

2 **SB 5776** - S AMD - 428

3 By Senators Fraser, Swecker, Haugen and A. Anderson

4 ADOPTED AS AMENDED 4/23/95

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

7 "**Sec. 1.** RCW 35.44.020 and 1987 c 242 s 4 are each amended to read
8 as follows:

9 There shall be included in the cost and expense of every local
10 improvement for assessment against the property in the district created
11 to pay the same, or any part thereof:

12 (1) The cost of all of the construction or improvement authorized
13 for the district including, but not limited to, that portion of the
14 improvement within the street intersections;

15 (2) The estimated cost and expense of all engineering and surveying
16 necessary for the improvement done under the supervision of the city or
17 town engineer;

18 (3) The estimated cost and expense of ascertaining the ownership of
19 the lots or parcels of land included in the assessment district;

20 (4) The estimated cost and expense of advertising, mailing, and
21 publishing all necessary notices;

22 (5) The estimated cost and expense of accounting, clerical labor,
23 and of books and blanks extended or used on the part of the city or
24 town clerk and city or town treasurer in connection with the
25 improvement;

26 (6) All cost of the acquisition of rights of way, property,
27 easements, or other facilities or rights, including without limitation
28 rights to use property, facilities, or other improvements appurtenant,
29 related to, and/or useful in connection with the local improvement,
30 whether by eminent domain, purchase, gift, payment of connection
31 charges, capacity charges, or other similar charges or in any other
32 manner;

33 (7) The cost for legal, financial, and appraisal services and any
34 other expenses incurred by the city, town, or public corporation for
35 the district or in the formation thereof, or by the city, town, or
36 public corporation in connection with such construction or improvement

1 and in the financing thereof, including the issuance of any bonds and
2 the cost of providing for increases in the local improvement guaranty
3 fund, or providing for a separate reserve fund or other security for
4 the payment of principal of and interest on such bonds.

5 Any of the costs set forth in this section may be excluded from the
6 cost and expense to be assessed against the property in such local
7 improvement district and may be paid from any other moneys available
8 therefor if the legislative body of the city or town so designates by
9 ordinance at any time.

10 **Sec. 2.** RCW 43.21B.160 and 1990 c 65 s 5 are each amended to read
11 as follows:

12 In all appeals (~~(involving a formal hearing)~~), the hearings board
13 shall have all powers relating to administration of oaths, issuance of
14 subpoenas, and taking of depositions as are granted to agencies in
15 chapter 34.05 RCW, the Administrative Procedure Act. The hearings
16 board, and each member thereof, shall be subject to all duties imposed
17 upon, and shall have all powers granted to, an agency by those
18 provisions of chapter 34.05 RCW relating to adjudicative proceedings.
19 In the case of appeals within the jurisdiction of the hearings board,
20 the hearings board, or any member thereof, may obtain such assistance,
21 including the making of field investigations, from the staff of the
22 director as the hearings board, or any member thereof, may deem
23 necessary or appropriate. Any communication, oral or written, from the
24 staff of the director to the hearings board shall be presented only in
25 an open hearing.

26 **Sec. 3.** RCW 43.21B.170 and 1970 ex.s. c 62 s 47 are each amended
27 to read as follows:

28 All proceedings(~~(, including both formal and informal hearings,)~~)
29 before the hearings board or any of its members shall be conducted in
30 accordance with such rules of practice and procedure as the hearings
31 board may prescribe. The hearings board shall publish such rules and
32 arrange for the reasonable distribution thereof.

33 **Sec. 4.** RCW 43.21B.190 and 1994 c 253 s 7 are each amended to read
34 as follows:

35 Within thirty days after the final decision and order of the
36 hearings board upon such an appeal has been communicated to the

1 interested parties, such interested party aggrieved by the decision and
2 order of the hearings board may appeal to the superior court. ((In all
3 appeals involving a decision or an order of the hearings board after an
4 informal hearing, the petition shall be filed in the superior court for
5 the county of the petitioner's residence or principal place of
6 business, or in the absence of a residence or principal place of
7 business, for Thurston county. Such appeal may be perfected by filing
8 with the clerk of the superior court a notice of appeal, and by serving
9 a copy thereof by mail, or personally on the director, the air
10 pollution control boards or authorities, established pursuant to
11 chapter 70.94 RCW or on the board as the case may be. The hearings
12 board shall serve upon the appealing party, the director, the air
13 pollution control board or authorities established pursuant to chapter
14 70.94 RCW, or the board, as the case may be, and on any other party
15 appearing at the hearings board's proceeding, and file with the clerk
16 of the court before trial, a certified copy of the hearings board's
17 decision and order. Appellate review of a decision of the superior
18 court may be sought as in other civil cases. No bond shall be required
19 on appeals to the superior court or on review by the supreme court
20 unless specifically required by the judge of the superior court.))

