

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 6094**

Chapter 429, Laws of 1997

(partial veto)

55th Legislature  
1997 Regular Session

GROWTH MANAGEMENT--MODIFICATIONS

EFFECTIVE DATE: 7/27/97 - Except sections 29 and 30 which become effective 5/9/97

Passed by the Senate April 27, 1997  
YEAS 30 NAYS 18

BRAD OWEN

**President of the Senate**

Passed by the House April 27, 1997  
YEAS 62 NAYS 36

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Approved May 19, 1997, with the exception of sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, which are vetoed.

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6094** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

**Secretary**

FILED

May 19, 1997 - 7:38 p.m.

GARY LOCKE

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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ENGROSSED SENATE BILL 6094

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AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington                      55th Legislature                      1997 Regular Session

By Senators McCaslin and Haugen; by request of Governor Locke

Read first time 04/04/97.

1            AN ACT Relating to growth management; amending RCW 36.70A.030,  
2 36.70A.060, 36.70A.070, 36.70A.130, 36.70A.270, 36.70A.290, 36.70A.300,  
3 36.70A.305, 36.70A.320, 36.70A.330, 36.70A.110, 43.62.035, 36.70A.500,  
4 43.155.070, 70.146.070, 84.34.020, 84.34.060, 84.34.065, 84.40.030,  
5 90.60.030, 35A.14.295, 35.13.174, 36.93.170, 84.14.010, 84.14.030,  
6 84.14.050, 90.61.020, 90.61.040, 36.70B.040, 43.21C.110, 36.70B.110,  
7 43.21C.075, 90.58.090, 90.58.143, and 34.05.518; adding new sections to  
8 chapter 36.70A RCW; adding a new section to chapter 35.13 RCW; creating  
9 new sections; providing expiration dates; and declaring an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11            ***\*NEW SECTION.** Sec. 1. A new section is added to chapter 36.70A*  
12 *RCW to read as follows:*

13            *In enacting the section 7(5), chapter . . ., Laws of 1997 (section*  
14 *7(5) of this act) amendments to RCW 36.70A.070(5), the legislature*  
15 *finds that chapter 36.70A RCW is intended to recognize the importance*  
16 *of agriculture, forestry, and rural lands and rural character to*  
17 *Washington's economy, its people, and its environment, while respecting*  
18 *regional differences and, in accordance with one of the goals of the*  
19 *growth management act, protecting the property rights of landowners*  
20 *from arbitrary and discriminatory actions. Rural lands and rural-based*  
21 *economies, including agriculture and forest uses that are located*

1 outside of designated resource lands, enhance the economic desirability  
2 of the state, help to preserve traditional economic activities, and  
3 contribute to the state's overall quality of life. The legislature  
4 also finds that in developing its rural element under RCW  
5 36.70A.070(5), a county should foster land use patterns and develop a  
6 local vision of rural character that: Will help preserve rural-based  
7 economies and traditional rural lifestyles; will encourage the economic  
8 prosperity of rural residents; will foster opportunities for small-  
9 scale, rural-based employment and self-employment; will permit the  
10 operation of rural-based agricultural, commercial, recreational, and  
11 tourist businesses that are consistent with existing and planned land  
12 use patterns; will foster the private stewardship of the land and  
13 preservation of open space; and will enhance the rural sense of  
14 community and quality of life. The legislature recognizes that there  
15 will be a variety of interpretations by counties of how best to  
16 implement a rural element, reflecting the diverse needs and local  
17 circumstances found across the state. RCW 36.70A.070(5) provides a  
18 framework for local elected officials to make these determinations.  
19 References to both wildlife and water are intended in RCW 36.70A.030  
20 and 36.70A.070 to acknowledge their importance as features or  
21 components of rural character. It is expected that these matters will  
22 be addressed in comprehensive plans, but that counties may not  
23 necessarily need to adopt new regulations to account adequately for  
24 them in establishing a pattern of land use and development for rural  
25 areas.

26 \*Sec. 1 was vetoed. See message at end of chapter.

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

29 In amending RCW 36.70A.320(3) by section 20(3), chapter . . . , Laws  
30 of 1997 (section 20(3) of this act), the legislature intends that the  
31 boards apply a more deferential standard of review to actions of  
32 counties and cities than the preponderance of the evidence standard  
33 provided for under existing law. In recognition of the broad range of  
34 discretion that may be exercised by counties and cities consistent with  
35 the requirements of this chapter, the legislature intends for the  
36 boards to grant deference to counties and cities in how they plan for  
37 growth, consistent with the requirements and goals of this chapter.  
38 Local comprehensive plans and development regulations require counties

1 and cities to balance priorities and options for action in full  
2 consideration of local circumstances. The legislature finds that while  
3 this chapter requires local planning to take place within a framework  
4 of state goals and requirements, the ultimate burden and responsibility  
5 for planning, harmonizing the planning goals of this chapter, and  
6 implementing a county's or city's future rests with that community.

7       **Sec. 3.** RCW 36.70A.030 and 1995 c 382 s 9 are each amended to read  
8 as follows:

9       Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11       (1) "Adopt a comprehensive land use plan" means to enact a new  
12 comprehensive land use plan or to update an existing comprehensive land  
13 use plan.

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

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

22       (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
23 means a generalized coordinated land use policy statement of the  
24 governing body of a county or city that is adopted pursuant to this  
25 chapter.

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

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

33       (7) "Development regulations" or "regulation" means the controls  
34 placed on development or land use activities by a county or city,  
35 including, but not limited to, zoning ordinances, critical areas  
36 ordinances, shoreline master programs, official controls, planned unit  
37 development ordinances, subdivision ordinances, and binding site plan  
38 ordinances together with any amendments thereto. A development

1 regulation does not include a decision to approve a project permit  
2 application, as defined in RCW 36.70B.020, even though the decision may  
3 be expressed in a resolution or ordinance of the legislative body of  
4 the county or city.

5 (8) "Forest land" means land primarily devoted to growing trees for  
6 long-term commercial timber production on land that can be economically  
7 and practically managed for such production, including Christmas trees  
8 subject to the excise tax imposed under RCW 84.33.100 through  
9 84.33.140, and that has long-term commercial significance. In  
10 determining whether forest land is primarily devoted to growing trees  
11 for long-term commercial timber production on land that can be  
12 economically and practically managed for such production, the following  
13 factors shall be considered: (a) The proximity of the land to urban,  
14 suburban, and rural settlements; (b) surrounding parcel size and the  
15 compatibility and intensity of adjacent and nearby land uses; (c) long-  
16 term local economic conditions that affect the ability to manage for  
17 timber production; and (d) the availability of public facilities and  
18 services conducive to conversion of forest land to other uses.

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

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

28 (11) "Minerals" include gravel, sand, and valuable metallic  
29 substances.

30 (12) "Public facilities" include streets, roads, highways,  
31 sidewalks, street and road lighting systems, traffic signals, domestic  
32 water systems, storm and sanitary sewer systems, parks and recreational  
33 facilities, and schools.

34 (13) "Public services" include fire protection and suppression, law  
35 enforcement, public health, education, recreation, environmental  
36 protection, and other governmental services.

37 (14) "Rural character" refers to the patterns of land use and  
38 development established by a county in the rural element of its  
39 comprehensive plan:

1 (a) In which open space, the natural landscape, and vegetation  
2 predominate over the built environment;

3 (b) That foster traditional rural lifestyles, rural-based  
4 economies, and opportunities to both live and work in rural areas;

5 (c) That provide visual landscapes that are traditionally found in  
6 rural areas and communities;

7 (d) That are compatible with the use of the land by wildlife and  
8 for fish and wildlife habitat;

9 (e) That reduce the inappropriate conversion of undeveloped land  
10 into sprawling, low-density development;

11 (f) That generally do not require the extension of urban  
12 governmental services; and

13 (g) That are consistent with the protection of natural surface  
14 water flows and ground water and surface water recharge and discharge  
15 areas.

16 (15) "Rural development" refers to development outside the urban  
17 growth area and outside agricultural, forest, and mineral resource  
18 lands designated pursuant to RCW 36.70A.170. Rural development can  
19 consist of a variety of uses and residential densities, including  
20 clustered residential development, at levels that are consistent with  
21 the preservation of rural character and the requirements of the rural  
22 element. Rural development does not refer to agriculture or forestry  
23 activities that may be conducted in rural areas.

24 (16) "Rural governmental services" or "rural services" include  
25 those public services and public facilities historically and typically  
26 delivered at an intensity usually found in rural areas, and may include  
27 domestic water systems, fire and police protection services,  
28 transportation and public transit services, and other public utilities  
29 associated with rural development and normally not associated with  
30 urban areas. Rural services do not include storm or sanitary sewers,  
31 except as otherwise authorized by RCW 36.70A.110(4).

32 (17) "Urban growth" refers to growth that makes intensive use of  
33 land for the location of buildings, structures, and impermeable  
34 surfaces to such a degree as to be incompatible with the primary use of  
35 ((such)) land for the production of food, other agricultural products,  
36 or fiber, or the extraction of mineral resources, rural uses, rural  
37 development, and natural resource lands designated pursuant to RCW  
38 36.70A.170. A pattern of more intensive rural development, as provided  
39 in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread

1 over wide areas, urban growth typically requires urban governmental  
2 services. "Characterized by urban growth" refers to land having urban  
3 growth located on it, or to land located in relationship to an area  
4 with urban growth on it as to be appropriate for urban growth.

5 ~~((15))~~ (18) "Urban growth areas" means those areas designated by  
6 a county pursuant to RCW 36.70A.110.

7 ~~((16))~~ (19) "Urban governmental services" or "urban services"  
8 include those ~~((governmental))~~ public services and public facilities at  
9 an intensity historically and typically ~~((delivered by))~~ provided in  
10 cities, ~~((and include))~~ specifically including storm and sanitary sewer  
11 systems, domestic water systems, street cleaning services, fire and  
12 police protection services, public transit services, and other public  
13 utilities associated with urban areas and normally not associated with  
14 ~~((nonurban))~~ rural areas.

15 ~~((17))~~ (20) "Wetland" or "wetlands" means areas that are  
16 inundated or saturated by surface water or ground water at a frequency  
17 and duration sufficient to support, and that under normal circumstances  
18 do support, a prevalence of vegetation typically adapted for life in  
19 saturated soil conditions. Wetlands generally include swamps, marshes,  
20 bogs, and similar areas. Wetlands do not include those artificial  
21 wetlands intentionally created from nonwetland sites, including, but  
22 not limited to, irrigation and drainage ditches, grass-lined swales,  
23 canals, detention facilities, wastewater treatment facilities, farm  
24 ponds, and landscape amenities, or those wetlands created after July 1,  
25 1990, that were unintentionally created as a result of the construction  
26 of a road, street, or highway. Wetlands may include those artificial  
27 wetlands intentionally created from nonwetland areas created to  
28 mitigate conversion of wetlands.

