstructural methods of protection. The standards  
39 shall provide for methods which achieve effective and timely protection

1 against loss or damage to single family residences and appurtenant  
2 structures due to shoreline erosion. The standards shall provide a  
3 preference for permit issuance for measures to protect single family  
4 residences occupied prior to January 1, 1992, where the proposed  
5 measure is designed to minimize harm to the shoreline natural  
6 environment.

7 **Sec. 308.** RCW 90.58.120 and 1989 c 175 s 182 are each amended to  
8 read as follows:

9 All rules, regulations, (~~master programs,~~) designations, and  
10 guidelines, issued by the department, and master programs and  
11 amendments adopted by the department pursuant to RCW 90.58.070(2) or  
12 90.58.090(4) shall be adopted or approved in accordance with the  
13 provisions of RCW 34.05.310 through 34.05.395 insofar as such  
14 provisions are not inconsistent with the provisions of this chapter.  
15 In addition:

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

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

30 **Sec. 309.** RCW 90.58.140 and 1992 c 105 s 3 are each amended to  
31 read as follows:

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

36 (2) A substantial development shall not be undertaken on shorelines  
37 of the state without first obtaining a permit from the government

1 entity having administrative jurisdiction under this chapter.

2 A permit shall be granted:

3 (a) From June 1, 1971, until such time as an applicable master  
4 program has become effective, only when the development proposed is  
5 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their  
6 adoption, the guidelines and rules of the department; and (iii) so far  
7 as can be ascertained, the master program being developed for the area;

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

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

17 (4) Except as otherwise specifically provided in subsection  
18 ~~((+13))~~ (11) of this section, the local government shall require  
19 notification of the public of all applications for permits governed by  
20 any permit system established pursuant to subsection (3) of this  
21 section by ensuring that~~((:~~

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

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

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

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

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

37 The notices shall include a statement that any person desiring to  
38 submit written comments concerning an application, or desiring to  
39 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision

1 concerning an application as expeditiously as possible after the  
2 issuance of the ~~((order))~~ decision, may submit the comments or requests  
3 for ~~((orders))~~ decisions to the local government within thirty days of  
4 the last date the notice is to be published pursuant to ~~((subsection~~  
5 ~~(a) of))~~ this subsection. The local government shall forward, in a  
6 timely manner following the issuance of ~~((an order))~~ a decision, a copy  
7 of the ~~((order))~~ decision to each person who submits a request for the  
8 ~~((order))~~ decision.

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

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

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

24 (b) Construction may be commenced no sooner than thirty days after  
25 the date of the appeal of the board's decision is filed if a permit is  
26 granted by the local government and (i) the granting of the permit is  
27 appealed to the shorelines hearings board within ~~((thirty))~~ twenty-one  
28 days of the date of filing, (ii) the hearings board approves the  
29 granting of the permit by the local government or approves a portion of  
30 the substantial development for which the local government issued the  
31 permit, and (iii) an appeal for judicial review of the hearings board  
32 decision is filed pursuant to chapter 34.05 RCW~~((, the permittee))~~.  
33 The appellant may request, within ten days of the filing of the appeal  
34 with the court, a hearing before the court to determine whether  
35 construction ~~((may begin))~~ pursuant to the permit approved by the  
36 hearings board or to a revised permit issued pursuant to the order of  
37 the hearings board should not commence. If, at the conclusion of the  
38 hearing, the court finds that construction pursuant to such a permit  
39 would ~~((not))~~ involve a significant, irreversible damaging of the

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

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

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

33 If a permittee begins construction pursuant to subsections (a),  
34 (b), or (c) (~~(, or (d))~~) of this subsection, the construction is begun  
35 at the permittee's own risk. If, as a result of judicial review, the  
36 courts order the removal of any portion of the construction or the  
37 restoration of any portion of the environment involved or require the  
38 alteration of any portion of a substantial development constructed  
39 pursuant to a permit, the permittee is barred from recovering damages

1 or costs involved in adhering to such requirements from the local  
2 government that granted the permit, the hearings board, or any  
3 appellant or intervener.

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

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

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

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

38 (~~(10) ((A permit shall not be required for any development on  
39 shorelines of the state included within a preliminary or final plat~~

1 approved by the applicable state agency or local government before  
2 April 1, 1971, if:

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

5 (b) The development is completed within two years after June 1,  
6 1971.

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

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

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

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

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

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

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

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

39 (ii) Will serve an existing use in compliance with this chapter;

1 and

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

4 **Sec. 310.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to  
5 read as follows:

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

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

38 (2) The department or the attorney general may obtain review of any



1 final (~~order~~) decision granting a permit, or granting or denying an  
2 application for a permit issued by a local government by filing a  
3 written (~~request~~) petition with the shorelines hearings board and the  
4 appropriate local government within (~~thirty~~) twenty-one days from the  
5 date the final (~~order~~) decision was filed as provided in RCW  
6 90.58.140(6).

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

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

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

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

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

29 (c) Is arbitrary and capricious; or

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

33 (e) Was not adopted in accordance with required procedures(~~+~~).

34 (6) If the board makes a determination under subsection (5) (a)  
35 through (e) of this section, it shall enter a final decision declaring  
36 the rule, regulation, or guideline invalid, remanding the rule,  
37 regulation, or guideline to the department with a statement of the  
38 reasons in support of the determination, and directing the department  
39 to adopt, after a thorough consultation with the affected local

1 government and any other interested party, a new rule, regulation, or  
2 guideline consistent with the board's decision. (~~Unless the board~~  
3 ~~makes one or more of the determinations as hereinbefore provided, the~~  
4 ~~board shall find the rule, regulation, or guideline to be valid and~~  
5 ~~enter a final decision to that effect.~~

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

16 **Sec. 311.** RCW 90.58.190 and 1989 c 175 s 184 are each amended to  
17 read as follows:

18 (1) (~~The department and each local government shall periodically~~  
19 ~~review any master programs under its jurisdiction and make such~~  
20 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~  
21 ~~local government to its master program shall be forwarded to the~~  
22 ~~department for review. The department shall approve, reject, or~~  
23 ~~propose modification to the adjustment. If the department either~~  
24 ~~rejects or proposes modification to the master program adjustment, it~~  
25 ~~shall provide substantive written comments as to why the proposal is~~  
26 ~~being rejected or modified.)) The appeal of the department s decision  
27 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or  
28 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.~~

29 (2)(a) The department's decision to approve, reject, or modify a  
30 proposed master program or amendment adopted by a local government  
31 planning under RCW 36.70A.040 shall be appealed to the growth  
32 management hearings board with jurisdiction over the local government.  
33 The appeal shall be initiated by filing a petition as provided in RCW  
34 36.70A.250 through 36.70A.320.

35 (b) If the appeal to the growth management hearings board concerns  
36 shorelines, the growth management hearings board shall review the  
37 proposed master program or amendment for compliance with the  
38 requirements of this chapter and chapter 36.70A RCW, the policy of RCW

1 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it  
2 relates to the adoption of master programs and amendments under chapter  
3 90.58 RCW.

4 (c) If the appeal to the growth management hearings board concerns  
5 a shoreline of state-wide significance, the board shall uphold the  
6 decision by the department unless the board, by clear and convincing  
7 evidence, determines that the decision of the department is  
8 inconsistent with the policy of RCW 90.58.020 and the applicable  
9 guidelines.

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

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

15 ~~((Any local government aggrieved by))~~ (3)(a) The department's  
16 decision to approve, reject, or modify a proposed master program or  
17 master program ((adjustment may appeal the department's decision))  
18 amendment by a local government not planning under RCW 36.70A.040 shall  
19 be appealed to the shorelines hearings board by filing a petition  
20 within thirty days of the date of the department s written notice to  
21 the local government of the department s decision to approve, reject,  
22 or modify a proposed master program or master program amendment as  
23 provided in RCW 90.58.090(2).

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

31 (c) In an appeal relating to shorelines of state-wide significance,  
32 the shorelines hearings board shall uphold the decision by the  
33 department unless ((a local government shall)) the board determines, by  
34 clear and convincing evidence ((and argument, persuade the board)) that  
35 the decision of the department is inconsistent with the policy of RCW  
36 90.58.020 and the applicable guidelines.

37 (d) Review by the shorelines hearings board shall be considered an  
38 adjudicative proceeding under chapter 34.05 RCW, the Administrative  
39 Procedure Act. The aggrieved local government shall have the burden of

1 proof in all such reviews.

2 (e) Whenever possible, the review by the shorelines hearings board  
3 shall be heard within the county where the land subject to the proposed  
4 master program or master program (~~(adjustment)~~) amendment is primarily  
5 located. The department and any local government aggrieved by a final  
6 decision of the hearings board may appeal the decision to (~~(the)~~)  
7 superior court (~~(of Thurston county)~~) as provided in chapter 34.05 RCW.

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

15 **Sec. 312.** RCW 34.05.461 and 1989 c 175 s 19 are each amended to  
16 read as follows:

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

18 (a) If the presiding officer is the agency head or one or more  
19 members of the agency head, the presiding officer may enter an initial  
20 order if further review is available within the agency, or a final  
21 order if further review is not available;

22 (b) If the presiding officer is a person designated by the agency  
23 to make the final decision and enter the final order, the presiding  
24 officer shall enter a final order; and

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

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

33 (3) Initial and final orders shall include a statement of findings  
34 and conclusions, and the reasons and basis therefor, on all the  
35 material issues of fact, law, or discretion presented on the record,  
36 including the remedy or sanction and, if applicable, the action taken  
37 on a petition for a stay of effectiveness. Any findings based  
38 substantially on credibility of evidence or demeanor of witnesses shall

1 be so identified. Findings set forth in language that is essentially  
2 a repetition or paraphrase of the relevant provision of law shall be  
3 accompanied by a concise and explicit statement of the underlying  
4 evidence of record to support the findings. The order shall also  
5 include a statement of the available procedures and time limits for  
6 seeking reconsideration or other administrative relief. An initial  
7 order shall include a statement of any circumstances under which the  
8 initial order, without further notice, may become a final order.

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

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

22 (6) If a person serving or designated to serve as presiding officer  
23 becomes unavailable for any reason before entry of the order, a  
24 substitute presiding officer shall be appointed as provided in RCW  
25 34.05.425. The substitute presiding officer shall use any existing  
26 record and may conduct any further proceedings appropriate in the  
27 interests of justice.

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

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

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

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

1 NEW SECTION. **Sec. 313.** RCW 90.58.145 and 1979 ex.s. c 84 s 4 are  
2 each repealed.

3 **PART IV - LOCAL PERMIT PROCESS**

4 NEW SECTION. **Sec. 401.** The legislature finds and declares the  
5 following:

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

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

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

19 NEW SECTION. **Sec. 402.** Unless the context clearly requires  
20 otherwise, the definitions in this section apply throughout this  
21 chapter.

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

27 (2) "Local government" means a county, city, or town.

28 (3) "Open record hearing" means a hearing, conducted by a single  
29 hearing body or officer authorized by the local government to conduct  
30 such hearings, that creates the local government's record through  
31 testimony and submission of evidence and information, under procedures  
32 prescribed by the local government by ordinance or resolution. An open  
33 record hearing may be held prior to a local government's decision on a  
34 project permit to be known as an "open record predecision hearing." An  
35 open record hearing may be held on an appeal, to be known as an "open  
36 record appeal hearing," if no open record predecision hearing has been

1 held on the project permit.