21 **Sec. 5.** RCW 34.05.518 and 1988 c 288 s 503 are each amended to
22 read as follows:

23 (1) The final decision of an administrative agency in an
24 adjudicative proceeding under this chapter may be directly reviewed by
25 the court of appeals either (a) upon certification by the superior
26 court pursuant to this section or (b) if the final decision is from an
27 environmental board as defined in subsection (3) of this section, upon
28 acceptance by the court of appeals after a certificate of appealability
29 has been filed by the environmental board that rendered the final
30 decision.

31 (2) For direct review upon certification by the superior court, an
32 application for direct review must be filed with the superior court
33 within thirty days of the filing of the petition for review in superior
34 court. The superior court may certify a case for direct review only if
35 the judicial review is limited to the record of the agency proceeding
36 and the court finds that:

1 (~~(1)~~) (a) Fundamental and urgent issues affecting the future
2 administrative process or the public interest are involved which
3 require a prompt determination;

4 (~~(2)~~) (b) Delay in obtaining a final and prompt determination of
5 such issues would be detrimental to any party or the public interest;

6 (~~(3)~~) (c) An appeal to the court of appeals would be likely
7 regardless of the determination in superior court; and

8 (~~(4)~~) (d) The appellate court's determination in the proceeding
9 would have significant precedential value.

10 Procedures for certification shall be established by court rule.

11 (3)(a) For the purposes of direct review of final decisions of
12 environmental boards, environmental boards include those boards
13 identified in RCW 43.21B.005 and growth management hearings boards as
14 identified in RCW 36.70A.250.

15 (b) An environmental board may issue a certificate of appealability
16 if it finds that delay in obtaining a final and prompt determination of
17 the issues would be detrimental to any party or the public interest and
18 either:

19 (i) Fundamental and urgent state-wide or regional issues are
20 raised; or

21 (ii) The proceeding is likely to have significant precedential
22 value.

23 (4) The environmental board shall state in the certificate of
24 appealability which criteria it applied, explain how that criteria was
25 met, and file with the certificate a copy of the final decision.

26 (5) For an appellate court to accept direct review of a final
27 decision of an environmental board, it shall consider the same criteria
28 outlined in subsection (3) of this section.

29 (6) The procedures for direct review of final decisions of
30 environmental boards include:

31 (a) Within thirty days after filing the petition for review with
32 the superior court, a party may file an application for direct review
33 with the superior court and serve the appropriate environmental board
34 and all parties of record. The application shall request the
35 environmental board to file a certificate of appealability.

36 (b) If an issue on review is the jurisdiction of the environmental
37 board, the board may file an application for direct review on that
38 issue.

1 (c) The environmental board shall have thirty days to grant or deny
2 the request for a certificate of appealability and its decision shall
3 be filed with the superior court and served on all parties of record.

4 (d) If a certificate of appealability is issued, the parties shall
5 have fifteen days from the date of service to file a notice of
6 discretionary review in the superior court, and the notice shall
7 include a copy of the certificate of appealability and a copy of the
8 final decision.

9 (e) If the appellate court accepts review, the certificate of
10 appealability shall be transmitted to the court of appeals as part of
11 the certified record.

12 (f) If a certificate of appealability is denied, review shall be by
13 the superior court. The superior court's decision may be appealed to
14 the court of appeals.

15 **Sec. 6.** RCW 34.05.522 and 1988 c 288 s 504 are each amended to
16 read as follows:

17 The court of appeals may refuse to accept direct review of a case
18 ((certified)) pursuant to RCW 34.05.518 if it finds that the case does
19 not meet the applicable standard in RCW 34.05.518(2) or (5). Rules of
20 Appellate Procedure 2.3 do not apply in this instance. The refusal to
21 accept such review is not subject to further appellate review,
22 notwithstanding anything in Rule 13.3 of the Rules of Appellate
23 Procedure to the contrary.