29 ***\*NEW SECTION. Sec. 4. A new section is added to chapter 36.70A***  
30 ***RCW to read as follows:***

31 ***(1) A county, after conferring with its cities, may develop***  
32 ***alternative methods of achieving the planning goals established by RCW***  
33 ***36.70A.020.***

34 ***(2) The authority provided by this section may not be used to***  
35 ***modify:***

36 ***(a) Requirements for the designation and protection of critical***  
37 ***areas or for the designation of natural resource lands under RCW***  
38 ***36.70A.060(2), 36.70A.170, and 36.70A.172;***

1 (b) The requirement that wetlands be delineated consistent with the  
2 requirements of RCW 36.70A.175; or

3 (c) The requirement to establish a process for the siting of  
4 essential public facilities pursuant to RCW 36.70A.200.

5 (3) Before adopting any alternative methods of achieving the  
6 planning goals established by RCW 36.70A.020, a county shall provide an  
7 opportunity for public review and comment. An ordinance or resolution  
8 proposing or adopting alternative methods must be submitted to the  
9 department in the same manner as provided in RCW 36.70A.106 for  
10 submittal of proposed and adopted comprehensive plans and development  
11 regulations.

12 \*Sec. 4 was vetoed. See message at end of chapter.

13 \*NEW SECTION. Sec. 5. A new section is added to chapter 36.70A  
14 RCW to read as follows:

15 The legislature finds that it is the goal of the state of  
16 Washington to achieve no overall net loss of wetland functions.  
17 Wetlands can provide public benefits related to flood control,  
18 groundwater recharge, water quality, and wildlife habitat. The  
19 legislature further finds that consideration should be given to the  
20 functions wetlands provide and to the needs of private property owners  
21 to assure that wetlands regulations both reflect the impact to wetland  
22 functions and allow for a reasonable use of property. In adopting  
23 critical areas development regulations, counties and cities should  
24 consider and balance all of the goals under RCW 36.70A.020. The  
25 legislature intends that no goal takes precedence over any of the  
26 others, but that counties and cities may prioritize the goals in  
27 accordance with local history, conditions, circumstances, and choice.

28 \*Sec. 5 was vetoed. See message at end of chapter.

29 \*Sec. 6. RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended  
30 to read as follows:

31 (1) Each county that is required or chooses to plan under RCW  
32 36.70A.040, and each city within such county, shall adopt development  
33 regulations on or before September 1, 1991, to assure the conservation  
34 of agricultural, forest, and mineral resource lands designated under  
35 RCW 36.70A.170. Regulations adopted under this subsection may not  
36 prohibit uses legally existing on any parcel prior to their adoption  
37 and shall remain in effect until the county or city adopts development  
38 regulations pursuant to RCW 36.70A.120. Such regulations shall assure



1 that the use of lands adjacent to agricultural, forest, or mineral  
2 resource lands shall not interfere with the continued use, in the  
3 accustomed manner and in accordance with best management practices, of  
4 these designated lands for the production of food, agricultural  
5 products, or timber, or for the extraction of minerals. Counties and  
6 cities shall require that all plats, short plats, development permits,  
7 and building permits issued for development activities on, or within  
8 three hundred feet of, lands designated as agricultural lands, forest  
9 lands, or mineral resource lands, contain a notice that the subject  
10 property is within or near designated agricultural lands, forest lands,  
11 or mineral resource lands on which a variety of commercial activities  
12 may occur that are not compatible with residential development for  
13 certain periods of limited duration.

14 (2) Each county and city shall adopt development regulations that  
15 protect critical areas that are required to be designated under RCW  
16 36.70A.170. For counties and cities that are required or choose to  
17 plan under RCW 36.70A.040, such development regulations shall be  
18 adopted on or before September 1, 1991. For the remainder of the  
19 counties and cities, such development regulations shall be adopted on  
20 or before March 1, 1992.

21 (3) Such counties and cities shall review these designations and  
22 development regulations when adopting their comprehensive plans under  
23 RCW 36.70A.040 and implementing development regulations under RCW  
24 36.70A.120 and may alter such designations and development regulations  
25 to insure consistency.

26 (4) Forest land and agricultural land located within urban growth  
27 areas shall not be designated by a county or city as forest land or  
28 agricultural land of long-term commercial significance under RCW  
29 36.70A.170 unless the city or county has enacted a program authorizing  
30 transfer or purchase of development rights.

31 (5) Counties and cities may exempt the following from critical  
32 areas development regulations:

33 (a) Emergency activities; and

34 (b) Activities with minor impacts on critical areas.

35 \*Sec. 6 was vetoed. See message at end of chapter.

36 **Sec. 7.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to read  
37 as follows:

1 The comprehensive plan of a county or city that is required or  
2 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
3 and descriptive text covering objectives, principles, and standards  
4 used to develop the comprehensive plan. The plan shall be an  
5 internally consistent document and all elements shall be consistent  
6 with the future land use map. A comprehensive plan shall be adopted  
7 and amended with public participation as provided in RCW 36.70A.140.

8 Each comprehensive plan shall include a plan, scheme, or design for  
9 each of the following:

10 (1) A land use element designating the proposed general  
11 distribution and general location and extent of the uses of land, where  
12 appropriate, for agriculture, timber production, housing, commerce,  
13 industry, recreation, open spaces, general aviation airports, public  
14 utilities, public facilities, and other land uses. The land use  
15 element shall include population densities, building intensities, and  
16 estimates of future population growth. The land use element shall  
17 provide for protection of the quality and quantity of ground water used  
18 for public water supplies. Where applicable, the land use element  
19 shall review drainage, flooding, and storm water run-off in the area  
20 and nearby jurisdictions and provide guidance for corrective actions to  
21 mitigate or cleanse those discharges that pollute waters of the state,  
22 including Puget Sound or waters entering Puget Sound.

23 (2) A housing element ensuring the vitality and character of  
24 established residential neighborhoods that: (a) Includes an inventory  
25 and analysis of existing and projected housing needs; (b) includes a  
26 statement of goals, policies, objectives, and mandatory provisions for  
27 the preservation, improvement, and development of housing, including  
28 single-family residences; (c) identifies sufficient land for housing,  
29 including, but not limited to, government-assisted housing, housing for  
30 low-income families, manufactured housing, multifamily housing, and  
31 group homes and foster care facilities; and (d) makes adequate  
32 provisions for existing and projected needs of all economic segments of  
33 the community.

34 (3) A capital facilities plan element consisting of: (a) An  
35 inventory of existing capital facilities owned by public entities,  
36 showing the locations and capacities of the capital facilities; (b) a  
37 forecast of the future needs for such capital facilities; (c) the  
38 proposed locations and capacities of expanded or new capital  
39 facilities; (d) at least a six-year plan that will finance such capital

1 facilities within projected funding capacities and clearly identifies  
2 sources of public money for such purposes; and (e) a requirement to  
3 reassess the land use element if probable funding falls short of  
4 meeting existing needs and to ensure that the land use element, capital  
5 facilities plan element, and financing plan within the capital  
6 facilities plan element are coordinated and consistent.

7 (4) A utilities element consisting of the general location,  
8 proposed location, and capacity of all existing and proposed utilities,  
9 including, but not limited to, electrical lines, telecommunication  
10 lines, and natural gas lines.

11 (5) Rural element. Counties shall include a rural element  
12 including lands that are not designated for urban growth, agriculture,  
13 forest, or mineral resources. The following provisions shall apply to  
14 the rural element:

15 (a) Growth management act goals and local circumstances. Because  
16 circumstances vary from county to county, in establishing patterns of  
17 rural densities and uses, a county may consider local circumstances,  
18 but shall develop a written record explaining how the rural element  
19 harmonizes the planning goals in RCW 36.70A.020 and meets the  
20 requirements of this chapter.

21 (b) Rural development. The rural element shall permit  
22 ~~((appropriate land uses that are compatible with the rural character of~~  
23 ~~such lands and)) rural development, forestry, and agriculture in rural  
24 areas. The rural element shall provide for a variety of rural  
25 densities ((and)), uses ((and may also provide)), essential public  
26 facilities, and rural governmental services needed to serve the  
27 permitted densities and uses. In order to achieve a variety of rural  
28 densities and uses, counties may provide for clustering, density  
29 transfer, design guidelines, conservation easements, and other  
30 innovative techniques that will accommodate appropriate rural densities  
31 and uses that are not characterized by urban growth and that are  
32 consistent with rural character.~~

33 (c) Measures governing rural development. The rural element shall  
34 include measures that apply to rural development and protect the rural  
35 character of the area, as established by the county, by:

36 (i) Containing or otherwise controlling rural development;

37 (ii) Assuring visual compatibility of rural development with the  
38 surrounding rural area;

1 (iii) Reducing the inappropriate conversion of undeveloped land  
2 into sprawling, low-density development in the rural area;

3 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and  
4 surface water and ground water resources; and

5 (v) Protecting against conflicts with the use of agricultural,  
6 forest, and mineral resource lands designated under RCW 36.70A.170.