2 (4) "Project permit" or "project permit application" means any land  
3 use or environmental permit or license required from a local government  
4 for a project action, including but not limited to building permits,  
5 subdivisions, binding site plans, planned unit developments,  
6 conditional uses, shoreline substantial development permits, site plan  
7 review, permits or approvals required by critical area ordinances,  
8 site-specific rezones authorized by a comprehensive plan or subarea  
9 plan, but excluding the adoption or amendment of a comprehensive plan,  
10 subarea plan, or development regulations except as otherwise  
11 specifically included in this subsection.

12 (5) "Public meeting" means an informal meeting, hearing, workshop,  
13 or other public gathering of people to obtain comments from the public  
14 or other agencies on a proposed project permit prior to the local  
15 government s decision. A public meeting may include, but is not  
16 limited to, a design review or architectural control board meeting, a  
17 special review district or community council meeting, or a scoping  
18 meeting on a draft environmental impact statement. A public meeting  
19 does not include an open record hearing. The proceedings at a public  
20 meeting may be recorded and a report or recommendation may be included  
21 in the local government s project permit application file.

22 NEW SECTION. **Sec. 403.** In enacting sections 404 and 405 of this  
23 act, the legislature intends to establish a mechanism for implementing  
24 the provisions of chapter 36.70A RCW regarding compliance, conformity,  
25 and consistency of proposed projects with adopted comprehensive plans  
26 and development regulations. In order to achieve this purpose the  
27 legislature finds that:

28 (1) Given the extensive investment that public agencies and a broad  
29 spectrum of the public are making and will continue to make in  
30 comprehensive plans and development regulations for their communities,  
31 it is essential that project review start from the fundamental land use  
32 planning choices made in these plans and regulations. If the  
33 applicable regulations or plans identify the type of land use, specify  
34 residential density in urban growth areas, and identify and provide for  
35 funding of public facilities needed to serve the proposed development  
36 and site, these decisions at a minimum provide the foundation for  
37 further project review unless there is a question of code  
38 interpretation. The project review process, including the

1 environmental review process under chapter 43.21C RCW and the  
2 consideration of consistency, should start from this point and should  
3 not reanalyze these land use planning decisions in making a permit  
4 decision.

5 (2) Comprehensive plans and development regulations adopted by  
6 local governments under chapter 36.70A RCW and environmental laws and  
7 rules adopted by the state and federal government have addressed a wide  
8 range of environmental subjects and impacts. These provisions typically  
9 require environmental studies and contain specific standards to address  
10 various impacts associated with a proposed development, such as  
11 building size and location, drainage, transportation requirements, and  
12 protection of critical areas. When a permitting agency applies these  
13 existing requirements to a proposed project, some or all of a project's  
14 potential environmental impacts will be avoided or otherwise mitigated.  
15 Through the integrated project review process described in subsection  
16 (1) of this section, the local government will determine whether  
17 existing requirements, including the applicable regulations or plans,  
18 adequately analyze and address a project's environmental impacts.  
19 Section 202 of this act provides that project review should not require  
20 additional studies or mitigation under chapter 43.21C RCW where  
21 existing regulations have adequately addressed a proposed project's  
22 probable specific adverse environmental impacts.

23 (3) Given the hundreds of jurisdictions and agencies in the state  
24 and the numerous communities and applicants affected by development  
25 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
26 it is essential to establish a uniform framework for considering the  
27 consistency of a proposed project with the applicable regulations or  
28 plan. Consistency should be determined in the project review process  
29 by considering four factors found in applicable regulations or plans:  
30 The type of land use allowed; the level of development allowed, such as  
31 units per acre or other measures of density; infrastructure, such as  
32 the adequacy of public facilities and services to serve the proposed  
33 project; and the character of the proposed development, such as  
34 compliance with specific development standards. This uniform approach  
35 corresponds to existing project review practices and will not place a  
36 burden on applicants or local government. The legislature intends that  
37 this approach should be largely a matter of checking compliance with  
38 existing requirements for most projects, which are simple or routine,  
39 while more complex projects may require more analysis. Sections 202



1 and 404 of this act establish this uniform framework and also direct  
2 state agencies to consult with local government and the public to  
3 develop a better format than the current environmental checklist to  
4 meet this objective.

5 (4) When an applicant applies for a project permit, consistency  
6 between the proposed project and applicable regulations or plan should  
7 be determined through a project review process that integrates land use  
8 and environmental impact analysis, so that governmental and public  
9 review of the proposed project as required by this chapter, by  
10 development regulations under chapter 36.70A RCW, and by the  
11 environmental process under chapter 43.21C RCW run concurrently and not  
12 separately.

13 (5) Sections 404 and 405 of this act address three related needs  
14 with respect to how the project review process should address  
15 consistency between a proposed project and the applicable regulations  
16 or plan:

17 (a) A uniform framework for the meaning of consistency;

18 (b) An emphasis on relying on existing requirements and adopted  
19 standards, with the use of supplemental authority as specified by  
20 chapter 43.21C RCW to the extent that existing requirements do not  
21 adequately address a project's specific probable adverse environmental  
22 impacts; and

23 (c) The identification of three basic land use planning choices  
24 made in applicable regulations or plans that, at a minimum, serve as a  
25 foundation for project review and that should not be reanalyzed during  
26 project permitting.

27 NEW SECTION. **Sec. 404.** (1) Fundamental land use planning choices  
28 made in adopted comprehensive plans and development regulations shall  
29 serve as the foundation for project review. The review of a proposed  
30 project's consistency with applicable development regulations, or in  
31 the absence of applicable regulations the adopted comprehensive plan,  
32 under section 405 of this act shall incorporate the determinations  
33 under this section.

34 (2) During project review, a local government or any subsequent  
35 reviewing body shall determine whether the items listed in this  
36 subsection are defined in the development regulations applicable to the  
37 proposed project or, in the absence of applicable regulations the  
38 adopted comprehensive plan. At a minimum, such applicable regulations

1 or plans shall be determinative of the:

2 (a) Type of land use permitted at the site, including uses that may  
3 be allowed under certain circumstances, such as planned unit  
4 developments and conditional and special uses, if the criteria for  
5 their approval have been satisfied;

6 (b) Density of residential development in urban growth areas; and

7 (c) Availability and adequacy of public facilities identified in  
8 the comprehensive plan, if the plan or development regulations provide  
9 for funding of these facilities as required by chapter 36.70A RCW.

10 (3) During project review, the local government or any subsequent  
11 reviewing body shall not reexamine alternatives to or hear appeals on  
12 the items identified in subsection (2) of this section, except for  
13 issues of code interpretation. As part of its project review process,  
14 a local government shall provide a procedure for obtaining a code  
15 interpretation as provided in section 415 of this act.

16 (4) Pursuant to section 202 of this act, a local government may  
17 determine that the requirements for environmental analysis and  
18 mitigation measures in development regulations and other applicable  
19 laws provide adequate mitigation for some or all of the project's  
20 specific adverse environmental impacts to which the requirements apply.

21 (5) Nothing in this section limits the authority of a permitting  
22 agency to approve, condition, or deny a project as provided in its  
23 development regulations adopted under chapter 36.70A RCW and in its  
24 policies adopted under RCW 43.21C.060. Project review shall be used to  
25 identify specific project design and conditions relating to the  
26 character of development, such as the details of site plans, curb cuts,  
27 drainage swales, transportation demand management, the payment of  
28 impact fees, or other measures to mitigate a proposal's probable  
29 adverse environmental impacts, if applicable.

30 NEW SECTION. Sec. 405. (1) A proposed project's consistency with  
31 a local government's development regulations adopted under chapter  
32 36.70A RCW, or, in the absence of applicable development regulations,  
33 the appropriate elements of the comprehensive plan or subarea plan  
34 adopted under chapter 36.70A RCW shall be determined by consideration  
35 of:

36 (a) The type of land use;

37 (b) The level of development, such as units per acre or other  
38 measures of density;

1 (c) Infrastructure, including public facilities and services needed  
2 to serve the development; and

3 (d) The character of the development, such as development  
4 standards.

5 (2) In determining consistency, the determinations made pursuant to  
6 section 404(2) of this act shall be controlling.

7 (3) For purposes of this section, the term "consistency" shall  
8 include all terms used in this chapter and chapter 36.70A RCW to refer  
9 to the performance in accordance with this chapter and chapter 36.70A  
10 RCW, including but not limited to compliance, conformity, and  
11 consistency.

12 (4) Nothing in this section requires documentation, dictates an  
13 agency's procedures for considering consistency, or limits a unit of  
14 government from asking more specific or related questions with respect  
15 to any of the four main categories listed in subsection (1) (a) through  
16 (d) of this section.

17 NEW SECTION. **Sec. 406.** Not later than March 31, 1996, each local  
18 government shall provide by ordinance or resolution for review of  
19 project permit applications to achieve the following objectives:

20 (1) Combine the environmental review process, both procedural and  
21 substantive, with the procedure for review of project permits; and

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

24 NEW SECTION. **Sec. 407.** Not later than March 31, 1996, each local  
25 government planning under RCW 36.70A.040 shall establish by ordinance  
26 or resolution an integrated and consolidated project permit process  
27 that may be included in its development regulations. In addition to  
28 the elements required by section 406 of this act, the process shall  
29 include the following elements:

30 (1) A determination of completeness to the applicant as required by  
31 RCW 36.70A.440 (as recodified by this act);

32 (2) A notice of application to the public and agencies with  
33 jurisdiction as required by section 415 of this act;

34 (3) Except as provided in section 418 of this act, an optional  
35 consolidated project permit review process as provided in section 416  
36 of this act. The review process shall provide for no more than one  
37 consolidated open record hearing and one closed record appeal. If an

1 open record predecision hearing is provided prior to the decision on a  
2 project permit, the process shall not allow a subsequent open record  
3 appeal hearing;

4 (4) Provision allowing for any public meeting or required open  
5 record hearing to be combined with any public meeting or open record  
6 hearing that may be held on the project by another local, state,  
7 regional, federal, or other agency, in accordance with provisions of  
8 sections 413 and 415 of this act;

9 (5) A single report stating all the decisions made as of the date  
10 of the report on all project permits included in the consolidated  
11 permit process that do not require an open record predecision hearing.  
12 The report shall state any mitigation required or proposed under the  
13 development regulations or the agency's authority under RCW 43.21C.060.  
14 The report may be the local permit. If a threshold determination other  
15 than a determination of significance has not been issued previously by  
16 the local government, the report shall include or append this  
17 determination.

18 (6) Except for the appeal of a determination of significance as  
19 provided in RCW 43.21C.075, if a local government elects to provide an  
20 appeal of its threshold determinations or project permit decisions, the  
21 local government shall provide for no more than one consolidated open  
22 record hearing on such appeal. The local government need not provide  
23 for any further appeal and may provide an appeal for some but not all  
24 project permit decisions. If an appeal is provided after the open  
25 record hearing, it shall be a closed record appeal before a single  
26 decision-making body or officer;

27 (7) A notice of decision as required by section 417 of this act and  
28 issued within the time period provided in RCW 36.70A.065 (as recodified  
29 by this act) and section 413 of this act;

30 (8) Completion of project review by the local government, including  
31 environmental review and public review and any appeals to the local  
32 government, within any applicable time periods under section 413 of  
33 this act; and

34 (9) Any other provisions not inconsistent with the requirements of  
35 this chapter or chapter 43.21C RCW.