24 **Sec. 7.** RCW 75.20.140 and 1989 c 175 s 161 are each amended to
25 read as follows:

26 ~~(1) ((In all appeals over which the hydraulic appeals board has~~
27 ~~jurisdiction, a party taking an appeal may elect either a formal or~~
28 ~~informal hearing. Such election shall be made according to the rules~~
29 ~~of practice and procedure to be adopted by the hydraulic appeals board.~~
30 ~~In the event that appeals are taken from the same decision, order, or~~
31 ~~determination, by different parties and only one of such parties elects~~
32 ~~a formal hearing, a formal hearing shall be granted.~~

33 (2)) In all appeals, the hydraulic appeals board shall have all
34 powers relating to administration of oaths, issuance of subpoenas, and
35 taking of depositions, but such powers shall be exercised in conformity
36 with chapter 34.05 RCW.

1 (~~(3)~~) (2) In all appeals (~~(involving a formal hearing)~~), the
2 hydraulic appeals board, and each member thereof, shall be subject to
3 all duties imposed upon and shall have all powers granted to, an agency
4 by those provisions of chapter 34.05 RCW relating to adjudicative
5 proceedings.

6 (~~(4)~~) (3) All proceedings(~~(, including both formal and informal~~
7 ~~hearings,)~~) before the hydraulic appeals board or any of its members
8 shall be conducted in accordance with such rules of practice and
9 procedure as the board may prescribe. Such rules shall be published
10 and distributed.

11 (~~(5)~~) (4) Judicial review of a decision of the hydraulic appeals
12 board (~~(shall be de novo except when the decision has been rendered~~
13 ~~pursuant to the formal hearing, in which event judicial review)~~) may be
14 obtained only pursuant to RCW 34.05.510 through 34.05.598.

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

- 17 (1) RCW 43.21B.140 and 1987 c 109 s 30 & 1970 ex.s. c 62 s 44; and
18 (2) RCW 43.21B.150 and 1990 c 65 s 4, 1974 ex.s. c 69 s 2, & 1970
19 ex.s. c 62 s 45.

20 Sec. 9. RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5 are
21 each reenacted and amended to read as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Adopt a comprehensive land use plan" means to enact a new
25 comprehensive land use plan or to update an existing comprehensive land
26 use plan.

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

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

35 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
36 means a generalized coordinated land use policy statement of the

1 governing body of a county or city that is adopted pursuant to this
2 chapter.

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

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

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

19 ~~(8))~~ "Development regulations" means ~~((any))~~ the controls placed
20 on development or land use activities by a county or city, including,
21 but not limited to, zoning ordinances, critical areas ordinances,
22 shoreline master programs, official controls, planned unit development
23 ordinances, subdivision ordinances, and binding site plan ordinances
24 together with any amendments thereto. A development regulation does
25 not include a decision to approve a project permit application, as
26 defined in section 402, chapter (Engrossed Substitute House Bill
27 No. 1724), Laws of 1995, even though the decision may be expressed in
28 a resolution or ordinance of the legislative body of the county or
29 city.

30 ~~((9))~~ (8) "Forest land" means land primarily devoted to growing
31 trees for long-term commercial timber production on land that can be
32 economically and practically managed for such production, including
33 Christmas trees subject to the excise tax imposed under RCW 84.33.100
34 through 84.33.140, and that has long-term commercial significance. In
35 determining whether forest land is primarily devoted to growing trees
36 for long-term commercial timber production on land that can be
37 economically and practically managed for such production, the following
38 factors shall be considered: (a) The proximity of the land to urban,
39 suburban, and rural settlements; (b) surrounding parcel size and the

1 compatibility and intensity of adjacent and nearby land uses; (c) long-
2 term local economic conditions that affect the ability to manage for
3 timber production; and (d) the availability of public facilities and
4 services conducive to conversion of forest land to other uses.

5 ~~((10))~~ (9) "Geologically hazardous areas" means areas that
6 because of their susceptibility to erosion, sliding, earthquake, or
7 other geological events, are not suited to the siting of commercial,
8 residential, or industrial development consistent with public health or
9 safety concerns.

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

15 ~~((12))~~ (11) "Minerals" include gravel, sand, and valuable
16 metallic substances.

17 ~~((13))~~ (12) "Public facilities" include streets, roads, highways,
18 sidewalks, street and road lighting systems, traffic signals, domestic
19 water systems, storm and sanitary sewer systems, parks and recreational
20 facilities, and schools.