7 (d) Limited areas of more intensive rural development. Subject to  
8 the requirements of this subsection and except as otherwise  
9 specifically provided in this subsection (5)(d), the rural element may  
10 allow for limited areas of more intensive rural development, including  
11 necessary public facilities and public services to serve the limited  
12 area as follows:

13 (i) Rural development consisting of the infill, development, or  
14 redevelopment of existing commercial, industrial, residential, or  
15 mixed-use areas, whether characterized as shoreline development,  
16 villages, hamlets, rural activity centers, or crossroads developments.  
17 A commercial, industrial, residential, shoreline, or mixed-use area  
18 shall be subject to the requirements of (d)(iv) of this subsection, but  
19 shall not be subject to the requirements of (c)(ii) and (iii) of this  
20 subsection. An industrial area is not required to be principally  
21 designed to serve the existing and projected rural population;

22 (ii) The intensification of development on lots containing, or new  
23 development of, small-scale recreational or tourist uses, including  
24 commercial facilities to serve those recreational or tourist uses, that  
25 rely on a rural location and setting, but that do not include new  
26 residential development. A small-scale recreation or tourist use is  
27 not required to be principally designed to serve the existing and  
28 projected rural population. Public services and public facilities  
29 shall be limited to those necessary to serve the recreation or tourist  
30 use and shall be provided in a manner that does not permit low-density  
31 sprawl;

32 (iii) The intensification of development on lots containing  
33 isolated nonresidential uses or new development of isolated cottage  
34 industries and isolated small-scale businesses that are not principally  
35 designed to serve the existing and projected rural population and  
36 nonresidential uses, but do provide job opportunities for rural  
37 residents. Public services and public facilities shall be limited to  
38 those necessary to serve the isolated nonresidential use and shall be  
39 provided in a manner that does not permit low-density sprawl;

1       (iv) A county shall adopt measures to minimize and contain the  
2 existing areas or uses of more intensive rural development, as  
3 appropriate, authorized under this subsection. Lands included in such  
4 existing areas or uses shall not extend beyond the logical outer  
5 boundary of the existing area or use, thereby allowing a new pattern of  
6 low-density sprawl. Existing areas are those that are clearly  
7 identifiable and contained and where there is a logical boundary  
8 delineated predominately by the built environment, but that may also  
9 include undeveloped lands if limited as provided in this subsection.  
10 The county shall establish the logical outer boundary of an area of  
11 more intensive rural development. In establishing the logical outer  
12 boundary the county shall address (A) the need to preserve the  
13 character of existing natural neighborhoods and communities, (B)  
14 physical boundaries such as bodies of water, streets and highways, and  
15 land forms and contours, (C) the prevention of abnormally irregular  
16 boundaries, and (D) the ability to provide public facilities and public  
17 services in a manner that does not permit low-density sprawl;

18       (v) For purposes of (d) of this subsection, an existing area or  
19 existing use is one that was in existence:

20       (A) On July 1, 1990, in a county that was initially required to  
21 plan under all of the provisions of this chapter;

22       (B) On the date the county adopted a resolution under RCW  
23 36.70A.040(2), in a county that is planning under all of the provisions  
24 of this chapter under RCW 36.70A.040(2); or

25       (C) On the date the office of financial management certifies the  
26 county's population as provided in RCW 36.70A.040(5), in a county that  
27 is planning under all of the provisions of this chapter pursuant to RCW  
28 36.70A.040(5).

29       (e) Exception. This subsection shall not be interpreted to permit  
30 in the rural area a major industrial development or a master planned  
31 resort unless otherwise specifically permitted under RCW 36.70A.360 and  
32 36.70A.365.

33       (6) A transportation element that implements, and is consistent  
34 with, the land use element. The transportation element shall include  
35 the following subelements:

36       (a) Land use assumptions used in estimating travel;

37       (b) Facilities and services needs, including:

38       (i) An inventory of air, water, and ground transportation  
39 facilities and services, including transit alignments and general

1 aviation airport facilities, to define existing capital facilities and  
2 travel levels as a basis for future planning;

3 (ii) Level of service standards for all arterials and transit  
4 routes to serve as a gauge to judge performance of the system. These  
5 standards should be regionally coordinated;

6 (iii) Specific actions and requirements for bringing into  
7 compliance any facilities or services that are below an established  
8 level of service standard;

9 (iv) Forecasts of traffic for at least ten years based on the  
10 adopted land use plan to provide information on the location, timing,  
11 and capacity needs of future growth;

12 (v) Identification of system expansion needs and transportation  
13 system management needs to meet current and future demands;

14 (c) Finance, including:

15 (i) An analysis of funding capability to judge needs against  
16 probable funding resources;

17 (ii) A multiyear financing plan based on the needs identified in  
18 the comprehensive plan, the appropriate parts of which shall serve as  
19 the basis for the six-year street, road, or transit program required by  
20 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
21 35.58.2795 for public transportation systems;

22 (iii) If probable funding falls short of meeting identified needs,  
23 a discussion of how additional funding will be raised, or how land use  
24 assumptions will be reassessed to ensure that level of service  
25 standards will be met;

26 (d) Intergovernmental coordination efforts, including an assessment  
27 of the impacts of the transportation plan and land use assumptions on  
28 the transportation systems of adjacent jurisdictions;

29 (e) Demand-management strategies.

30 After adoption of the comprehensive plan by jurisdictions required  
31 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions  
32 must adopt and enforce ordinances which prohibit development approval  
33 if the development causes the level of service on a transportation  
34 facility to decline below the standards adopted in the transportation  
35 element of the comprehensive plan, unless transportation improvements  
36 or strategies to accommodate the impacts of development are made  
37 concurrent with the development. These strategies may include  
38 increased public transportation service, ride sharing programs, demand  
39 management, and other transportation systems management strategies.

1 For the purposes of this subsection (6) "concurrent with the  
2 development" shall mean that improvements or strategies are in place at  
3 the time of development, or that a financial commitment is in place to  
4 complete the improvements or strategies within six years.

5 The transportation element described in this subsection, and the  
6 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for  
7 counties, and RCW 35.58.2795 for public transportation systems, must be  
8 consistent.

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

11 *(1) Except as otherwise provided in this chapter, residential and*  
12 *nonresidential uses in the rural element shall not require urban*  
13 *services and nonresidential rural development shall be principally*  
14 *designed to serve and provide jobs for the existing and projected rural*  
15 *population or serve existing nonresidential uses.*

16 *(2) This section applies to (a) a county with a population of*  
17 *ninety-five thousand or more; and (b) a county that has committed five*  
18 *percent or more of its land base to urban growth areas under RCW*  
19 *36.70A.110 and that has no more than eighty percent of its land base in*  
20 *public ownership or resource lands of long-term commercial significance*  
21 *designated under RCW 36.70A.170.*

22 *\*Sec. 8 was vetoed. See message at end of chapter.*

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

25 *(1) The public participation requirements of this chapter shall*  
26 *include notice procedures that are reasonably calculated to provide*  
27 *notice to property owners and other affected and interested*  
28 *individuals, tribes, government agencies, businesses, and organizations*  
29 *of proposed amendments to comprehensive plans and development*  
30 *regulation. Examples of reasonable notice provisions include:*

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

32 *(b) Publishing notice in a newspaper of general circulation in the*  
33 *county, city, or general area where the proposal is located or that*  
34 *will be affected by the proposal;*

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

1 (d) Placing notices in appropriate regional, neighborhood, ethnic,  
2 or trade journals; and

3 (e) Publishing notice in agency newsletters or sending notice to  
4 agency mailing lists, including general lists or lists for specific  
5 proposals or subject areas.

6 (2)(a) Except as otherwise provided in (b) of this subsection, if  
7 the legislative body for a county or city chooses to consider a change  
8 to an amendment to a comprehensive plan or development regulation, and  
9 the change is proposed after the opportunity for review and comment has  
10 passed under the county's or city's procedures, an opportunity for  
11 review and comment on the proposed change shall be provided before the  
12 local legislative body votes on the proposed change.

13 (b) An additional opportunity for public review and comment is not  
14 required under (a) of this subsection if:

15 (i) An environmental impact statement has been prepared under  
16 chapter 43.21C RCW for the pending resolution or ordinance and the  
17 proposed change is within the range of alternatives considered in the  
18 environmental impact statement;

19 (ii) The proposed change is within the scope of the alternatives  
20 available for public comment;

21 (iii) The proposed change only corrects typographical errors,  
22 corrects cross-references, makes address or name changes, or clarifies  
23 language of a proposed ordinance or resolution without changing its  
24 effect;

25 (iv) The proposed change is to a resolution or ordinance making a  
26 capital budget decision as provided in RCW 36.70A.120; or

27 (v) The proposed change is to a resolution or ordinance enacting a  
28 moratorium or interim control adopted under RCW 36.70A.390.

29 (3) This section is prospective in effect and does not apply to a  
30 comprehensive plan, development regulation, or amendment adopted before  
31 the effective date of this section.

32 **Sec. 10.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to  
33 read as follows:

34 (1) Each comprehensive land use plan and development regulations  
35 shall be subject to continuing ((evaluation and)) review and evaluation  
36 by the county or city that adopted them. Not later than September 1,  
37 2002, and at least every five years thereafter, a county or city shall  
38 take action to review and, if needed, revise its comprehensive land use



1 plan and development regulations to ensure that the plan and  
2 regulations are complying with the requirements of this chapter. The  
3 review and evaluation required by this subsection may be combined with  
4 the review required by subsection (3) of this section.

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

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

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

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

17 (iii) The amendment of the capital facilities element of a  
18 comprehensive plan that occurs concurrently with the adoption or  
19 amendment of a county or city budget.

20 (b) Except as otherwise provided in (a) of this subsection, all  
21 proposals shall be considered by the governing body concurrently so the  
22 cumulative effect of the various proposals can be ascertained.  
23 However, after appropriate public participation a county or city may  
24 adopt amendments or revisions to its comprehensive plan that conform  
25 with this chapter whenever an emergency exists or to resolve an appeal  
26 of a comprehensive plan filed with a growth management hearings board  
27 or with the court.

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

1 urban growth projected to occur in the county for the succeeding  
2 twenty-year period. The review required by this subsection may be  
3 combined with the review and evaluation required by section 25 of this  
4 act.

5 **Sec. 11.** RCW 36.70A.270 and 1996 c 325 s 1 are each amended to  
6 read as follows:

7 Each growth management hearings board shall be governed by the  
8 following rules on conduct and procedure:

9 (1) Any board member may be removed for inefficiency, malfeasance,  
10 and misfeasance in office, under specific written charges filed by the  
11 governor. The governor shall transmit such written charges to the  
12 member accused and the chief justice of the supreme court. The chief  
13 justice shall thereupon designate a tribunal composed of three judges  
14 of the superior court to hear and adjudicate the charges. Removal of  
15 any member of a board by the tribunal shall disqualify such member for  
16 reappointment.

17 (2) Each board member shall receive reimbursement for travel  
18 expenses incurred in the discharge of his or her duties in accordance  
19 with RCW 43.03.050 and 43.03.060. If it is determined that the review  
20 boards shall operate on a full-time basis, each member shall receive an  
21 annual salary to be determined by the governor pursuant to RCW  
22 43.03.040. If it is determined that a review board shall operate on a  
23 part-time basis, each member shall receive compensation pursuant to RCW  
24 43.03.250, provided such amount shall not exceed the amount that would  
25 be set if they were a full-time board member. The principal office of  
26 each board shall be located by the governor within the jurisdictional  
27 boundaries of each board. The boards shall operate on either a part-  
28 time or full-time basis, as determined by the governor.

29 (3) Each board member shall not: (a) Be a candidate for or hold  
30 any other public office or trust; (b) engage in any occupation or  
31 business interfering with or inconsistent with his or her duty as a  
32 board member; and (c) for a period of one year after the termination of  
33 his or her board membership, act in a representative capacity before  
34 the board on any matter.