36 **Sec. 408.** RCW 36.70A.440 and 1994 c 257 s 4 are each amended to  
37 read as follows:

38 (~~Each city and county~~) (1) Within twenty-eight days after

1 receiving a project permit application, a local government planning  
2 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~  
3 ~~receiving a development permit application as defined in RCW~~  
4 ~~36.70A.030(7),))~~ mail or provide in person a written ~~((notice))~~  
5 determination to the applicant, stating either:

6 (a) That the application is complete; or

7 (b) That the application is incomplete and what is necessary to  
8 make the application complete.

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

13 (2) A project permit application is complete for purposes of this  
14 section when it meets the procedural submission requirements of the  
15 local government and is sufficient for continued processing even though  
16 additional information may be required or project modifications may be  
17 undertaken subsequently. The determination of completeness shall not  
18 preclude the local government from requesting additional information or  
19 studies either at the time of the notice of completeness or  
20 subsequently if new information is required or substantial changes in  
21 the proposed action occur.

22 (3) The determination of completeness may include the following as  
23 optional information:

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

26 (b) A preliminary determination of consistency, as provided under  
27 section 405 of this act; or

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

29 (4)(a) An application shall be deemed complete under this section  
30 if the local government does not provide a written determination to the  
31 applicant that the application is incomplete as provided in subsection  
32 (1)(b) of this section.

33 (b) Within fourteen days after an applicant has submitted to a  
34 local government additional information identified by the local  
35 government as being necessary for a complete application, the local  
36 government shall notify the applicant whether the application is  
37 complete or what additional information is necessary.

38 **Sec. 409.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to

1 read as follows:

2 Development regulations adopted pursuant to RCW 36.70A.040 shall  
3 establish time periods consistent with section 413 of this act for  
4 local government actions on specific ((development)) project permit  
5 applications and provide timely and predictable procedures to determine  
6 whether a completed ((development)) project permit application meets  
7 the requirements of those development regulations. Such development  
8 regulations shall specify the contents of a completed ((development))  
9 project permit application necessary for the application of such time  
10 periods and procedures.

11 **Sec. 410.** 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 for local government actions on specific  
15 ((development)) project permit applications and provide timely and  
16 predictable procedures to determine whether a completed ((development))  
17 project permit application meets the requirements of those development  
18 regulations. Such development regulations shall specify the contents  
19 of a completed ((development)) project permit application necessary for  
20 the application of such time periods and procedures.

21 NEW SECTION. **Sec. 411.** The amendments to RCW 36.70A.065 contained  
22 in section 409 of this act shall expire July 1, 1998.

23 NEW SECTION. **Sec. 412.** Section 410 of this act shall take effect  
24 July 1, 1998.

25 NEW SECTION. **Sec. 413.** (1) Except as otherwise provided in  
26 subsection (2) of this section, a local government planning under RCW  
27 36.70A.040 shall issue its notice of final decision on a project permit  
28 application within one hundred twenty days after the local government  
29 notifies the applicant that the application is complete, as provided in  
30 RCW 36.70A.440 (as recodified by this act). In determining the number  
31 of days that have elapsed after the local government has notified the  
32 applicant that the application is complete, the following periods shall  
33 be excluded:

34 (a)(i) Any period during which the applicant has been requested by  
35 the local government to correct plans, perform required studies, or

1 provide additional required information. The period shall be  
2 calculated from the date the local government notifies the applicant of  
3 the need for additional information until the earlier of the date the  
4 local government determines whether the additional information  
5 satisfies the request for information or fourteen days after the date  
6 the information has been provided to the local government.

7 (ii) If the local government determines that the information  
8 submitted by the applicant under (a)(i) of this subsection is  
9 insufficient, it shall notify the applicant of the deficiencies and the  
10 procedures under (a)(i) of this subsection shall apply as if a new  
11 request for studies had been made;

12 (b) Any period during which an environmental impact statement is  
13 being prepared following a determination of significance pursuant to  
14 chapter 43.21C RCW, if the local government by ordinance or resolution  
15 has established time periods for completion of environmental impact  
16 statements, or if the local government and the applicant in writing  
17 agree to a time period for completion of an environmental impact  
18 statement;

19 (c) Any period for administrative appeals of project permits, if an  
20 open record appeal hearing or a closed record appeal, or both, are  
21 allowed. The local government by ordinance or resolution shall  
22 establish a time period to consider and decide such appeals. The time  
23 period shall not exceed: (i) Ninety days for an open record appeal  
24 hearing; and (ii) sixty days for a closed record appeal. The parties  
25 to an appeal may agree to extend these time periods; and

26 (d) Any extension of time mutually agreed upon by the applicant and  
27 the local government.

28 (2) The time limits established by subsection (1) of this section  
29 do not apply if a project permit application:

30 (a) Requires an amendment to the comprehensive plan or a  
31 development regulation;

32 (b) Requires approval of a new fully contained community as  
33 provided in RCW 36.70A.350, a master planned resort as provided in RCW  
34 36.70A.360, or the siting of an essential public facility as provided  
35 in RCW 36.70A.200; or

36 (c) Requires substantial revisions to the project proposal, in  
37 which case the time period shall start from the date at which the  
38 revised project application is determined to be complete under RCW  
39 36.70A.440 (as recodified by this act).

1 (3) If the local government is unable to issue its final decision  
2 within the time limits provided for in this section, it shall provide  
3 written notice of this fact to the project applicant. The notice shall  
4 include a statement of reasons why the time limits have not been met  
5 and an estimated date for issuance of the notice of final decision.

6 (4) This section shall apply to project permit applications filed  
7 on or after April 1, 1996.

8 NEW SECTION. **Sec. 414.** A local government may require the  
9 applicant for a project permit to designate a single person or entity  
10 to receive determinations and notices required by this chapter.

11 NEW SECTION. **Sec. 415.** (1) Not later than April 1, 1996, a local  
12 government planning under RCW 36.70A.040 shall provide a notice of  
13 application to the public and the departments and agencies with  
14 jurisdiction as provided in this section. If a local government has  
15 made a determination of significance under chapter 43.21C RCW  
16 concurrently with the notice of application, the notice of application  
17 shall be combined with the determination of significance and scoping  
18 notice. Nothing in this section prevents a determination of  
19 significance and scoping notice from being issued prior to the notice  
20 of application.

21 (2) The notice of application shall be provided within fourteen  
22 days after the determination of completeness as provided in RCW  
23 36.70A.440 (as recodified by this act) and include the following in  
24 whatever sequence or format the local government deems appropriate:

25 (a) The date of application, the date of the notice of completion  
26 for the application, and the date of the notice of application;

27 (b) a description of the proposed project action and a list of the  
28 project permits included in the application and, if applicable, a list  
29 of any studies requested under RCW 36.70A.440 (as recodified by this  
30 act) or section 413 of this act;

31 (c) The identification of other permits not included in the  
32 application to the extent known by the local government;

33 (d) The identification of existing environmental documents that  
34 evaluate the proposed project, and, if not otherwise stated on the  
35 document providing the notice of application, such as a city land use  
36 bulletin, the location where the application and any studies can be  
37 reviewed;



1 (e) A statement of public comment period, which shall be not less  
2 than fourteen nor more than thirty days following the date of notice of  
3 application, and statements of the right of any person to comment on  
4 the application, receive notice of and participate in any hearings,  
5 request a copy of the decision once made, and any appeal rights. A  
6 local government may accept public comments at any time prior to the  
7 closing of the record of an open record predecision hearing, if any,  
8 or, if no open record predecision hearing is provided, prior to the  
9 decision on the project permit;

10 (f) The date, time, place, and type of hearing, if applicable and  
11 scheduled at the date of notice of the application;

12 (g) A statement of the preliminary determination, if one has been  
13 made at the time of notice, of those development regulations that will  
14 be used for project mitigation and of consistency as provided in  
15 section 405 of this act; and

16 (h) Any other information determined appropriate by the local  
17 government.

18 (3) If an open record predecision hearing is required for the  
19 requested project permits, the notice of application shall be provided  
20 at least fifteen days prior to the open record hearing.

21 (4) A local government shall use reasonable methods to give the  
22 notice of application to the public and agencies with jurisdiction and  
23 may use its existing notice procedures. A local government may use  
24 different types of notice for different categories of project permits  
25 or types of project actions. If a local government by resolution or  
26 ordinance does not specify its method of public notice, the local  
27 government shall use the methods provided for in (a) and (b) of this  
28 subsection. Examples of reasonable methods to inform the public are:

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

30 (b) Publishing notice, including at least the project location,  
31 description, type of permit(s) required, comment period dates, and  
32 location where the complete application may be reviewed, in the  
33 newspaper of general circulation in the general area where the proposal  
34 is located or in a local land use newsletter published by the local  
35 government;

36 (c) Notifying public or private groups with known interest in a  
37 certain proposal or in the type of proposal being considered;

38 (d) Notifying the news media;

39 (e) Placing notices in appropriate regional or neighborhood

1 newspapers or trade journals;

2 (f) Publishing notice in agency newsletters or sending notice to  
3 agency mailing lists, either general lists or lists for specific  
4 proposals or subject areas; and

5 (g) Mailing to neighboring property owners.

6 (5) A notice of application shall not be required for project  
7 permits that are categorically exempt under chapter 43.21C RCW, unless  
8 a public comment period or an open record predecision hearing is  
9 required.

10 (6) A local government shall integrate the consolidated permit  
11 process procedures in this section with environmental review under  
12 chapter 43.21C RCW as follows:

13 (a) The local government may not issue its threshold determination,  
14 or issue a decision or a recommendation on a project permit until the  
15 expiration of the public comment period on the notice of application.

16 (b) If an open record predecision hearing is required and the local  
17 government's threshold determination requires public notice under  
18 chapter 43.21C RCW, the local government shall issue its threshold  
19 determination at least fifteen days prior to the open record  
20 predecision hearing.

21 (c) Comments shall be as specific as possible.

22 (7) A local government may combine any hearing on a project permit  
23 with any hearing that may be held by another local, state, regional,  
24 federal, or other agency provided that the hearing is held within the  
25 geographic boundary of the local government. Hearings shall be  
26 combined if requested by an applicant, as long as the joint hearing can  
27 be held within the time periods specified in section 413 of this act or  
28 the applicant agrees to the schedule in the event that additional time  
29 is needed in order to combine the hearings. All agencies of the state  
30 of Washington, including municipal corporations and counties  
31 participating in a combined hearing, are hereby authorized to issue  
32 joint hearing notices and develop a joint format, select a mutually  
33 acceptable hearing body or officer, and take such other actions as may  
34 be necessary to hold joint hearings consistent with each of their  
35 respective statutory obligations.

36 (8) All state and local agencies shall cooperate to the fullest  
37 extent possible with the local government in holding a joint hearing if  
38 requested to do so, as long as:

39 (a) The agency is not expressly prohibited by statute from doing

1 so;

2 (b) Sufficient notice of the hearing is given to meet each of the  
3 agencies' adopted notice requirements as set forth in statute,  
4 ordinance, or rule; and

5 (c) The agency has received the necessary information about the  
6 proposed project from the applicant to hold its hearing at the same  
7 time as the local government hearing.