21 ~~((14))~~ (13) "Public services" include fire protection and
22 suppression, law enforcement, public health, education, recreation,
23 environmental protection, and other governmental services.

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

33 ~~((16))~~ (15) "Urban growth areas" means those areas designated by
34 a county pursuant to RCW 36.70A.110.

35 ~~((17))~~ (16) "Urban governmental services" include those
36 governmental services historically and typically delivered by cities,
37 and include storm and sanitary sewer systems, domestic water systems,
38 street cleaning services, fire and police protection services, public

1 transit services, and other public utilities associated with urban
2 areas and normally not associated with nonurban areas.

3 ~~((18))~~ (17) "Wetland" or "wetlands" means areas that are
4 inundated or saturated by surface water or ground water at a frequency
5 and duration sufficient to support, and that under normal circumstances
6 do support, a prevalence of vegetation typically adapted for life in
7 saturated soil conditions. Wetlands generally include swamps, marshes,
8 bogs, and similar areas. Wetlands do not include those artificial
9 wetlands intentionally created from nonwetland sites, including, but
10 not limited to, irrigation and drainage ditches, grass-lined swales,
11 canals, detention facilities, wastewater treatment facilities, farm
12 ponds, and landscape amenities, or those wetlands created after July 1,
13 1990, that were unintentionally created as a result of the construction
14 of a road, street, or highway. ~~((However,))~~ Wetlands may include those
15 artificial wetlands intentionally created from nonwetland areas created
16 to mitigate conversion of wetlands ~~((, if permitted by the county or~~
17 ~~city))~~.

18 **Sec. 10.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to read
19 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;

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

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

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

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

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

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

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

37 (h) "Wetlands" means areas that are inundated or saturated by
38 surface water or ground water at a frequency and duration sufficient to
39 support, and that under normal circumstances do support, a prevalence

1 of vegetation typically adapted for life in saturated soil conditions.
2 Wetlands generally include swamps, marshes, bogs, and similar areas.
3 Wetlands do not include those artificial wetlands intentionally created
4 from nonwetland sites, including, but not limited to, irrigation and
5 drainage ditches, grass-lined swales, canals, detention facilities,
6 wastewater treatment facilities, farm ponds, and landscape amenities,
7 or those wetlands created after July 1, 1990, that were unintentionally
8 created as a result of the construction of a road, street, or highway.
9 Wetlands may include those artificial wetlands intentionally created
10 from nonwetland areas to mitigate the conversion of wetlands.

11 (3) Procedural terms:

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

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

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

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

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

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

1 (ii) Construction of the normal protective bulkhead common to
2 single family residences;

3 (iii) Emergency construction necessary to protect property from
4 damage by the elements;

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

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

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

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

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

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

4 (x) Operation and maintenance of any system of dikes, ditches,
5 drains, or other facilities existing on September 8, 1975, which were
6 created, developed, or utilized primarily as a part of an agricultural
7 drainage or diking system((;

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

16 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.58 RCW
17 to read as follows:

18 The department by rule shall adopt a manual for the delineation of
19 wetlands under this chapter that implements and is consistent with the
20 1987 manual in use on January 1, 1995, by the United States army corps
21 of engineers and the United States environmental protection agency. If
22 the corps of engineers and the environmental protection agency adopt
23 changes to or a different manual, the department shall consider those
24 changes and may adopt rules implementing those changes.

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

27 Wetlands regulated under development regulations adopted pursuant
28 to this chapter shall be delineated in accordance with the manual
29 adopted by the department pursuant to section 11 of this act.

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

32 Nothing in section 104, chapter (Engrossed Substitute House
33 Bill No. 1724), Laws of 1995, shall be construed to authorize a county
34 or city to adopt regulations applicable to shorelands as defined in RCW
35 90.58.030 that are inconsistent with the provisions of chapter 90.58
36 RCW."

1 **SB 5776** - S AMD - 428

2 By Senators Fraser, Swecker, Haugen and A. Anderson

3 ADOPTED 4/23/95

4 On page 1, line 2 of the title, after "management;" strike the
5 remainder of the title and insert "amending RCW 35.44.020, 43.21B.160,
6 43.21B.170, 43.21B.190, 34.05.518, 34.05.522, 75.20.140 and 90.58.030;
7 reenacting and amending RCW 36.70A.030; adding a new section to chapter
8 90.58 RCW; adding new sections to chapter 36.70A RCW; and repealing RCW
9 43.21B.140 and 43.21B.150."

--- END ---