35 (4) A majority of each board shall constitute a quorum for making  
36 orders or decisions, adopting rules necessary for the conduct of its  
37 powers and duties, or transacting other official business, and may act  
38 even though one position of the board is vacant. One or more members

1 may hold hearings and take testimony to be reported for action by the  
2 board when authorized by rule or order of the board. The board shall  
3 perform all the powers and duties specified in this chapter or as  
4 otherwise provided by law.

5 (5) The board may appoint one or more hearing examiners to assist  
6 the board in its hearing function, to make conclusions of law and  
7 findings of fact and, if requested by the board, to make  
8 recommendations to the board for decisions in cases before the board.  
9 Such hearing examiners must have demonstrated knowledge of land use  
10 planning and law. The boards shall specify in their joint rules of  
11 practice and procedure, as required by subsection (7) of this section,  
12 the procedure and criteria to be employed for designating hearing  
13 examiners as a presiding officer. Hearing examiners selected by a  
14 board shall meet the requirements of subsection (3) of this section.  
15 The findings and conclusions of the hearing examiner shall not become  
16 final until they have been formally approved by the board. This  
17 authorization to use hearing examiners does not waive the requirement  
18 of RCW 36.70A.300 that final orders be issued within one hundred eighty  
19 days of board receipt of a petition.

20 (6) Each board shall make findings of fact and prepare a written  
21 decision in each case decided by it, and such findings and decision  
22 shall be effective upon being signed by two or more members of the  
23 board and upon being filed at the board's principal office, and shall  
24 be open for public inspection at all reasonable times.

25 (7) All proceedings before the board, any of its members, or a  
26 hearing examiner appointed by the board shall be conducted in  
27 accordance with such administrative rules of practice and procedure as  
28 the boards jointly prescribe. All three boards shall jointly meet to  
29 develop and adopt joint rules of practice and procedure, including  
30 rules regarding expeditious and summary disposition of appeals. The  
31 boards shall publish such rules and decisions they render and arrange  
32 for the reasonable distribution of the rules and decisions. Except as  
33 it conflicts with specific provisions of this chapter, the  
34 administrative procedure act, chapter 34.05 RCW, and specifically  
35 including the provisions of RCW 34.05.455 governing ex parte  
36 communications, shall govern the practice and procedure of the boards.

37 (8) A board member or hearing examiner is subject to  
38 disqualification under chapter 34.05 RCW. The joint rules of practice  
39 of the boards shall establish procedures by which a party to a hearing

1 conducted before the board may file with the board a motion to  
2 disqualify, with supporting affidavit, against a board member or  
3 hearing examiner assigned to preside at the hearing.

4 (9) The members of the boards shall meet jointly on at least an  
5 annual basis with the objective of sharing information that promotes  
6 the goals and purposes of this chapter.

7 **Sec. 12.** RCW 36.70A.290 and 1995 c 347 s 109 are each amended to  
8 read as follows:

9 (1) All requests for review to a growth management hearings board  
10 shall be initiated by filing a petition that includes a detailed  
11 statement of issues presented for resolution by the board. The board  
12 shall render written decisions articulating the basis for its holdings.  
13 The board shall not issue advisory opinions on issues not presented to  
14 the board in the statement of issues, as modified by any prehearing  
15 order.

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

21 (a) Except as provided in (c) of this subsection, the date of  
22 publication for a city shall be the date the city publishes the  
23 ordinance, or summary of the ordinance, adopting the comprehensive plan  
24 or development regulations, or amendment thereto, as is required to be  
25 published.

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

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

33 (c) For local governments planning under RCW 36.70A.040, promptly  
34 after approval or disapproval of a local government s shoreline master  
35 program or amendment thereto by the department of ecology as provided  
36 in RCW 90.58.090, the local government shall publish a notice that the  
37 shoreline master program or amendment thereto has been approved or  
38 disapproved by the department of ecology. For purposes of this

1 section, the date of publication for the adoption or amendment of a  
2 shoreline master program is the date the local government publishes  
3 notice that the shoreline master program or amendment thereto has been  
4 approved or disapproved by the department of ecology.

5 (3) Unless the board dismisses the petition as frivolous or finds  
6 that the person filing the petition lacks standing, or the parties have  
7 filed an agreement to have the case heard in superior court as provided  
8 in section 13 of this act, the board shall, within ten days of receipt  
9 of the petition, set a time for hearing the matter.

10 (4) The board shall base its decision on the record developed by  
11 the city, county, or the state and supplemented with additional  
12 evidence if the board determines that such additional evidence would be  
13 necessary or of substantial assistance to the board in reaching its  
14 decision.

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

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

20 (1) The superior court may directly review a petition for review  
21 filed under RCW 36.70A.290 if all parties to the proceeding before the  
22 board have agreed to direct review in the superior court. The  
23 agreement of the parties shall be in writing and signed by all of the  
24 parties to the proceeding or their designated representatives. The  
25 agreement shall include the parties' agreement to proper venue as  
26 provided in RCW 36.70A.300(5). The parties shall file their agreement  
27 with the board within ten days after the date the petition is filed, or  
28 if multiple petitions have been filed and the board has consolidated  
29 the petitions pursuant to RCW 36.70A.300, within ten days after the  
30 board serves its order of consolidation.

31 (2) Within ten days of receiving the timely and complete agreement  
32 of the parties, the board shall file a certificate of agreement with  
33 the designated superior court and shall serve the parties with copies  
34 of the certificate. The superior court shall obtain exclusive  
35 jurisdiction over a petition when it receives the certificate of  
36 agreement. With the certificate of agreement the board shall also file  
37 the petition for review, any orders entered by the board, all other

1 documents in the board's files regarding the action, and the written  
2 agreement of the parties.

3 (3) For purposes of a petition that is subject to direct review,  
4 the superior court's subject matter jurisdiction shall be equivalent to  
5 that of the board. Consistent with the requirements of the superior  
6 court civil rules, the superior court may consolidate a petition  
7 subject to direct review under this section with a separate action  
8 filed in the superior court.

9 (4)(a) Except as otherwise provided in (b) and (c) of this  
10 subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which  
11 specify the nature and extent of board review, shall apply to the  
12 superior court's review.

13 (b) The superior court:

14 (i) Shall not have jurisdiction to directly review or modify an  
15 office of financial management population projection;

16 (ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall  
17 render its decision on the petition within one hundred eighty days of  
18 receiving the certification of agreement; and

19 (iii) Shall give a compliance hearing under RCW 36.70A.330(2) the  
20 highest priority of all civil matters before the court.

21 (c) An aggrieved party may secure appellate review of a final  
22 judgment of the superior court under this section by the supreme court  
23 or the court of appeals. The review shall be secured in the manner  
24 provided by law for review of superior court decisions in other civil  
25 cases.

26 (5) If, following a compliance hearing, the court finds that the  
27 state agency, county, or city is not in compliance with the court's  
28 prior order, the court may use its remedial and contempt powers to  
29 enforce compliance.

30 (6) The superior court shall transmit a copy of its decision and  
31 order on direct review to the board, the department, and the governor.  
32 If the court has determined that a county or city is not in compliance  
33 with the provisions of this chapter, the governor may impose sanctions  
34 against the county or city in the same manner as if a board had  
35 recommended the imposition of sanctions as provided in RCW 36.70A.330.

36 (7) After the court has assumed jurisdiction over a petition for  
37 review under this section, the superior court civil rules shall govern  
38 a request for intervention and all other procedural matters not  
39 specifically provided for in this section.

1       **Sec. 14.** RCW 36.70A.300 and 1995 c 347 s 110 are each amended to  
2 read as follows:

3       (1) The board shall issue a final order (~~((within one hundred eighty~~  
4 ~~days of receipt of the petition for review, or, when multiple petitions~~  
5 ~~are filed, within one hundred eighty days of receipt of the last~~  
6 ~~petition that is consolidated. Such a final order)) that shall be  
7 based exclusively on whether or not a state agency, county, or city is  
8 in compliance with the requirements of this chapter, chapter 90.58 RCW  
9 as it relates to adoption or amendment of shoreline master programs, or  
10 chapter 43.21C RCW as it relates to adoption of plans, development  
11 regulations, and amendments thereto, ((adopted)) under RCW 36.70A.040  
12 or chapter 90.58 RCW.~~

13       (2)(a) Except as provided in (b) of this subsection, the final  
14 order shall be issued within one hundred eighty days of receipt of the  
15 petition for review, or, if multiple petitions are filed, within one  
16 hundred eighty days of receipt of the last petition that is  
17 consolidated.

18       (b) The board may extend the period of time for issuing a decision  
19 to enable the parties to settle the dispute if additional time is  
20 necessary to achieve a settlement, and (i) an extension is requested by  
21 all parties, or (ii) an extension is requested by the petitioner and  
22 respondent and the board determines that a negotiated settlement  
23 between the remaining parties could resolve significant issues in  
24 dispute. The request must be filed with the board not later than seven  
25 days before the date scheduled for the hearing on the merits of the  
26 petition. The board may authorize one or more extensions for up to  
27 ninety days each, subject to the requirements of this section.

28       (3) In the final order, the board shall either:

29       (a) Find that the state agency, county, or city is in compliance  
30 with the requirements of this chapter (~~((or))~~), chapter 90.58 RCW as it  
31 relates to the adoption or amendment of shoreline master programs, or  
32 chapter 43.21C RCW as it relates to adoption of plans, development  
33 regulations, and amendments thereto, under RCW 36.70A.040 or chapter  
34 90.58 RCW; or

35       (b) Find that the state agency, county, or city is not in  
36 compliance with the requirements of this chapter (~~((or))~~), chapter 90.58  
37 RCW as it relates to the adoption or amendment of shoreline master  
38 programs, or chapter 43.21C RCW as it relates to adoption of plans,  
39 development regulations, and amendments thereto, under RCW 36.70A.040

1 or chapter 90.58 RCW, in which case the board shall remand the matter  
2 to the affected state agency, county, or city ((and)). The board shall  
3 specify a reasonable time not in excess of one hundred eighty days, or  
4 such longer period as determined by the board in cases of unusual scope  
5 or complexity, within which the state agency, county, or city shall  
6 comply with the requirements of this chapter. The board may require  
7 periodic reports to the board on the progress the jurisdiction is  
8 making towards compliance.