8 (9) A local government is not required to provide for  
9 administrative appeals. If provided, an administrative appeal of the  
10 project decision, combined with any environmental determinations, shall  
11 be filed within fourteen days after the notice of the decision or after  
12 other notice that the decision has been made and is appealable. The  
13 local government shall extend the appeal period for an additional seven  
14 days, if state or local rules adopted pursuant to chapter 43.21C RCW  
15 allow public comment on a determination of nonsignificance issued as  
16 part of the appealable project permit decision.

17 (10) The applicant for a project permit is deemed to be a  
18 participant in any comment period, open record hearing, or closed  
19 record appeal.

20 (11) Each local government planning under RCW 36.70A.040 shall  
21 adopt procedures for administrative interpretation of its development  
22 regulations.

23 NEW SECTION. **Sec. 416.** (1) Each local government planning under  
24 RCW 36.70A.040 shall establish a permit review process that provides  
25 for the integrated and consolidated review and decision on two or more  
26 project permits relating to a proposed project action, including a  
27 single application review and approval process covering all project  
28 permits requested by an applicant for all or part of a project action  
29 and a designated permit coordinator. If an applicant elects the  
30 consolidated permit review process, the determination of completeness,  
31 notice of application, and notice of final decision must include all  
32 project permits being reviewed through the consolidated permit review  
33 process.

34 (2) Consolidated permit review may provide different procedures for  
35 different categories of project permits, but if a project action  
36 requires project permits from more than one category, the local  
37 government shall provide for consolidated permit review with a single  
38 open record hearing and no more than one closed record appeal as

1 provided in section 407 of this act. Each local government shall  
2 determine which project permits are subject to an open record hearing  
3 and a closed record appeal. Examples of categories of project permits  
4 include but are not limited to:

5 (a) Proposals that are categorically exempt from chapter 43.21C  
6 RCW, such as construction permits, that do not require environmental  
7 review or public notice;

8 (b) Permits that require environmental review, but no open record  
9 predecision hearing; and

10 (c) Permits that require a threshold determination and an open  
11 record predecision hearing and may provide for a closed record appeal  
12 to a hearing body or officer or to the local government legislative  
13 body.

14 (3) 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 project permits. In the case of consolidated  
17 project permit review, the local government shall specify which  
18 decision makers shall make the decision or recommendation, conduct the  
19 hearing, or decide the appeal to ensure that consolidated permit review  
20 occurs as provided in this section. The consolidated permit review may  
21 combine an open record predecision hearing on one or more permits with  
22 an open record appeal hearing on other permits. In such cases, the  
23 local government by ordinance or resolution shall specify which project  
24 permits, if any, shall be subject to a closed record appeal.

25 NEW SECTION. **Sec. 417.** A local government planning under RCW  
26 36.70A.040 shall provide a notice of decision that also includes a  
27 statement of any threshold determination made under chapter 43.21C RCW  
28 and the procedures for administrative appeal, if any. The notice of  
29 decision may be a copy of the report or decision on the project permit  
30 application. The notice shall be provided to the applicant and to any  
31 person who, prior to the rendering of the decision, requested notice of  
32 the decision or submitted substantive comments on the application. The  
33 notice of decision shall include procedures for administrative appeal,  
34 if any. The local government shall provide for notice of its decision  
35 as provided in section 415(4) of this act.

36 NEW SECTION. **Sec. 418.** (1) A local government by ordinance or  
37 resolution may exclude the following project permits from the

1 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065  
2 (as recodified by this act), and sections 407, 413, and 415 through 417  
3 of this act: Landmark designations, street vacations, or other  
4 approvals relating to the use of public areas or facilities, or other  
5 project permits, whether administrative or quasi-judicial, that the  
6 local government by ordinance or resolution has determined present  
7 special circumstances that warrant a review process different from that  
8 provided in RCW 36.70A.440 (as recodified by this act), 36.70A.065 (as  
9 recodified by this act), and sections 407, 413, and 415 through 417 of  
10 this act.

11 (2) A local government by ordinance or resolution also may exclude  
12 the following project permits from the provisions of sections 407 and  
13 415 through 417 of this act: Lot line or boundary adjustments and  
14 building and other construction permits, or similar administrative  
15 approvals, categorically exempt from environmental review under chapter  
16 43.21C RCW, or for which environmental review has been completed in  
17 connection with other project permits.

18 NEW SECTION. **Sec. 419.** A local government not planning under RCW  
19 36.70A.040 may incorporate some or all of the provisions of sections  
20 407, 413, and 415 through 417 of this act and RCW 36.70A.065 and  
21 36.70A.440 (as recodified by this act) into its procedures for review  
22 of project permits or other project actions.

23 NEW SECTION. **Sec. 420.** (1) Each local government is encouraged to  
24 adopt further project review provisions to provide prompt, coordinated  
25 review and ensure accountability to applicants and the public,  
26 including expedited review for project permit applications for projects  
27 that are consistent with adopted development regulations and within the  
28 capacity of system-wide infrastructure improvements.

29 (2) Nothing in this chapter is intended or shall be construed to  
30 prevent a local government from requiring a preapplication conference  
31 or a public meeting by rule, ordinance, or resolution.

32 (3) Each local government shall adopt procedures to monitor and  
33 enforce permit decisions and conditions.

34 (4) Nothing in this chapter modifies any independent statutory  
35 authority for a government agency to appeal a project permit issued by  
36 a local government.

1 NEW SECTION. Sec. 421. A new section is added to chapter 64.40  
2 RCW to read as follows:

3 A local government is not liable for damages under this chapter due  
4 to the local government s failure to make a final decision within the  
5 time limits established in section 413 of this act.

6 **Sec. 422.** RCW 43.21C.033 and 1992 c 208 s 1 are each amended to  
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, the  
9 responsible official shall make a threshold determination on a  
10 completed application within ninety days after the application and  
11 supporting documentation are complete. The applicant may request an  
12 additional thirty days for the threshold determination. The  
13 governmental entity responsible for making the threshold determination  
14 shall by rule, resolution, or ordinance adopt standards, consistent  
15 with rules adopted by the department to implement this chapter, for  
16 determining when an application and supporting documentation are  
17 complete.

18 (2) This section shall not apply to a city, town, or county that:

19 (a) By ordinance adopted prior to April 1, 1992, has adopted  
20 procedures to integrate permit and land use decisions with the  
21 requirements of this chapter; or

22 (b) Is planning under RCW 36.70A.040 and is subject to the  
23 requirements of section 413 of this act.

24 **Sec. 423.** RCW 35.63.130 and 1994 c 257 s 8 are each amended to  
25 read as follows:

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

36 (a) Applications for conditional uses, variances, subdivisions,  
37 shoreline permits, or any other class of applications for or pertaining

1 to development of land or land use((s which the legislative body  
2 believes should be reviewed and decided by a hearing examiner));

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

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

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

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

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

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

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

23 (c) Except in the case of a rezone, the decision may be given the  
24 effect of a final decision of the legislative body.

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

34 **Sec. 424.** RCW 35A.63.170 and 1994 c 257 s 7 are each amended to  
35 read as follows:

36 (1) As an alternative to those provisions of this chapter relating  
37 to powers or duties of the planning commission to hear and report on  
38 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) Except in the case of a rezone, the decision may be given the  
36 effect of a final decision of the legislative body.

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



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

7 **Sec. 425.** RCW 36.70.970 and 1994 c 257 s 9 are each amended to  
8 read as follows:

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

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

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

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

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

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

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

38 (a) The decision may be given the effect of a recommendation to the

1 legislative authority;

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

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

10 (c) Except in the case of a rezone, the decision may be given the  
11 effect of a final decision of the legislative authority.

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

21 **Sec. 426.** RCW 58.17.090 and 1981 c 293 s 5 are each amended to  
22 read as follows:

23 (1) Upon receipt of an application for preliminary plat approval  
24 the administrative officer charged by ordinance with responsibility for  
25 administration of regulations pertaining to platting and subdivisions  
26 shall provide public notice and set a date for a public hearing.  
27 Except as provided in section 415 of this act, at a minimum, notice of  
28 the hearing shall be given in the following manner:

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

33 ~~((+2))~~ (b) Special notice of the hearing shall be given to  
34 adjacent landowners by any other reasonable method local authorities  
35 deem necessary. Adjacent landowners are the owners of real property,  
36 as shown by the records of the county assessor, located within three  
37 hundred feet of any portion of the boundary of the proposed  
38 subdivision. If the owner of the real property which is proposed to be

1 subdivided owns another parcel or parcels of real property which lie  
2 adjacent to the real property proposed to be subdivided, notice under  
3 this subsection (1)(b) shall be given to owners of real property  
4 located within three hundred feet of any portion of the boundaries of  
5 such adjacently located parcels of real property owned by the owner of  
6 the real property proposed to be subdivided.

7 (2) All hearings shall be public. All hearing notices shall  
8 include a description of the location of the proposed subdivision. The  
9 description may be in the form of either a vicinity location sketch or  
10 a written description other than a legal description.

11 **Sec. 427.** RCW 58.17.092 and 1988 c 168 s 12 are each amended to  
12 read as follows:

13 Any notice made under chapter 58.17 or 36.-- (the new chapter  
14 created in section 431 of this act) RCW that identifies affected  
15 property may identify this affected property without using a legal  
16 description of the property including, but not limited to,  
17 identification by an address, written description, vicinity sketch, or  
18 other reasonable means.

19 **Sec. 428.** RCW 58.17.100 and 1981 c 293 s 6 are each amended to  
20 read as follows:

21 If a city, town or county has established a planning commission or  
22 planning agency in accordance with state law or local charter, such  
23 commission or agency shall review all preliminary plats and make  
24 recommendations thereon to the city, town or county legislative body to  
25 assure conformance of the proposed subdivision to the general purposes  
26 of the comprehensive plan and to planning standards and specifications  
27 as adopted by the city, town or county. Reports of the planning  
28 commission or agency shall be advisory only: PROVIDED, That the  
29 legislative body of the city, town or county may, by ordinance, assign  
30 to such commission or agency, or any department official or group of  
31 officials, such administrative functions, powers and duties as may be  
32 appropriate, including the holding of hearings, and recommendations for  
33 approval or disapproval of preliminary plats of proposed subdivisions.

34 Such recommendation shall be submitted to the legislative body not  
35 later than fourteen days following action by the hearing body. Upon  
36 receipt of the recommendation on any preliminary plat the legislative  
37 body shall at its next public meeting set the date for the public

1 meeting where it shall consider the recommendations of the hearing body  
2 and may adopt or reject the recommendations of such hearing body based  
3 on the record established at the public hearing. If, after considering  
4 the matter at a public meeting, the legislative body deems a change in  
5 the planning commission's or planning agency's recommendation approving  
6 or disapproving any preliminary plat is necessary, (~~the change of the~~  
7 ~~recommendation shall not be made until~~) the legislative body shall  
8 (~~conduct a public hearing and thereupon~~) adopt its own  
9 recommendations and approve or disapprove the preliminary plat. (~~Such~~  
10 ~~public hearing may be held before a committee constituting a majority~~  
11 ~~of the legislative body. If the hearing is before a committee, the~~  
12 ~~committee shall report its recommendations on the matter to the~~  
13 ~~legislative body for final action.~~)

14 Every decision or recommendation made under this section shall be  
15 in writing and shall include findings of fact and conclusions to  
16 support the decision or recommendation.