9 ~~((2))~~ (4) Unless the board makes a determination of invalidity as  
10 provided in section 16 of this act, a finding of noncompliance and an  
11 order of remand shall not affect the validity of comprehensive plans  
12 and development regulations during the period of remand(, unless the  
13 board's final order also:

14 ~~(a) Includes a determination, supported by findings of fact and~~  
15 ~~conclusions of law, that the continued validity of the plan or~~  
16 ~~regulation would substantially interfere with the fulfillment of the~~  
17 ~~goals of this chapter; and~~

18 ~~(b) Specifies the particular part or parts of the plan or~~  
19 ~~regulation that are determined to be invalid, and the reasons for their~~  
20 ~~invalidity.~~

21 ~~(3) A determination of invalidity shall:~~

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

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

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

36 ~~(5) Any party aggrieved by a final decision of the hearings board~~  
37 ~~may appeal the decision to superior court as provided in RCW 34.05.514~~  
38 ~~or 36.01.050 within thirty days of the final order of the board.~~



1           ***\*NEW SECTION. Sec. 15.** A new section is added to chapter 36.70A*  
2 *RCW to read as follows:*

3           *After the effective date of this section, all appeals of a decision*  
4 *taken from a final decision of a board shall be filed in the court of*  
5 *appeals for assignment by the chief presiding judge.*

6 *\*Sec. 15 was vetoed. See message at end of chapter.*

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

9           (1) A board may determine that part or all of a comprehensive plan  
10 or development regulations are invalid if the board:

11           (a) Makes a finding of noncompliance and issues an order of remand  
12 under RCW 36.70A.300;

13           (b) Includes in the final order a determination, supported by  
14 findings of fact and conclusions of law, that the continued validity of  
15 part or parts of the plan or regulation would substantially interfere  
16 with the fulfillment of the goals of this chapter; and

17           (c) Specifies in the final order the particular part or parts of  
18 the plan or regulation that are determined to be invalid, and the  
19 reasons for their invalidity.

20           (2) A determination of invalidity is prospective in effect and does  
21 not extinguish rights that vested under state or local law before  
22 receipt of the board's order by the city or county. The determination  
23 of invalidity does not apply to a completed development permit  
24 application for a project that vested under state or local law before  
25 receipt of the board's order by the county or city or to related  
26 construction permits for that project.

27           (3)(a) Except as otherwise provided in subsection (2) of this  
28 section and (b) of this subsection, a development permit application  
29 not vested under state or local law before receipt of the board's order  
30 by the county or city vests to the local ordinance or resolution that  
31 is determined by the board not to substantially interfere with the  
32 fulfillment of the goals of this chapter.

33           (b) Even though the application is not vested under state or local  
34 law before receipt by the county or city of the board's order, a  
35 determination of invalidity does not apply to a development permit  
36 application for:

37           (i) A permit for construction by any owner, lessee, or contract  
38 purchaser of a single-family residence for his or her own use or for

1 the use of his or her family on a lot existing before receipt by the  
2 county or city of the board's order, except as otherwise specifically  
3 provided in the board's order to protect the public health and safety;

4 (ii) A building permit and related construction permits for  
5 remodeling, tenant improvements, or expansion of an existing structure  
6 on a lot existing before receipt of the board's order by the county or  
7 city; and

8 (iii) A boundary line adjustment or a division of land that does  
9 not increase the number of buildable lots existing before receipt of  
10 the board's order by the county or city.

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

17 (5) A county or city subject to a determination of invalidity may  
18 adopt interim controls and other measures to be in effect until it  
19 adopts a comprehensive plan and development regulations that comply  
20 with the requirements of this chapter. A development permit  
21 application may vest under an interim control or measure upon  
22 determination by the board that the interim controls and other measures  
23 do not substantially interfere with the fulfillment of the goals of  
24 this chapter.

25 (6) A county or city subject to a determination of invalidity may  
26 file a motion requesting that the board clarify, modify, or rescind the  
27 order. The board shall expeditiously schedule a hearing on the motion.  
28 At the hearing on the motion, the parties may present information to  
29 the board to clarify the part or parts of the comprehensive plan or  
30 development regulations to which the final order applies. The board  
31 shall issue any supplemental order based on the information provided at  
32 the hearing not later than thirty days after the date of the hearing.

33 (7)(a) If a determination of invalidity has been made and the  
34 county or city has enacted an ordinance or resolution amending the  
35 invalidated part or parts of the plan or regulation or establishing  
36 interim controls on development affected by the order of invalidity,  
37 after a compliance hearing, the board shall modify or rescind the  
38 determination of invalidity if it determines under the standard in  
39 subsection (1) of this section that the plan or regulation, as amended

1 or made subject to such interim controls, will no longer substantially  
2 interfere with the fulfillment of the goals of this chapter.

3 (b) If the board determines that part or parts of the plan or  
4 regulation are no longer invalid as provided in this subsection, but  
5 does not find that the plan or regulation is in compliance with all of  
6 the requirements of this chapter, the board, in its order, may require  
7 periodic reports to the board on the progress the jurisdiction is  
8 making towards compliance.

9 *\*NEW SECTION. Sec. 17. A board shall determine that part or all*  
10 *of a comprehensive plan or development regulations, or amendments*  
11 *thereto, are invalid only if, in addition to the requirements of*  
12 *section 16 of this act, the board finds that in adopting plans or*  
13 *development regulations, or amendments thereto, the county or city*  
14 *acted in an arbitrary and capricious manner.*

15 *\*Sec. 17 was vetoed. See message at end of chapter.*

16 *\*Sec. 18. RCW 36.70A.305 and 1996 c 325 s 4 are each amended to*  
17 *read as follows:*

18 *(1) The court shall provide expedited review of ((a determination*  
19 *of invalidity or)) an order ((effectuating)) that includes a*  
20 *determination of invalidity made or issued under RCW 36.70A.300 and*  
21 *section 16 of this act. The matter must be set for hearing within*  
22 *sixty days of the date set for submitting the board's record, absent a*  
23 *showing of good cause for a different date or a stipulation of the*  
24 *parties.*

25 *(2) A determination of substantial interference under this chapter*  
26 *must be based on evidence of actual development or development permit*  
27 *applications that would substantially interfere with the goals of this*  
28 *chapter, and not on hypothetical or speculative development potential.*

29 *\*Sec. 18 was vetoed. See message at end of chapter.*

30 *\*NEW SECTION. Sec. 19. A new section is added to chapter 36.70A*  
31 *RCW to read as follows:*

32 *A court, in reviewing an order of the board, may:*

33 *(1) Affirm the board's order;*

34 *(2) Set aside the board's order, enjoin or stay the board's order,*  
35 *remand the matter for further proceedings, order the board to rescind*  
36 *or modify an order; or*

1       (3) *Enter a declaratory judgment order of compliance or*  
2 *noncompliance, which may include a determination of invalidity if (a)*  
3 *the determination is supported by findings of fact and conclusions of*  
4 *law that the continued validity of part or parts of the plan or*  
5 *regulation would substantially interfere with the fulfillment of the*  
6 *goals of this chapter and (b) the court's order specifies the*  
7 *particular part or parts of the plan or regulation that are determined*  
8 *to be invalid, and the reasons for their invalidity.*

9 \*Sec. 19 was vetoed. See message at end of chapter.

10       **Sec. 20.** RCW 36.70A.320 and 1995 c 347 s 111 are each amended to  
11 read as follows:

12       (1) Except as provided in subsection ~~((2))~~ (5) of this section,  
13 comprehensive plans and development regulations, and amendments  
14 thereto, adopted under this chapter are presumed valid upon adoption.

15       (2) Except as otherwise provided in subsection (4) of this section,  
16 the burden is on the petitioner to demonstrate that any action taken by  
17 a state agency, county, or city under this chapter is not in compliance  
18 with the requirements of this chapter.

19       (3) In any petition under this chapter, the board, after full  
20 consideration of the petition, shall determine whether there is  
21 compliance with the requirements of this chapter. In making its  
22 determination, the board shall consider the criteria adopted by the  
23 department under RCW 36.70A.190(4). The board shall find compliance  
24 unless it ~~((finds by a preponderance of the evidence that the state~~  
25 ~~agency, county, or city erroneously interpreted or applied this~~  
26 ~~chapter))~~ determines that the action by the state agency, county, or  
27 city is clearly erroneous in view of the entire record before the board  
28 and in light of the goals and requirements of this chapter.

29       ~~((2))~~ (4) A county or city subject to a determination of  
30 invalidity made under RCW 36.70A.300 or section 16 of this act has the  
31 burden of demonstrating that the ordinance or resolution it has enacted  
32 in response to the determination of invalidity will no longer  
33 substantially interfere with the fulfillment of the goals of this  
34 chapter under the standard in section 16(1) of this act.

35       (5) The shoreline element of a comprehensive plan and the  
36 applicable development regulations adopted by a county or city shall  
37 take effect as provided in chapter 90.58 RCW.

1       **Sec. 21.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to  
2 read as follows:

3       (1) After the time set for complying with the requirements of this  
4 chapter under RCW (~~(36.70A.300(1)(b))~~) 36.70A.300(3)(b) has expired, or  
5 at an earlier time upon the motion of a county or city subject to a  
6 determination of invalidity under RCW 36.70A.300, the board shall set  
7 a hearing for the purpose of determining whether the state agency,  
8 county, or city is in compliance with the requirements of this chapter.

9       (2) The board shall conduct a hearing and issue a finding of  
10 compliance or noncompliance with the requirements of this chapter and  
11 with any compliance schedule established by the board in its final  
12 order. A person with standing to challenge the legislation enacted in  
13 response to the board's final order may participate in the hearing  
14 along with the petitioner and the state agency, (~~(city, or)~~) county, or  
15 city. A hearing under this subsection shall be given the highest  
16 priority of business to be conducted by the board, and a finding shall  
17 be issued within forty-five days of the filing of the motion under  
18 subsection (1) of this section with the board. The board shall issue  
19 any order necessary to make adjustments to the compliance schedule and  
20 set additional hearings as provided in subsection (5) of this section.

21       (3) If the board after a compliance hearing finds that the state  
22 agency, county, or city is not in compliance, the board shall transmit  
23 its finding to the governor. The board may recommend to the governor  
24 that the sanctions authorized by this chapter be imposed. The board  
25 shall take into consideration the county's or city's efforts to meet  
26 its compliance schedule in making the decision to recommend sanctions  
27 to the governor.

28       (4) In a compliance hearing upon petition of a party, the board  
29 shall also reconsider its final order and decide(+)

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

33       ~~(b)),~~ if no determination of invalidity has been made, whether one  
34 now should be made (~~(under the standards in RCW 36.70A.300(2))~~) under  
35 section 16 of this act.

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

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

3        A county or city subject to an order of invalidity issued before  
4 the effective date of section 14 of this act, by motion may request the  
5 board to review the order of invalidity in light of the section 14,  
6 chapter . . . , Laws of 1997 (section 14 of this act) amendments to RCW  
7 36.70A.300, the section 21, chapter . . . , Laws of 1997 (section 21 of  
8 this act) amendments to RCW 36.70A.330, and section 16 of this act. If  
9 a request is made, the board shall rescind or modify the order of  
10 invalidity as necessary to make it consistent with the section 14,  
11 chapter . . . , Laws of 1997 (section 14 of this act) amendments to RCW  
12 36.70A.300, and to the section 21, chapter . . . , Laws of 1997 (section  
13 21 of this act) amendments to RCW 36.70A.330, and section 16 of this  
14 act.

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

17        (1) A county or a city may use a variety of innovative zoning  
18 techniques in areas designated as agricultural lands of long-term  
19 commercial significance under RCW 36.70A.170. The innovative zoning  
20 techniques should be designed to conserve agricultural lands and  
21 encourage the agricultural economy. A county or city should encourage  
22 nonagricultural uses to be limited to lands with poor soils or  
23 otherwise not suitable for agricultural purposes.

24        (2) Innovative zoning techniques a county or city may consider  
25 include, but are not limited to:

26        (a) Agricultural zoning, which limits the density of development  
27 and restricts or prohibits nonfarm uses of agricultural land;

28        (b) Cluster zoning, which allows new development on one portion of  
29 the land, leaving the remainder in agricultural or open space uses;

30        (c) Large lot zoning, which establishes as a minimum lot size the  
31 amount of land necessary to achieve a successful farming practice;

32        (d) Quarter/quarter zoning, which permits one residential dwelling  
33 on a one-acre minimum lot for each one-sixteenth of a section of land;  
34 and

35        (e) Sliding scale zoning, which allows the number of lots for  
36 single-family residential purposes with a minimum lot size of one acre  
37 to increase inversely as the size of the total acreage increases.

1       **Sec. 24.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to  
2 read as follows:

3       (1) Each county that is required or chooses to plan under RCW  
4 36.70A.040 shall designate an urban growth area or areas within which  
5 urban growth shall be encouraged and outside of which growth can occur  
6 only if it is not urban in nature. Each city that is located in such  
7 a county shall be included within an urban growth area. An urban  
8 growth area may include more than a single city. An urban growth area  
9 may include territory that is located outside of a city only if such  
10 territory already is characterized by urban growth whether or not the  
11 urban growth area includes a city, or is adjacent to territory already  
12 characterized by urban growth, or is a designated new fully contained  
13 community as defined by RCW 36.70A.350.

14       (2) Based upon the growth management population projection made for  
15 the county by the office of financial management, (~~the urban growth~~  
16 ~~areas in~~)) the county and each city within the county shall include  
17 areas and densities sufficient to permit the urban growth that is  
18 projected to occur in the county or city for the succeeding twenty-year  
19 period. Each urban growth area shall permit urban densities and shall  
20 include greenbelt and open space areas. An urban growth area  
21 determination may include a reasonable land market supply factor and  
22 shall permit a range of urban densities and uses. In determining this  
23 market factor, cities and counties may consider local circumstances.  
24 Cities and counties have discretion in their comprehensive plans to  
25 make many choices about accommodating growth.

26       Within one year of July 1, 1990, each county that as of June 1,  
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
28 consulting with each city located within its boundaries and each city  
29 shall propose the location of an urban growth area. Within sixty days  
30 of the date the county legislative authority of a county adopts its  
31 resolution of intention or of certification by the office of financial  
32 management, all other counties that are required or choose to plan  
33 under RCW 36.70A.040 shall begin this consultation with each city  
34 located within its boundaries. The county shall attempt to reach  
35 agreement with each city on the location of an urban growth area within  
36 which the city is located. If such an agreement is not reached with  
37 each city located within the urban growth area, the county shall  
38 justify in writing why it so designated the area an urban growth area.  
39 A city may object formally with the department over the designation of

1 the urban growth area within which it is located. Where appropriate,  
2 the department shall attempt to resolve the conflicts, including the  
3 use of mediation services.

4 (3) Urban growth should be located first in areas already  
5 characterized by urban growth that have adequate existing public  
6 facility and service capacities to serve such development, second in  
7 areas already characterized by urban growth that will be served  
8 adequately by a combination of both existing public facilities and  
9 services and any additional needed public facilities and services that  
10 are provided by either public or private sources, and third in the  
11 remaining portions of the urban growth areas. Urban growth may also be  
12 located in designated new fully contained communities as defined by RCW  
13 36.70A.350.

14 (4) In general, cities are the units of local government most  
15 appropriate to provide urban governmental services. In general, it is  
16 not appropriate that urban governmental services be extended to or  
17 expanded in rural areas except in those limited circumstances shown to  
18 be necessary to protect basic public health and safety and the  
19 environment and when such services are financially supportable at rural  
20 densities and do not permit urban development.

21 (5) On or before October 1, 1993, each county that was initially  
22 required to plan under RCW 36.70A.040(1) shall adopt development  
23 regulations designating interim urban growth areas under this chapter.  
24 Within three years and three months of the date the county legislative  
25 authority of a county adopts its resolution of intention or of  
26 certification by the office of financial management, all other counties  
27 that are required or choose to plan under RCW 36.70A.040 shall adopt  
28 development regulations designating interim urban growth areas under  
29 this chapter. Adoption of the interim urban growth areas may only  
30 occur after public notice; public hearing; and compliance with the  
31 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
32 Such action may be appealed to the appropriate growth management  
33 hearings board under RCW 36.70A.280. Final urban growth areas shall be  
34 adopted at the time of comprehensive plan adoption under this chapter.

35 (6) Each county shall include designations of urban growth areas in  
36 its comprehensive plan.

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



1 (1) Subject to the limitations in subsection (7) of this section,  
2 a county shall adopt, in consultation with its cities, county-wide  
3 planning policies to establish a review and evaluation program. This  
4 program shall be in addition to the requirements of RCW 36.70A.110,  
5 36.70A.130, and 36.70A.210. In developing and implementing the review  
6 and evaluation program required by this section, the county and its  
7 cities shall consider information from other appropriate jurisdictions  
8 and sources. The purpose of the review and evaluation program shall be  
9 to:

10 (a) Determine whether a county and its cities are achieving urban  
11 densities within urban growth areas by comparing growth and development  
12 assumptions, targets, and objectives contained in the county-wide  
13 planning policies and the county and city comprehensive plans with  
14 actual growth and development that has occurred in the county and its  
15 cities; and

16 (b) Identify reasonable measures, other than adjusting urban growth  
17 areas, that will be taken to comply with the requirements of this  
18 chapter.

19 (2) The review and evaluation program shall:

20 (a) Encompass land uses and activities both within and outside of  
21 urban growth areas and provide for annual collection of data on urban  
22 and rural land uses, development, critical areas, and capital  
23 facilities to the extent necessary to determine the quantity and type  
24 of land suitable for development, both for residential and employment-  
25 based activities;

26 (b) Provide for evaluation of the data collected under (a) of this  
27 subsection every five years as provided in subsection (3) of this  
28 section. The first evaluation shall be completed not later than  
29 September 1, 2002. The county and its cities may establish in the  
30 county-wide planning policies indicators, benchmarks, and other similar  
31 criteria to use in conducting the evaluation;

32 (c) Provide for methods to resolve disputes among jurisdictions  
33 relating to the county-wide planning policies required by this section  
34 and procedures to resolve inconsistencies in collection and analysis of  
35 data; and

36 (d) Provide for the amendment of the county-wide policies and  
37 county and city comprehensive plans as needed to remedy an  
38 inconsistency identified through the evaluation required by this

1 section, or to bring these policies into compliance with the  
2 requirements of this chapter.

3 (3) At a minimum, the evaluation component of the program required  
4 by subsection (1) of this section shall:

5 (a) Determine whether there is sufficient suitable land to  
6 accommodate the county-wide population projection established for the  
7 county pursuant to RCW 43.62.035 and the subsequent population  
8 allocations within the county and between the county and its cities and  
9 the requirements of RCW 36.70A.110;

10 (b) Determine the actual density of housing that has been  
11 constructed and the actual amount of land developed for commercial and  
12 industrial uses within the urban growth area since the adoption of a  
13 comprehensive plan under this chapter or since the last periodic  
14 evaluation as required by subsection (1) of this section; and

15 (c) Based on the actual density of development as determined under  
16 (b) of this subsection, review commercial, industrial, and housing  
17 needs by type and density range to determine the amount of land needed  
18 for commercial, industrial, and housing for the remaining portion of  
19 the twenty-year planning period used in the most recently adopted  
20 comprehensive plan.

21 (4) If the evaluation required by subsection (3) of this section  
22 demonstrates an inconsistency between what has occurred since the  
23 adoption of the county-wide planning policies and the county and city  
24 comprehensive plans and development regulations and what was envisioned  
25 in those policies and plans and the planning goals and the requirements  
26 of this chapter, as the inconsistency relates to the evaluation factors  
27 specified in subsection (3) of this section, the county and its cities  
28 shall adopt and implement measures that are reasonably likely to  
29 increase consistency during the subsequent five-year period. If  
30 necessary, a county, in consultation with its cities as required by RCW  
31 36.70A.210, shall adopt amendments to county-wide planning policies to  
32 increase consistency. The county and its cities shall annually monitor  
33 the measures adopted under this subsection to determine their effect  
34 and may revise or rescind them as appropriate.

35 (5)(a) Not later than July 1, 1998, the department shall prepare a  
36 list of methods used by counties and cities in carrying out the types  
37 of activities required by this section. The department shall provide  
38 this information and appropriate technical assistance to counties and

1 cities required to or choosing to comply with the provisions of this  
2 section.

3 (b) By December 31, 2007, the department shall submit to the  
4 appropriate committees of the legislature a report analyzing the  
5 effectiveness of the activities described in this section in achieving  
6 the goals envisioned by the county-wide planning policies and the  
7 comprehensive plans and development regulations of the counties and  
8 cities.

9 (6) From funds appropriated by the legislature for this purpose,  
10 the department shall provide grants to counties, cities, and regional  
11 planning organizations required under subsection (7) of this section to  
12 conduct the review and perform the evaluation required by this section.