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

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

22 **Sec. 429.** RCW 58.17.330 and 1994 c 257 s 6 are each amended to  
23 read as follows:

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

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

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

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

38 The legislative authority shall prescribe procedures to be followed by

1 a hearing examiner.

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

7 (3)) Each final decision of a hearing examiner shall be in writing  
8 and shall include findings and conclusions, based on the record, to  
9 support the decision. Each final decision of a hearing examiner,  
10 unless a longer period is mutually agreed to by the applicant and the  
11 hearing examiner, shall be rendered within ten working days following  
12 conclusion of all testimony and hearings.

13 NEW SECTION. Sec. 430. (1) The department of community, trade,  
14 and economic development shall provide training and technical  
15 assistance to counties and cities to assist them in fulfilling the  
16 requirements of chapter 36.-- RCW (the new chapter created in section  
17 431 of this act).

18 (2) The land use study commission created by section 801 of this  
19 act shall monitor local government consolidated permit procedures and  
20 the effectiveness of the timelines established by section 413 of this  
21 act. The commission shall include in its report submitted to the  
22 governor and the legislature on November 30, 1997, its recommendation  
23 about what timelines, if any, should be imposed on the local government  
24 consolidated permit process required by chapter 36.-- RCW (the new  
25 chapter created in section 431 of this act).

26 (3) The commission shall also evaluate funding mechanisms that will  
27 enable local governments to pay for and recover the costs of conducting  
28 integrated planning and environmental analysis. The commission shall  
29 include its conclusions in its first report to the legislature in  
30 November 1995, and include any recommended statutory changes.

31 NEW SECTION. Sec. 431. Sections 401, 402, 404 through 407, 413  
32 through 420, and 502 through 506 of this act shall constitute a new  
33 chapter in Title 36 RCW.

34 NEW SECTION. Sec. 432. RCW 36.70A.065 and 36.70A.440 are  
35 recodified as sections within the new chapter created in section 431 of  
36 this act.

1 NEW SECTION. **Sec. 433.** Sections 413 and 421 of this act shall  
2 expire June 30, 1998. The provisions of sections 413 and 421 of this  
3 act shall apply to project permit applications determined to be  
4 complete pursuant to RCW 36.70A.440 (as recodified by this act) on or  
5 before June 30, 1998.

6 **PART V - DEVELOPMENT AGREEMENTS**

7 NEW SECTION. **Sec. 501.** The legislature finds that the lack of  
8 certainty in the approval of development projects can result in a waste  
9 of public and private resources, escalate housing costs for consumers  
10 and discourage the commitment to comprehensive planning which would  
11 make maximum efficient use of resources at the least economic cost to  
12 the public. Assurance to a development project applicant that upon  
13 government approval the project may proceed in accordance with existing  
14 policies and regulations, and subject to conditions of approval, all as  
15 set forth in a development agreement, will strengthen the public  
16 planning process, encourage private participation and comprehensive  
17 planning, and reduce the economic costs of development. Further, the  
18 lack of public facilities and services is a serious impediment to  
19 development of new housing and commercial uses. Project applicants and  
20 local governments may include provisions and agreements whereby  
21 applicants are reimbursed over time for financing public facilities.  
22 It is the intent of the legislature by sections 502 through 506 of this  
23 act to allow local governments and owners and developers of real  
24 property to enter into development agreements.

25 NEW SECTION. **Sec. 502.** (1) A local government may enter into a  
26 development agreement with a person having ownership or control of real  
27 property within its jurisdiction. A city may enter into a development  
28 agreement for real property outside its boundaries as part of a  
29 proposed annexation or a service agreement. A development agreement  
30 must set forth the development standards and other provisions that  
31 shall apply to and govern and vest the development, use, and mitigation  
32 of the development of the real property for the duration specified in  
33 the agreement. A development agreement shall be consistent with  
34 applicable development regulations adopted by a local government  
35 planning under chapter 36.70A RCW.

36 (2) Sections 501 through 504 of this act do not affect the validity

1 of a contract rezone, concomitant agreement, annexation agreement, or  
2 other agreement in existence on the effective date of sections 501  
3 through 504 of this act, or adopted under separate authority, that  
4 includes some or all of the development standards provided in  
5 subsection (3) of this section.

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

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

10 (b) The amount and payment of impact fees imposed or agreed to in  
11 accordance with any applicable provisions of state law, other financial  
12 contributions by the property owner, inspection fees, or dedications;

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

15 (d) Design standards such as maximum heights, setbacks, drainage  
16 and water quality requirements, landscaping, and other development  
17 features;

18 (e) Affordable housing;

19 (f) Parks and open space preservation;

20 (g) Phasing;

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

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

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

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

30 NEW SECTION. **Sec. 503.** Unless amended or terminated, a  
31 development agreement is enforceable during its term by a party to the  
32 agreement. A development agreement and the development standards in  
33 the agreement govern during the term of the agreement, or for all or  
34 that part of the build-out period specified in the agreement, and may  
35 not be subject to an amendment to a zoning ordinance or development  
36 standard or regulation or a new zoning ordinance or development  
37 standard or regulation adopted after the effective date of the  
38 agreement. A permit or approval issued by the county or city after the

1 execution of the development agreement must be consistent with the  
2 development agreement.

3 NEW SECTION. **Sec. 504.** A development agreement shall be recorded  
4 with the real property records of the county in which the property is  
5 located. During the term of the development agreement, the agreement  
6 is binding on the parties and their successors, including a city that  
7 assumes jurisdiction through incorporation or annexation of the area  
8 covering the property covered by the development agreement.

9 NEW SECTION. **Sec. 505.** A county or city shall only approve a  
10 development agreement by ordinance or resolution after a public  
11 hearing. The county or city legislative body or a planning commission,  
12 hearing examiner, or other body designated by the legislative body to  
13 conduct the public hearing may conduct the hearing. If the development  
14 agreement relates to a project permit application, the provisions of  
15 chapter 36.-- RCW (sections 701 through 715 of this act) shall apply to  
16 the appeal of the decision on the development agreement.

17 NEW SECTION. **Sec. 506.** Nothing in sections 501 through 505 of  
18 this act is intended to authorize local governments to impose impact  
19 fees, inspection fees, or dedications or to require any other financial  
20 contributions or mitigation measures except as expressly authorized by  
21 other applicable provisions of state law.

22 **PART VI - STATE PERMIT COORDINATION**

23 NEW SECTION. **Sec. 601.** 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



1 another place. This goal can only be achieved by maintaining the  
2 current environmental protection standards and by greater integration  
3 of the existing programs.

4 (3) As the number of environmental laws and regulations have grown  
5 in Washington, so have the number of permits required of business and  
6 government. This regulatory burden has significantly added to the cost  
7 and time needed to obtain essential permits in Washington. The  
8 increasing number of individual permits and permit authorities has  
9 generated the continuing potential for conflict, overlap, and  
10 duplication between the various state, local, and federal permits.

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

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

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

27 (7) It is necessary to provide a reliable and consolidated source  
28 of information concerning federal, state, and local environmental and  
29 land use laws and procedures that apply to any given proposal.

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

37 (9) It is the intent of this chapter to provide consolidated,  
38 effective, and easier opportunities for members of the public to  
39 receive information and present their views about proposed projects.

1        NEW SECTION.     **Sec. 602.**    Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Center" means the permit assistance center established in the  
5 commission by section 603 of this act.

6        (2) "Commission" means the Washington independent regulatory  
7 affairs commission created in chapter . . . , Laws of 1995 (Senate Bill  
8 No. 6037).

9        (3) "Coordinating permit agency" means the permit agency that has  
10 the greatest overall jurisdiction over a project.

11        (4) "Participating permit agency" means a permit agency, other than  
12 the coordinating permit agency, that is responsible for the issuance of  
13 a permit for a project.

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

17        (6) "Permit agency" means:

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

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

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

26        NEW SECTION.     **Sec. 603.**    The permit assistance center is  
27 established within the commission. The center shall:

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

38        (2) Establish, and make known, a point of contact for distribution

1 of the handbook and advice to the public as to its interpretation in  
2 any given case;

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

6 (4) Seek the assignment of employees from the permit agencies  
7 listed under section 602(6)(a) of this act to serve on a rotating basis  
8 in staffing the center; and

9 (5) Provide an annual report to the legislature on potential  
10 conflicts and perceived inconsistencies among existing statutes. The  
11 first report shall be submitted to the appropriate standing committees  
12 of the house of representatives and senate by December 1, 1996.

13 NEW SECTION. **Sec. 604.** (1) Not later than January 1, 1996, the  
14 center shall establish by rule an administrative process for the  
15 designation of a coordinating permit agency for a project.

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

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

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

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

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

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

35 NEW SECTION. **Sec. 605.** Upon the request of a project applicant,  
36 the center shall appoint a project facilitator to assist the applicant  
37 in determining which regulatory requirements, processes, and permits

1 may be required for development and operation of the proposed project.  
2 The project facilitator shall provide the information to the applicant  
3 and explain the options available to the applicant in obtaining the  
4 required permits. If the applicant requests, the center shall  
5 designate a coordinating permit agency as provided in section 606 of  
6 this act.

7 NEW SECTION. **Sec. 606.** (1) A permit applicant who requests the  
8 designation of a coordinating permit agency shall provide the center  
9 with a description of the project, a preliminary list of the permits  
10 that the project may require, the identity of any public agency that  
11 has been designated the lead agency for the project pursuant to chapter  
12 43.21C RCW, and the identity of the participating permit agencies. The  
13 center may request any information from the permit applicant that is  
14 necessary to make the designation under this section, and may convene  
15 a scoping meeting of the likely coordinating permit agency and  
16 participating permit agencies in order to make that designation.

17 (2) The coordinating permit agency shall serve as the main point of  
18 contact for the permit applicant with regard to the coordinated permit  
19 process for the project and shall manage the procedural aspects of that  
20 processing consistent with existing laws governing the coordinating  
21 permit agency and participating permit agencies, and with the  
22 procedures agreed to by those agencies in accordance with section 607  
23 of this act. In carrying out these responsibilities, the coordinating  
24 permit agency shall ensure that the permit applicant has all the  
25 information needed to apply for all the component permits that are  
26 incorporated in the coordinated permit process for the project,  
27 coordinate the review of those permits by the respective participating  
28 permit agencies, ensure that timely permit decisions are made by the  
29 participating permit agencies, and assist in resolving any conflict or  
30 inconsistency among the permit requirements and conditions that are to  
31 be imposed by the participating permit agencies with regard to the  
32 project. The coordinating permit agency shall keep in contact with the  
33 applicant as well as other permit agencies in order to assure that the  
34 process is progressing as scheduled. The coordinating permit agency  
35 shall also make contact, at least once, with any local jurisdiction  
36 that is responsible for issuing a permit for the project if the local  
37 jurisdiction has not agreed to be a participating permit agency as  
38 provided in section 602(6) of this act.

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

12 NEW SECTION. **Sec. 607.** (1) Within twenty-one days of the date  
13 that the coordinating permit agency is designated, it shall convene a  
14 meeting with the permit applicant for the project and the participating  
15 permit agencies. The meeting agenda shall include at least all of the  
16 following matters:

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

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

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

36 (ii) An accelerated time period for the consideration of a permit  
37 application may not be set if that accelerated time period would be  
38 inconsistent with, or in conflict with, any time period or series of

1 time periods set by statute for that consideration, or with any  
2 statute, rule, or regulation, or adopted state policy, standard, or  
3 guideline that requires any of the following:

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

6 (B) Other agencies to be given a role in, or be allowed to  
7 participate in, the decision to approve or disapprove the application;  
8 or

9 (C) Interested persons or the public to be provided the opportunity  
10 to challenge, comment on, or otherwise voice their concerns regarding  
11 the application;

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

16 (e) A discussion of fee arrangements for the coordinated permit  
17 process, including an estimate of the costs allowed under section 610  
18 of this act and the billing schedule.

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

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

31 (4) The coordinating permit agency may request any information from  
32 the applicant that is necessary to comply with its obligations under  
33 this section, consistent with the timelines set pursuant to this  
34 section.

35 (5) A summary of the decisions made under this section shall be  
36 made available for public review upon the filing of the coordinated  
37 permit process application or permit applications.

38 NEW SECTION. **Sec. 608.** (1) The permit applicant may withdraw from

1 the coordinated permit process by submitting to the coordinating permit  
2 agency a written request that the process be terminated. Upon receipt  
3 of the request, the coordinating permit agency shall notify the center  
4 and each participating permit agency that a coordinated permit process  
5 is no longer applicable to the project.

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

14 NEW SECTION. **Sec. 609.** The coordinating permit agency shall  
15 ensure that the participating permit agencies make all the permit  
16 decisions that are necessary for the incorporation of the permits into  
17 the coordinated permit process and act on the component permits within  
18 the time periods established pursuant to section 607 of this act.

19 NEW SECTION. **Sec. 610.** (1) The coordinating permit agency may  
20 enter into a written agreement with the applicant to recover from the  
21 applicant the reasonable costs incurred by the coordinating permit  
22 agency in carrying out the requirements of this chapter.

23 (2) The coordinating permit agency may recover only the costs of  
24 performing those coordinated permit services and shall be negotiated  
25 with the permit applicant in the meeting required pursuant to section  
26 607 of this act. The billing process shall provide for accurate time  
27 and cost accounting and may include a billing cycle that provides for  
28 progress payments.

29 NEW SECTION. **Sec. 611.** A petition by the permit applicant for  
30 review of an agency action in issuing, denying, or amending a permit,  
31 or any portion of a coordinating permit agency permit, shall be  
32 submitted by the permit applicant to the coordinating permit agency or  
33 the participating permit agency having jurisdiction over that permit  
34 and shall be processed in accordance with the procedures of that permit  
35 agency. Within thirty days of receiving the petition, the coordinating  
36 permit agency shall notify the other environmental agencies

1 participating in the original coordinated permit process.

2 NEW SECTION. **Sec. 612.** If an applicant petitions for a  
3 significant amendment or modification to a coordinated permit process  
4 application or any of its component permit applications, the  
5 coordinating permit agency shall reconvene a meeting of the  
6 participating permit agencies, conducted in accordance with section 607  
7 of this act.

8 NEW SECTION. **Sec. 613.** If an applicant fails to provide  
9 information required for the processing of the component permit  
10 applications for a coordinated permit process or for the designation of  
11 a coordinating permit agency, the time requirements of this chapter  
12 shall be held in abeyance until such time as the information is  
13 provided.

14 NEW SECTION. **Sec. 614.** (1) The center, by rule, shall establish  
15 an expedited appeals process by which a petitioner or applicant may  
16 appeal any failure by a permit agency to take timely action on the  
17 issuance or denial of a permit in accordance with the time limits  
18 established under this chapter.

19 (2) If the center finds that the time limits under appeal have been  
20 violated without good cause, it shall establish a date certain by which  
21 the permit agency shall act on the permit application with adequate  
22 provision for the requirements of section 607(1)(c)(ii) (A) through (C)  
23 of this act, and provide for the full reimbursement of any filing or  
24 permit processing fees paid by the applicant to the permit agency for  
25 the permit application under appeal.

26 NEW SECTION. **Sec. 615.** Nothing in this chapter affects the  
27 jurisdiction of the energy facility site evaluation council as provided  
28 in chapter 80.50 RCW.

29 NEW SECTION. **Sec. 616.** By December 1, 1997, the center shall  
30 submit a report to the appropriate committees of both houses of the  
31 legislature detailing the following information:

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

34 (2) The amount of time elapsed between an initial request by a



1 permit applicant for a coordinated permit process and the ultimate  
2 approval or disapproval of the permits included in the process; and  
3 (3) The number of instances in which the expedited appeals process  
4 was requested, and the disposition of those cases.

5 NEW SECTION. **Sec. 617.** 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 control  
10 account; and the sum of fifty-five thousand dollars, or as much thereof  
11 as may be necessary, is appropriated for the biennium ending June 30,  
12 1997, from the air pollution control account to the Washington  
13 independent regulatory affairs commission for the purposes of sections  
14 601 through 616 of this act.

15 NEW SECTION. **Sec. 618.** A new section is added to chapter 43.131  
16 RCW to read as follows:

17 The permit assistance center and its powers and duties shall be  
18 terminated June 30, 1999, as provided in section 619 of this act.

19 NEW SECTION. **Sec. 619.** A new section is added to chapter 43.131  
20 RCW to read as follows:

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

- 23 (1) RCW 90.---.--- and 1995 c -- s 601 (section 601 of this act);
- 24 (2) RCW 90.---.--- and 1995 c -- s 602 (section 602 of this act);
- 25 (3) RCW 90.---.--- and 1995 c -- s 603 (section 603 of this act);
- 26 (4) RCW 90.---.--- and 1995 c -- s 604 (section 604 of this act);
- 27 (5) RCW 90.---.--- and 1995 c -- s 605 (section 605 of this act);
- 28 (6) RCW 90.---.--- and 1995 c -- s 606 (section 606 of this act);
- 29 (7) RCW 90.---.--- and 1995 c -- s 607 (section 607 of this act);
- 30 (8) RCW 90.---.--- and 1995 c -- s 608 (section 608 of this act);
- 31 (9) RCW 90.---.--- and 1995 c -- s 609 (section 609 of this act);
- 32 (10) RCW 90.---.--- and 1995 c -- s 610 (section 610 of this act);
- 33 (11) RCW 90.---.--- and 1995 c -- s 611 (section 611 of this act);
- 34 (12) RCW 90.---.--- and 1995 c -- s 612 (section 612 of this act);
- 35 (13) RCW 90.---.--- and 1995 c -- s 613 (section 613 of this act);
- 36 (14) RCW 90.---.--- and 1995 c -- s 614 (section 614 of this act);

1 (15) RCW 90.---.--- and 1995 c -- s 615 (section 615 of this act);  
2 and  
3 (16) RCW 90.---.--- and 1995 c -- s 616 (section 616 of this act).

4 NEW SECTION. **Sec. 620.** 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. 621.** Sections 601 through 616 of this act shall  
32 constitute a new chapter in Title 90 RCW.

33 **PART VII - APPEALS**

34 NEW SECTION. **Sec. 701.** This chapter may be known and cited as the  
35 land use petition act.

1        NEW SECTION.    **Sec. 702.**    The purpose of this chapter is to reform  
2 the process for judicial review of land use decisions made by local  
3 jurisdictions, by establishing uniform, expedited appeal procedures and  
4 uniform criteria for reviewing such decisions, in order to provide  
5 consistent, predictable, and timely judicial review.

6        NEW SECTION.    **Sec. 703.**    Unless the context clearly requires  
7 otherwise, the definitions in this section apply throughout this  
8 chapter.

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

13        (a) An application for a project permit or other governmental  
14 approval required by law before real property may be improved,  
15 developed, modified, sold, transferred, or used, but excluding  
16 applications for permits or approvals to use, vacate, or transfer  
17 streets, parks, and similar types of public property and excluding  
18 applications for legislative approvals such as area-wide rezones and  
19 annexations;

20        (b) An interpretative or declaratory decision regarding the  
21 application to a specific property of zoning or other ordinances or  
22 rules regulating the improvement, development, modification,  
23 maintenance, or use of real property; and

24        (c) The enforcement by a local jurisdiction of ordinances  
25 regulating the improvement, development, modification, maintenance, or  
26 use of real property. However, when a local jurisdiction is required  
27 by law to enforce the ordinances in a court of limited jurisdiction, a  
28 petition may not be brought under this chapter.

29        (2) "Local jurisdiction" means a county, city, or incorporated  
30 town.

31        (3) "Person" means an individual, partnership, corporation,  
32 association, public or private organization, or governmental entity or  
33 agency.

34        NEW SECTION.    **Sec. 704.**    (1) This chapter replaces the writ of  
35 certiorari for appeal of land use decisions and shall be the exclusive  
36 means of judicial review of land use decisions, except that this  
37 chapter does not apply to:

1 (a) Judicial review of:

2 (i) Land use decisions made by bodies that are not part of a local  
3 jurisdiction;

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

7 (b) Judicial review of applications for a writ of mandamus or  
8 prohibition; or

9 (c) Claims provided by any law for monetary damages or  
10 compensation. If one or more claims for damages or compensation are  
11 set forth in the same complaint with a land use petition brought under  
12 this chapter, the claims are not subject to the procedures and  
13 standards, including deadlines, provided in this chapter for review of  
14 the petition. The judge who hears the land use petition may, if  
15 appropriate, preside at a trial for damages or compensation.

16 (2) The superior court civil rules govern procedural matters under  
17 this chapter to the extent that the rules are consistent with this  
18 chapter.

19 NEW SECTION. **Sec. 705.** (1) Proceedings for review under this  
20 chapter shall be commenced by filing a land use petition in superior  
21 court.

22 (2) A land use petition is barred, and the court may not grant  
23 review, unless the petition is timely filed with the court and timely  
24 served on the following persons who shall be parties to the review of  
25 the land use petition:

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

29 (b) Each of the following persons if the person is not the  
30 petitioner:

31 (i) Each person identified by name and address in the local  
32 jurisdiction's written decision as an applicant for the permit or  
33 approval at issue; and

34 (ii) Each person identified by name and address in the local  
35 jurisdiction's written decision as an owner of the property at issue;

36 (c) If no person is identified in a written decision as provided in  
37 (b) of this subsection, each person identified by name and address as  
38 a taxpayer for the property at issue in the records of the county

1 assessor, based upon the description of the property in the  
2 application; and

3 (d) Each person named in the written decision who filed an appeal  
4 to a local jurisdiction quasi-judicial decision maker regarding the  
5 land use decision at issue, unless the person has abandoned the appeal  
6 or the person's claims were dismissed before the quasi-judicial  
7 decision was rendered. Persons who later intervened or joined in the  
8 appeal are not required to be made parties under this subsection.

9 (3) The petition is timely if it is filed and served on all parties  
10 listed in subsection (2) of this section within twenty-one days of the  
11 issuance of the land use decision.