13 (7) The provisions of this section shall apply to counties, and the  
14 cities within those counties, that were greater than one hundred fifty  
15 thousand in population in 1995 as determined by office of financial  
16 management population estimates and that are located west of the crest  
17 of the Cascade mountain range. Any other county planning under RCW  
18 36.70A.040 may carry out the review, evaluation, and amendment programs  
19 and procedures as provided in this section.

20 **Sec. 26.** RCW 43.62.035 and 1995 c 162 s 1 are each amended to read  
21 as follows:

22 The office of financial management shall determine the population  
23 of each county of the state annually as of April 1st of each year and  
24 on or before July 1st of each year shall file a certificate with the  
25 secretary of state showing its determination of the population for each  
26 county. The office of financial management also shall determine the  
27 percentage increase in population for each county over the preceding  
28 ten-year period, as of April 1st, and shall file a certificate with the  
29 secretary of state by July 1st showing its determination. At least  
30 once every (~~ten~~) five years or upon the availability of decennial  
31 census data, whichever is later, the office of financial management  
32 shall prepare twenty-year growth management planning population  
33 projections required by RCW 36.70A.110 for each county that adopts a  
34 comprehensive plan under RCW 36.70A.040 and shall review these  
35 projections with such counties and the cities in those counties before  
36 final adoption. The county and its cities may provide to the office  
37 such information as they deem relevant to the office's projection, and  
38 the office shall consider and comment on such information before

1 adoption. Each projection shall be expressed as a reasonable range  
2 developed within the standard state high and low projection. The  
3 middle range shall represent the office's estimate of the most likely  
4 population projection for the county. If any city or county believes  
5 that a projection will not accurately reflect actual population growth  
6 in a county, it may petition the office to revise the projection  
7 accordingly. The office shall complete the first set of ranges for  
8 every county by December 31, 1995.

9 A comprehensive plan adopted or amended before December 31, 1995,  
10 shall not be considered to be in noncompliance with the twenty-year  
11 growth management planning population projection if the projection used  
12 in the comprehensive plan is in compliance with the range later adopted  
13 under this section.

14 NEW SECTION. **Sec. 27.** In order to ensure that there will be no  
15 unfunded responsibilities imposed on counties and cities, if specific  
16 funding for the purposes of section 25 of this act, referencing this  
17 act by bill or chapter number, is not provided by June 30, 1997, in the  
18 omnibus appropriations act, section 25 of this act is null and void.

19 **Sec. 28.** RCW 36.70A.500 and 1995 c 347 s 116 are each amended to  
20 read as follows:

21 (1) The department of community, trade, and economic development  
22 shall provide management services for the fund created by RCW  
23 36.70A.490. The department (~~by rule~~) shall establish procedures for  
24 fund management. The department shall encourage participation in the  
25 grant program by other public agencies. The department shall develop  
26 the grant criteria, monitor the grant program, and select grant  
27 recipients in consultation with state agencies participating in the  
28 grant program through the provision of grant funds or technical  
29 assistance.

30 (2) A grant may be awarded to a county or city that is required to  
31 or has chosen to plan under RCW 36.70A.040 and that is qualified  
32 pursuant to this section. The grant shall be provided to assist a  
33 county or city in paying for the cost of preparing (~~a detailed~~  
34 ~~environmental impact statement~~) an environmental analysis under  
35 chapter 43.21C RCW, that is integrated with a comprehensive plan  
36 (~~or~~), subarea plan (and), plan element, county-wide planning

1 policy, development regulation(~~(s)~~), monitoring program, or other  
2 planning activity adopted under or implementing this chapter that:

3 (a) Improves the process for project permit review while  
4 maintaining environmental quality; or

5 (b) Encourages use of plans and information developed for purposes  
6 of complying with this chapter to satisfy requirements of other state  
7 programs.

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

9 (a) Demonstrate that it will prepare an environmental analysis  
10 pursuant to chapter 43.21C RCW and subsection (2) of this section that  
11 is integrated with a comprehensive plan (~~(or)~~), subarea plan (~~(and)~~),  
12 plan element, county-wide planning policy, development regulations,  
13 monitoring program, or other planning activity adopted under or  
14 implementing this chapter;

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

19 (c) Demonstrate that procedures for review of development permit  
20 applications will be based on the integrated plans and environmental  
21 analysis;

22 (d) Include mechanisms (~~(in the plan)~~) to monitor the consequences  
23 of growth as it occurs in the plan area and (~~(provide ongoing)~~) to use  
24 the resulting data to update the plan, policy, or implementing  
25 mechanisms and associated environmental analysis;

26 (~~((d) Be making)~~) (e) Demonstrate substantial progress towards  
27 compliance with the requirements of this chapter. A county or city  
28 that is more than six months out of compliance with a requirement of  
29 this chapter is deemed not to be making substantial progress towards  
30 compliance; and

31 (~~((e))~~) (f) Provide local funding, which may include financial  
32 participation by the private sector.

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

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

37 (b) (~~(Comprehensive and subarea plan proposals that are designed to~~  
38 identify and monitor)) Identification and monitoring of system

1 capacities for elements of the built environment, and to the extent  
2 appropriate, of the natural environment;

3 (c) Coordination with state, federal, and tribal governments in  
4 project review;

5 (d) Furtherance of important state objectives related to economic  
6 development, protection of areas of state-wide significance, and siting  
7 of essential public facilities;

8 (e) Programs to improve the efficiency and effectiveness of the  
9 permitting process by greater reliance on integrated plans and  
10 prospective environmental analysis;

11 ~~((d))~~ (f) Programs for effective citizen and neighborhood  
12 involvement that contribute to greater ~~((certainty))~~ likelihood that  
13 planning decisions ~~((will))~~ can be implemented with community support;  
14 and

15 ~~((e) Plans that)~~ (g) Programs to identify environmental impacts  
16 and establish mitigation measures that provide effective means to  
17 satisfy concurrency requirements and establish project consistency with  
18 the plans.

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

23 (6) State agencies shall work with grant recipients to facilitate  
24 state and local project review processes that will implement the  
25 projects receiving grants under this section.

26 **Sec. 29.** RCW 43.155.070 and 1996 c 168 s 3 are each amended to  
27 read as follows:

28 (1) To qualify for loans or pledges under this chapter the board  
29 must determine that a local government meets all of the following  
30 conditions:

31 (a) The city or county must be imposing a tax under chapter 82.46  
32 RCW at a rate of at least one-quarter of one percent;

33 (b) The local government must have developed a long-term plan for  
34 financing public works needs;

35 (c) The local government must be using all local revenue sources  
36 which are reasonably available for funding public works, taking into  
37 consideration local employment and economic factors; and

1 (d) Except where necessary to address a public health need or  
2 substantial environmental degradation, a county, city, or town that is  
3 required or chooses to plan under RCW 36.70A.040 must have adopted a  
4 comprehensive plan in conformance with the requirements of chapter  
5 36.70A RCW, after it is required that the comprehensive plan be  
6 adopted, and must have adopted development regulations in conformance  
7 with the requirements of chapter 36.70A RCW, after it is required that  
8 development regulations be adopted.

9 (2) The board shall develop a priority process for public works  
10 projects as provided in this section. The intent of the priority  
11 process is to maximize the value of public works projects accomplished  
12 with assistance under this chapter. The board shall attempt to assure  
13 a geographical balance in assigning priorities to projects. The board  
14 shall consider at least the following factors in assigning a priority  
15 to a project:

16 (a) Whether the local government receiving assistance has  
17 experienced severe fiscal distress resulting from natural disaster or  
18 emergency public works needs;

19 (b) Whether the project is critical in nature and would affect the  
20 health and safety of a great number of citizens;

21 (c) The cost of the project compared to the size of the local  
22 government and amount of loan money available;

23 (d) The number of communities served by or funding the project;

24 (e) Whether the project is located in an area of high unemployment,  
25 compared to the average state unemployment;

26 (f) Whether the project is the acquisition, expansion, improvement,  
27 or renovation by a local government of a public water system that is in  
28 violation of health and safety standards, including the cost of  
29 extending existing service to such a system;

30 (g) The relative benefit of the project to the community,  
31 considering the present level of economic activity in the community and  
32 the existing local capacity to increase local economic activity in  
33 communities that have low economic growth; and

34 (h) Other criteria that the board considers advisable.

35 (3) Existing debt or financial obligations of local governments  
36 shall not be refinanced under this chapter. Each local government  
37 applicant shall provide documentation of attempts to secure additional  
38 local or other sources of funding for each public works project for  
39 which financial assistance is sought under this chapter.

1 (4) Before November 1 of each year, the board shall develop and  
2 submit to the appropriate fiscal committees of the senate and house of  
3 representatives a description of the loans made under RCW 43.155.065,  
4 43.155.068, and subsection (7) of this section during the preceding  
5 fiscal year and a prioritized list of projects which are recommended  
6 for funding by the legislature, including one copy to the staff of each  
7 of the committees. The list shall include, but not be limited to, a  
8 description of each project and recommended financing, the terms and  
9 conditions of the loan or financial guarantee, the local government  
10 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
11 critical need for the project and documentation of local funds being  
12 used to finance the public works project. The list shall also include  
13 measures of fiscal capacity for each jurisdiction recommended for  
14 financial assistance, compared to authorized limits and state averages,  
15 including local government sales taxes; real estate excise taxes;  
16 property taxes; and charges for or taxes on sewerage, water, garbage,  
17 and other utilities.

18 (5) The board shall not sign contracts or otherwise financially  
19 obligate funds from the public works assistance account before the  
20 legislature has appropriated funds for a specific list of public works  
21 projects. The legislature may remove projects from the list  
22 recommended by the board. The legislature shall not change the order  
23 of the priorities recommended for funding by the board.

24 (6) Subsection (5) of this section does not apply to loans made  
25 under RCW 43.155.065, 43.155.068, and subsection (7) of this section.

26 (7)(a) Loans made for the purpose of capital facilities plans shall  
27 be exempted from subsection (5) of this section. In no case shall the  
28 total amount of funds utilized for capital facilities plans and  
29 emergency loans exceed the limitation in RCW 43.155.065.

30 (b) For the purposes of this section "capital facilities plans"  
31 means those plans required by the growth management act, chapter 36.70A  
32 RCW, and plans required by the public works board for local governments  
33 not subject to the growth management act.

34 (8) To qualify for loans or pledges for solid waste or recycling  
35 facilities under this chapter, a city or county must demonstrate that  
36 the solid waste or recycling facility is consistent with and necessary  
37 to implement the comprehensive solid waste management plan adopted by  
38 the city or county under chapter 70.95 RCW.