12 (4) For the purposes of this section, the date on which a land use  
13 decision is issued is:

14 (a) Three days after a written decision is mailed by the local  
15 jurisdiction or, if not mailed, the date on which the local  
16 jurisdiction provides notice that a written decision is publicly  
17 available;

18 (b) If the land use decision is made by ordinance or resolution by  
19 a legislative body sitting in a quasi-judicial capacity, the date the  
20 body passes the ordinance or resolution; or

21 (c) If neither (a) nor (b) of this subsection applies, the date the  
22 decision is entered into the public record.

23 (5) Service on the local jurisdiction must be by delivery of a copy  
24 of the petition to the persons identified by or pursuant to RCW  
25 4.28.080 to receive service of process. Service on other parties must  
26 be in accordance with the superior court civil rules or by first class  
27 mail to:

28 (a) The address stated in the written decision of the local  
29 jurisdiction for each person made a party under subsection (2)(b) of  
30 this section;

31 (b) The address stated in the records of the county assessor for  
32 each person made a party under subsection (2)(c) of this section; and

33 (c) The address stated in the appeal to the quasi-judicial decision  
34 maker for each person made a party under subsection (2)(d) of this  
35 section.

36 (6) Service by mail is effective on the date of mailing and proof  
37 of service shall be by affidavit or declaration under penalty of  
38 perjury.

1        NEW SECTION.    **Sec. 706.** If the applicant for the land use approval  
2 is not the owner of the real property at issue, and if the owner is not  
3 accurately identified in the records referred to in section 705(2) (b)  
4 and (c) of this act, the applicant shall be responsible for promptly  
5 securing the joinder of the owners. In addition, within fourteen days  
6 after service each party initially named by the petitioner shall  
7 disclose to the other parties the name and address of any person whom  
8 such party knows may be needed for just adjudication of the petition,  
9 and the petitioner shall promptly name and serve any such person whom  
10 the petitioner agrees may be needed for just adjudication. If such a  
11 person is named and served before the initial hearing, leave of court  
12 for the joinder is not required, and the petitioner shall provide the  
13 newly joined party with copies of the pleadings filed before the  
14 party's joinder. Failure by the petitioner to name or serve, within  
15 the time required by section 705(3) of this act, persons who are needed  
16 for just adjudication but who are not identified in the records  
17 referred to in section 705(2)(b) of this act, or in section 705(2)(c)  
18 of this act if applicable, shall not deprive the court of jurisdiction  
19 to hear the land use petition.

20        NEW SECTION.    **Sec. 707.** Standing to bring a land use petition  
21 under this chapter is limited to the following persons:

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

24        (2) Another person aggrieved or adversely affected by the land use  
25 decision, or who would be aggrieved or adversely affected by a reversal  
26 or modification of the land use decision. A person is aggrieved or  
27 adversely affected within the meaning of this section only when all of  
28 the following conditions are present:

29        (a) The land use decision has prejudiced or is likely to prejudice  
30 that person;

31        (b) That person's asserted interests are among those that the local  
32 jurisdiction was required to consider when it made the land use  
33 decision;

34        (c) A judgment in favor of that person would substantially  
35 eliminate or redress the prejudice to that person caused or likely to  
36 be caused by the land use decision; and

37        (d) The petitioner has exhausted his or her administrative remedies  
38 to the extent required by law.

1        NEW SECTION.    **Sec. 708.**    A land use petition must set forth:

2        (1) The name and mailing address of the petitioner;

3        (2) The name and mailing address of the petitioner's attorney, if  
4 any;

5        (3) The name and mailing address of the local jurisdiction whose  
6 land use decision is at issue;

7        (4) Identification of the decision-making body or officer, together  
8 with a duplicate copy of the decision, or, if not a written decision,  
9 a summary or brief description of it;

10       (5) Identification of each person to be made a party under section  
11 705(2) (b) through (d) of this act;

12       (6) Facts demonstrating that the petitioner has standing to seek  
13 judicial review under section 707 of this act;

14       (7) A separate and concise statement of each error alleged to have  
15 been committed;

16       (8) A concise statement of facts upon which the petitioner relies  
17 to sustain the statement of error; and

18       (9) A request for relief, specifying the type and extent of relief  
19 requested.

20       NEW SECTION.    **Sec. 709.**    (1) Within seven days after the petition  
21 is served on the parties identified in section 705(2) of this act, the  
22 petitioner shall note, according to the local rules of superior court,  
23 an initial hearing on jurisdictional and preliminary matters. This  
24 initial hearing shall be set no sooner than thirty-five days and no  
25 later than fifty days after the petition is served on the parties  
26 identified in section 705(2) of this act.

27       (2) The parties shall note all motions on jurisdictional and  
28 procedural issues for resolution at the initial hearing, except that a  
29 motion to allow discovery may be brought sooner. Where confirmation of  
30 motions is required, each party shall be responsible for confirming its  
31 own motions.

32       (3) The defenses of lack of standing, untimely filing or service of  
33 the petition, and failure to join persons needed for just adjudication  
34 are waived if not raised by timely motion noted to be heard at the  
35 initial hearing, unless the court allows discovery on such issues.

36       (4) The petitioner shall move the court for an order at the initial  
37 hearing that sets the date on which the record must be submitted, sets  
38 a briefing schedule, sets a discovery schedule if discovery is to be

1 allowed, and sets a date for the hearing or trial on the merits.

2 (5) The parties may waive the initial hearing by scheduling with  
3 the court a date for the hearing or trial on the merits and filing a  
4 stipulated order that resolves the jurisdictional and procedural issues  
5 raised by the petition, including the issues identified in subsections  
6 (3) and (4) of this section.

7 (6) A party need not file an answer to the petition.

8 NEW SECTION. **Sec. 710.** The court shall provide expedited review  
9 of petitions filed under this chapter. The matter must be set for  
10 hearing within sixty days of the date set for submitting the local  
11 jurisdiction's record, absent a showing of good cause for a different  
12 date or a stipulation of the parties.

13 NEW SECTION. **Sec. 711.** (1) A petitioner or other party may  
14 request the court to stay or suspend an action by the local  
15 jurisdiction or another party to implement the decision under review.  
16 The request must set forth a statement of grounds for the stay and the  
17 factual basis for the request.

18 (2) A court may grant a stay only if the court finds that:

19 (a) The party requesting the stay is likely to prevail on the  
20 merits;

21 (b) Without the stay the party requesting it will suffer  
22 irreparable harm;

23 (c) The grant of a stay will not substantially harm other parties  
24 to the proceedings; and

25 (d) The request for the stay is timely in light of the  
26 circumstances of the case.

27 (3) The court may grant the request for a stay upon such terms and  
28 conditions, including the filing of security, as are necessary to  
29 prevent harm to other parties by the stay.

30 NEW SECTION. **Sec. 712.** (1) Within forty-five days after entry of  
31 an order to submit the record, or within such a further time as the  
32 court allows or as the parties agree, the local jurisdiction shall  
33 submit to the court a certified copy of the record for judicial review  
34 of the land use decision, except that the petitioner shall prepare at  
35 the petitioner's expense and submit a verbatim transcript of any  
36 hearings held on the matter.



1 (2) If the parties agree, or upon order of the court, the record  
2 shall be shortened or summarized to avoid reproduction and  
3 transcription of portions of the record that are duplicative or not  
4 relevant to the issues to be reviewed by the court.

5 (3) The petitioner shall pay the local jurisdiction the cost of  
6 preparing the record before the local jurisdiction submits the record  
7 to the court. Failure by the petitioner to timely pay the local  
8 jurisdiction relieves the local jurisdiction of responsibility to  
9 submit the record and is grounds for dismissal of the petition.

10 (4) If the relief sought by the petitioner is granted in whole or  
11 in part the court shall equitably assess the cost of preparing the  
12 record among the parties. In assessing costs the court shall take into  
13 account the extent to which each party prevailed and the reasonableness  
14 of the parties' conduct in agreeing or not agreeing to shorten or  
15 summarize the record under subsection (2) of this section.

16 NEW SECTION. **Sec. 713.** (1) When the land use decision being  
17 reviewed was made by a quasi-judicial body or officer who made factual  
18 determinations in support of the decision and the parties to the quasi-  
19 judicial proceeding had an opportunity consistent with due process to  
20 make a record on the factual issues, judicial review of factual issues  
21 and the conclusions drawn from the factual issues shall be confined to  
22 the record created by the quasi-judicial body or officer, except as  
23 provided in subsections (2) through (4) of this section.

24 (2) For decisions described in subsection (1) of this section, the  
25 record may be supplemented by additional evidence only if the  
26 additional evidence relates to:

27 (a) Grounds for disqualification of a member of the body or of the  
28 officer that made the land use decision, when such grounds were unknown  
29 by the petitioner at the time the record was created;

30 (b) Matters that were improperly excluded from the record after  
31 being offered by a party to the quasi-judicial proceeding; or

32 (c) Matters that were outside the jurisdiction of the body or  
33 officer that made the land use decision.

34 (3) For land use decisions other than those described in subsection  
35 (1) of this section, the record for judicial review may be supplemented  
36 by evidence of material facts that were not made part of the local  
37 jurisdiction's record.

38 (4) The court may require or permit corrections of ministerial

1 errors or inadvertent omissions in the preparation of the record.

2 (5) The parties may not conduct pretrial discovery except with the  
3 prior permission of the court, which may be sought by motion at any  
4 time after service of the petition. The court shall not grant  
5 permission unless the party requesting it makes a prima facie showing  
6 of need. The court shall strictly limit discovery to what is necessary  
7 for equitable and timely review of the issues that are raised under  
8 subsections (2) and (3) of this section. If the court allows the  
9 record to be supplemented, the court shall require the parties to  
10 disclose before the hearing or trial on the merits the specific  
11 evidence they intend to offer. If any party, or anyone acting on  
12 behalf of any party, requests records under chapter 42.17 RCW relating  
13 to the matters at issue, a copy of the request shall simultaneously be  
14 given to all other parties and the court shall take such request into  
15 account in fashioning an equitable discovery order under this section.

16 NEW SECTION. **Sec. 714.** (1) The superior court, acting without a  
17 jury, shall review the record and such supplemental evidence as is  
18 permitted under section 713 of this act. The court may grant relief  
19 only if the party seeking relief has carried the burden of establishing  
20 that one of the standards set forth in (a) through (f) of this  
21 subsection has been met. The standards are:

22 (a) The body or officer that made the land use decision engaged in  
23 unlawful procedure or failed to follow a prescribed process, unless the  
24 error was harmless;

25 (b) The land use decision is an erroneous interpretation of the  
26 law, after allowing for such deference as is due the construction of a  
27 law by a local jurisdiction with expertise;

28 (c) The land use decision is not supported by evidence that is  
29 substantial when viewed in light of the whole record before the court;

30 (d) The land use decision is a clearly erroneous application of the  
31 law to the facts;

32 (e) The land use decision is outside the authority or jurisdiction  
33 of the body or officer making the decision; or

34 (f) The land use decision violates the constitutional rights of the  
35 party seeking relief.

36 (2) In order to grant relief under this chapter, it is not  
37 necessary for the court to find that the local jurisdiction engaged in  
38 arbitrary and capricious conduct. A grant of relief by itself may not

1 be deemed to establish liability for monetary damages or compensation.

2 NEW SECTION. Sec. 715. The court may affirm or reverse the land  
3 use decision under review or remand it for modification or further  
4 proceedings. If the decision is remanded for modification or further  
5 proceedings, the court may make such an order as it finds necessary to  
6 preserve the interests of the parties and the public, pending further  
7 proceedings or action by the local jurisdiction.

8 **Sec. 716.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to  
9 read as follows:

10 This chapter does not apply to state agency action reviewable under  
11 chapter 34.05 RCW or to land use decisions of local jurisdictions  
12 reviewable under chapter 36.-- RCW (sections 701 through 715 of this  
13 act).

14 **Sec. 717.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to  
15 read as follows:

16 Any decision approving or disapproving any plat shall be reviewable  
17 ~~((for unlawful, arbitrary, capricious or corrupt action or nonaction by~~  
18 ~~writ of review before the superior court of the county in which such~~  
19 ~~matter is pending. Standing to bring the action is limited to the~~  
20 ~~following parties:~~

21 ~~(1) The applicant or owner of the property on which the subdivision~~  
22 ~~is proposed;~~

23 ~~(2) Any property owner entitled to special notice under RCW~~  
24 ~~58.17.090;~~

25 ~~(3) Any property owner who deems himself aggrieved thereby and who~~  
26 ~~will suffer direct and substantial impacts from the proposed~~  
27 ~~subdivision.~~

28 Application for a writ of review shall be made to the court within  
29 thirty days from any decision so to be reviewed. The cost of  
30 transcription of all records ordered certified by the court for such  
31 review shall be borne by the appellant)) under chapter 36.-- RCW  
32 (sections 701 through 715 of this act).

33 NEW SECTION. Sec. 718. A new section is added to chapter 4.84 RCW  
34 to read as follows:

35 (1) Notwithstanding any other provisions of this chapter,

1 reasonable attorneys fees and costs shall be awarded to the prevailing  
2 party or substantially prevailing party on appeal before the court of  
3 appeals or the supreme court of a decision by a county, city, or town  
4 to issue, condition, or deny a development permit involving a site-  
5 specific rezone, zoning, plat, conditional use, variance, shoreline  
6 permit, building permit, site plan, or similar land use approval or  
7 decision. The court shall award and determine the amount of reasonable  
8 attorneys fees and costs under this section if:

9 (a) The prevailing party on appeal was the prevailing or  
10 substantially prevailing party before the county, city, or town, or in  
11 a decision involving a substantial development permit under chapter  
12 90.58 RCW, the prevailing party on appeal was the prevailing party or  
13 the substantially prevailing party before the shoreline hearings board;  
14 and

15 (b) The prevailing party on appeal was the prevailing party or  
16 substantially prevailing party in all prior judicial proceedings.

17 (2) In addition to the prevailing party under subsection (1) of  
18 this section, the county, city, or town whose decision is on appeal is  
19 considered a prevailing party if its decision is upheld at superior  
20 court and on appeal.

21 NEW SECTION. **Sec. 719.** Sections 701 through 715 of this act shall  
22 constitute a new chapter in Title 36 RCW.

23 **PART VIII - STUDY**

24 NEW SECTION. **Sec. 801.** The land use study commission is hereby  
25 established. The commission's goal shall be the integration and  
26 consolidation of the state's land use and environmental laws into a  
27 single, manageable statute. In fulfilling its responsibilities, the  
28 commission shall evaluate the effectiveness of the growth management  
29 act, the state environmental policy act, the shoreline management act,  
30 and other state land use, planning, environmental, and permitting  
31 statutes in achieving their stated goals.

32 NEW SECTION. **Sec. 802.** The commission shall consist of not more  
33 than fourteen members. Eleven members of the commission shall be  
34 appointed by the governor. Membership shall reflect the interests of  
35 business, agriculture, labor, the environment, neighborhood groups,

1 other citizens, the legislature, cities, counties, and federally  
2 recognized Indian tribes. Members shall have substantial experience in  
3 matters relating to land use and environmental planning and regulation,  
4 and shall have the ability to work toward cooperative solutions among  
5 diverse interests. The director of the department of community, trade,  
6 and economic development, or the director's designee, shall be a member  
7 and shall serve as chair of the commission. The director of the  
8 department of ecology, or the director's designee, and the secretary of  
9 the department of transportation, or the secretary's designee, shall  
10 also be members of the commission. Staff for the commission shall be  
11 provided by the department of community, trade, and economic  
12 development, with additional staff to be provided by other state  
13 agencies and the legislature, as may be required. State agencies shall  
14 provide the commission with information and assistance as needed.

15 NEW SECTION. **Sec. 803.** The commission shall convene commencing  
16 June 1, 1995, and shall complete its work by June 30, 1998. The  
17 commission shall submit a report to the governor and the legislature  
18 stating its findings, conclusions, and recommendations not later than  
19 November 1 of each year. The commission shall submit its final report  
20 to the governor and the legislature not later than November 1, 1997.

21 NEW SECTION. **Sec. 804.** The commission shall:

22 (1) Consider the effectiveness of state and local government  
23 efforts to consolidate and integrate the growth management act, the  
24 state environmental policy act, the shoreline management act, and other  
25 land use, planning, environmental, and permitting laws.

26 (2) Identify the revisions and modifications needed in state land  
27 use, planning, and environmental law and practice to adequately plan  
28 for growth and achieve economically and environmentally sustainable  
29 development, to adequately assess environmental impacts of  
30 comprehensive plans, development regulations, and growth, and to reduce  
31 the time and cost of obtaining project permits.

32 (3) Draft a consolidated land use procedure, following these  
33 guidelines:

34 (a) Conduct land use planning through the comprehensive planning  
35 process under chapter 36.70A RCW rather than through review of  
36 individual projects;

37 (b) Involve diverse sectors of the public in the planning process.

1 Early and informal environmental analysis should be incorporated into  
2 planning and decision making;

3 (c) Recognize that different questions need to be answered and  
4 different levels of detail applied at each planning phase, from the  
5 initial development of plan concepts or plan elements to implementation  
6 programs;

7 (d) Integrate and combine to the fullest extent possible the  
8 processes, analysis, and documents currently required under chapters  
9 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent  
10 implementation will incorporate measures to promote the environmental,  
11 economic, and other goals and to mitigate undesirable or unintended  
12 adverse impacts on a community's quality of life;

13 (e) Focus environmental review and the level of detail needed for  
14 different stages of plan and project decisions on the environmental  
15 considerations most relevant to that stage of the process;

16 (f) Avoid duplicating review that has occurred for plan decisions  
17 when specific projects are proposed;

18 (g) Use environmental review on projects to: (i) Review and  
19 document consistency with comprehensive plans and development  
20 regulations; (ii) provide prompt and coordinated review by agencies,  
21 tribes, and the public on compliance with applicable environmental laws  
22 and plans, including mitigation for site specific project impacts that  
23 have not been considered and addressed at the plan or development  
24 regulation level; and (iii) ensure accountability by local government  
25 to applicants and the public for requiring and implementing mitigation  
26 measures;

27 (h) Maintain or improve the quality of environmental analysis both  
28 for plan and for project decisions, while integrating these analyses  
29 with improved state and local planning and permitting processes;

30 (i) Examine existing land use and environmental permits for  
31 necessity and utility. To the extent possible, existing permits should  
32 be combined into fewer permits, assuring that the values and principles  
33 intended to be protected by those permits remain protected; and

34 (j) Consolidate local government appeal processes to allow a single  
35 appeal of permits at local government levels, a single state level  
36 administrative appeal, and a final judicial appeal.

37 (4) Monitor instances state-wide of the vesting of project permit  
38 applications during the period that an appeal is pending before a  
39 growth management hearings board, as authorized under RCW 36.70A.300.

1 The commission shall also review the extent to which such vesting  
2 results in the approval of projects that are inconsistent with a  
3 comprehensive plan or development regulation provision ultimately found  
4 to be in compliance with a board's order or remand. The commission  
5 shall analyze the impact of such approvals on ensuring the attainment  
6 of the goals and policies of chapter 36.70A RCW, and make  
7 recommendations to the governor and the legislature on statutory  
8 changes to address any adverse impacts from the provisions of RCW  
9 36.70A.300. The commission shall provide an initial report on its  
10 findings and recommendations by November 1, 1995, and submit its  
11 further findings and recommendations subsequently in the reports  
12 required under section 803 of this act.

13 (5) These guidelines are intended to guide the work of the  
14 commission, without limiting its charge to integrate and consolidate  
15 Washington's land use and environmental laws into a single, manageable  
16 statutory framework.

17 NEW SECTION. **Sec. 805.** Members of the commission shall be  
18 reimbursed for travel expenses as provided in RCW 43.03.050 and  
19 43.03.060.

20 NEW SECTION. **Sec. 806.** Sections 801 through 805 of this act shall  
21 expire June 30, 1998.

22 **PART IX - MISCELLANEOUS**

23 NEW SECTION. **Sec. 901.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 902.** Part headings and the table of contents as  
28 used in this act do not constitute any part of the law.

29 NEW SECTION. **Sec. 903.** Sections 801 through 806 of this act are  
30 necessary for the immediate preservation of the public peace, health,  
31 or safety, or support of the state government and its existing public  
32 institutions, and shall take effect June 1, 1995."

1 **SSB 5489** - S AMD - 211

2 By Senators Sheldon, A. Anderson, Fraser, Swecker, Drew, Hale,  
3 Haugen, Winsley, Spanel, Snyder and Gaspard

4

5 On page 1, line 3 of the title, after "review;" strike the  
6 remainder of the title and insert "amending RCW 36.70A.130, 36.70A.140,  
7 36.70A.280, 36.70A.300, 36.70A.320, 36.70A.330, 34.05.514, 43.21C.031,  
8 43.21C.075, 43.21C.080, 43.21C.110, 43.21C.900, 90.58.020, 90.58.030,  
9 90.58.050, 90.58.060, 90.58.080, 90.58.090, 90.58.100, 90.58.120,  
10 90.58.140, 90.58.180, 90.58.190, 34.05.461, 36.70A.440, 36.70A.065,  
11 36.70A.065, 43.21C.033, 35.63.130, 35A.63.170, 36.70.970, 58.17.090,  
12 58.17.092, 58.17.100, 58.17.330, 7.16.360, and 58.17.180; reenacting  
13 and amending RCW 36.70A.030 and 36.70A.290; adding new sections to  
14 chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; adding  
15 a new section to chapter 64.40 RCW; adding new sections to chapter  
16 43.131 RCW; adding a new section to chapter 4.84 RCW; adding new  
17 chapters to Title 36 RCW; adding a new chapter to Title 90 RCW; adding  
18 a new chapter to Title 82 RCW; creating new sections; recodifying RCW  
19 36.70A.065 and 36.70A.440; repealing RCW 90.58.145, 90.62.010,  
20 90.62.020, 90.62.030, 90.62.040, 90.62.050, 90.62.060, 90.62.070,  
21 90.62.080, 90.62.090, 90.62.100, 90.62.110, 90.62.120, 90.62.130,  
22 90.62.900, 90.62.901, 90.62.904, 90.62.905, 90.62.906, 90.62.907, and  
23 90.62.908; making appropriations; providing effective dates; providing  
24 expiration dates; and declaring an emergency."

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