1       **Sec. 30.** RCW 70.146.070 and 1991 sp.s. c 32 s 24 are each amended  
2 to read as follows:

3       When making grants or loans for water pollution control facilities,  
4 the department shall consider the following:

5       (1) The protection of water quality and public health;

6       (2) The cost to residential ratepayers if they had to finance water  
7 pollution control facilities without state assistance;

8       (3) Actions required under federal and state permits and compliance  
9 orders;

10       (4) The level of local fiscal effort by residential ratepayers  
11 since 1972 in financing water pollution control facilities;

12       (5) The extent to which the applicant county or city, or if the  
13 applicant is another public body, the extent to which the county or  
14 city in which the applicant public body is located, has established  
15 programs to mitigate nonpoint pollution of the surface or subterranean  
16 water sought to be protected by the water pollution control facility  
17 named in the application for state assistance; and

18       (6) The recommendations of the Puget Sound (~~water quality~~  
19 ~~authority~~) action team and any other board, council, commission, or  
20 group established by the legislature or a state agency to study water  
21 pollution control issues in the state.

22       Except where necessary to address a public health need or  
23 substantial environmental degradation, a county, city, or town that is  
24 required or chooses to plan under RCW 36.70A.040 may not receive a  
25 grant or loan for water pollution control facilities unless it has  
26 adopted a comprehensive plan in conformance with the requirements of  
27 chapter 36.70A RCW, after it is required that the comprehensive plan be  
28 adopted, or unless it has adopted development regulations in  
29 conformance with the requirements of chapter 36.70A RCW, after it is  
30 required that development regulations be adopted.

31       **Sec. 31.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read  
32 as follows:

33       As used in this chapter, unless a different meaning is required by  
34 the context:

35       (1) "Open space land" means (a) any land area so designated by an  
36 official comprehensive land use plan adopted by any city or county and  
37 zoned accordingly(~~{,}~~), or (b) any land area, the preservation of  
38 which in its present use would (i) conserve and enhance natural or

1 scenic resources, or (ii) protect streams or water supply, or (iii)  
2 promote conservation of soils, wetlands, beaches or tidal marshes, or  
3 (iv) enhance the value to the public of abutting or neighboring parks,  
4 forests, wildlife preserves, nature reservations or sanctuaries or  
5 other open space, or (v) enhance recreation opportunities, or (vi)  
6 preserve historic sites, or (vii) preserve visual quality along  
7 highway, road, and street corridors or scenic vistas, or (viii) retain  
8 in its natural state tracts of land not less than one acre situated in  
9 an urban area and open to public use on such conditions as may be  
10 reasonably required by the legislative body granting the open space  
11 classification, or (c) any land meeting the definition of farm and  
12 agricultural conservation land under subsection (8) of this section.  
13 As a condition of granting open space classification, the legislative  
14 body may not require public access on land classified under (b)(iii) of  
15 this subsection for the purpose of promoting conservation of wetlands.

16 (2) "Farm and agricultural land" means (~~either~~):

17 (a) Any parcel of land that is twenty or more acres or multiple  
18 parcels of land that are contiguous and total twenty or more acres:

19 (i) Devoted primarily to the production of livestock or  
20 agricultural commodities for commercial purposes(~~(  )~~);

21 (ii) Enrolled in the federal conservation reserve program or its  
22 successor administered by the United States department of  
23 agriculture(~~(  )~~); or

24 (iii) Other similar commercial activities as may be established by  
25 rule (~~following consultation with the advisory committee established~~  
26 in section 19 of this act);

27 (b) Any parcel of land that is five acres or more but less than  
28 twenty acres devoted primarily to agricultural uses, which has produced  
29 a gross income from agricultural uses equivalent to, as of January 1,  
30 1993(~~(  )~~);

31 (i) One hundred dollars or more per acre per year for three of the  
32 five calendar years preceding the date of application for  
33 classification under this chapter for all parcels of land that are  
34 classified under this subsection or all parcels of land for which an  
35 application for classification under this subsection is made with the  
36 granting authority prior to January 1, 1993(~~(  )~~); and

37 (ii) On or after January 1, 1993, two hundred dollars or more per  
38 acre per year for three of the five calendar years preceding the date  
39 of application for classification under this chapter;

1 (c) Any parcel of land of less than five acres devoted primarily to  
2 agricultural uses which has produced a gross income as of January 1,  
3 1993, of:

4 (i) One thousand dollars or more per year for three of the five  
5 calendar years preceding the date of application for classification  
6 under this chapter for all parcels of land that are classified under  
7 this subsection or all parcels of land for which an application for  
8 classification under this subsection is made with the granting  
9 authority prior to January 1, 1993(~~(7)~~); and

10 (ii) On or after January 1, 1993, fifteen hundred dollars or more  
11 per year for three of the five calendar years preceding the date of  
12 application for classification under this chapter.

13 Parcels of land described in (b)(i) and (c)(i) of this subsection  
14 shall, upon any transfer of the property excluding a transfer to a  
15 surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of  
16 this subsection.

17 Agricultural lands shall also include such incidental uses as are  
18 compatible with agricultural purposes, including wetlands preservation,  
19 provided such incidental use does not exceed twenty percent of the  
20 classified land and the land on which appurtenances necessary to the  
21 production, preparation, or sale of the agricultural products exist in  
22 conjunction with the lands producing such products. Agricultural lands  
23 shall also include any parcel of land of one to five acres, which is  
24 not contiguous, but which otherwise constitutes an integral part of  
25 farming operations being conducted on land qualifying under this  
26 section as "farm and agricultural lands"; (~~(e)~~)

27 (d) The land on which housing for employees and the principal place  
28 of residence of the farm operator or owner of land classified pursuant  
29 to (a) of this subsection is sited if: The housing or residence is on  
30 or contiguous to the classified parcel; and the use of the housing or  
31 the residence is integral to the use of the classified land for  
32 agricultural purposes;

33 (e) Any parcel of land designated as agricultural land under RCW  
34 36.70A.170; or

35 (f) Any parcel of land not within an urban growth area zoned as  
36 agricultural land under a comprehensive plan adopted under chapter  
37 36.70A RCW.

38 (3) "Timber land" means any parcel of land that is five or more  
39 acres or multiple parcels of land that are contiguous and total five or

1 more acres which is or are devoted primarily to the growth and harvest  
2 of forest crops for commercial purposes. A timber management plan  
3 shall be filed with the county legislative authority at the time (a) an  
4 application is made for classification as timber land pursuant to this  
5 chapter or (b) when a sale or transfer of timber land occurs and a  
6 notice of classification continuance is signed. Timber land means the  
7 land only.

8 (4) "Current" or "currently" means as of the date on which property  
9 is to be listed and valued by the assessor.

10 (5) "Owner" means the party or parties having the fee interest in  
11 land, except that where land is subject to real estate contract "owner"  
12 shall mean the contract vendee.

13 (6) "Contiguous" means land adjoining and touching other property  
14 held by the same ownership. Land divided by a public road, but  
15 otherwise an integral part of a farming operation, shall be considered  
16 contiguous.

17 (7) "Granting authority" means the appropriate agency or official  
18 who acts on an application for classification of land pursuant to this  
19 chapter.

20 (8) "Farm and agricultural conservation land" means either:

21 (a) Land that was previously classified under subsection (2) of  
22 this section, that no longer meets the criteria of subsection (2) of  
23 this section, and that is reclassified under subsection (1) of this  
24 section; or

25 (b) Land that is traditional farmland that is not classified under  
26 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
27 use inconsistent with agricultural uses, and that has a high potential  
28 for returning to commercial agriculture.

29 **Sec. 32.** RCW 84.34.060 and 1992 c 69 s 8 are each amended to read  
30 as follows:

31 In determining the true and fair value of open space land and  
32 timber land, which has been classified as such under the provisions of  
33 this chapter, the assessor shall consider only the use to which such  
34 property and improvements is currently applied and shall not consider  
35 potential uses of such property. The assessed valuation of open space  
36 land shall not be less than the minimum value per acre of classified  
37 farm and agricultural land except that the assessed valuation of open  
38 space land may be valued based on the public benefit rating system

1 adopted under RCW 84.34.055: PROVIDED FURTHER, That timber land shall  
2 be valued according to chapter 84.33 RCW. In valuing any tract or  
3 parcel of real property designated and zoned under a comprehensive plan  
4 adopted under chapter 36.70A RCW as agricultural, forest, or open space  
5 land, the appraisal shall not be based on similar sales of parcels that  
6 have been converted to nonagricultural, nonforest, or nonopen-space  
7 uses within five years after the sale.

8 **Sec. 33.** RCW 84.34.065 and 1992 c 69 s 9 are each amended to read  
9 as follows:

10 The true and fair value of farm and agricultural land shall be  
11 determined by consideration of the earning or productive capacity of  
12 comparable lands from crops grown most typically in the area averaged  
13 over not less than five years, capitalized at indicative rates. The  
14 earning or productive capacity of farm and agricultural lands shall be  
15 the "net cash rental", capitalized at a "rate of interest" charged on  
16 long term loans secured by a mortgage on farm or agricultural land plus  
17 a component for property taxes. The current use value of land under  
18 RCW 84.34.020(2)(d) shall be established as: The prior year's average  
19 value of open space farm and agricultural land used in the county plus  
20 the value of land improvements such as septic, water, and power used to  
21 serve the residence. This shall not be interpreted to require the  
22 assessor to list improvements to the land with the value of the land.

23 In valuing any tract or parcel of real property designated and  
24 zoned under a comprehensive plan adopted under chapter 36.70A RCW as  
25 agricultural, forest, or open space land, the appraisal shall not be  
26 based on similar sales of parcels that have been converted to  
27 nonagricultural, nonforest, or nonopen-space uses within five years  
28 after the sale.

29 For the purposes of the above computation:

30 (1) The term "net cash rental" shall mean the average rental paid  
31 on an annual basis, in cash, for the land being appraised and other  
32 farm and agricultural land of similar quality and similarly situated  
33 that is available for lease for a period of at least three years to any  
34 reliable person without unreasonable restrictions on its use for  
35 production of agricultural crops. There shall be allowed as a  
36 deduction from the rental received or computed any costs of crop  
37 production charged against the landlord if the costs are such as are  
38 customarily paid by a landlord. If "net cash rental" data is not

1 available, the earning or productive capacity of farm and agricultural  
2 lands shall be determined by the cash value of typical or usual crops  
3 grown on land of similar quality and similarly situated averaged over  
4 not less than five years. Standard costs of production shall be  
5 allowed as a deduction from the cash value of the crops.

6 The current "net cash rental" or "earning capacity" shall be  
7 determined by the assessor with the advice of the advisory committee as  
8 provided in RCW 84.34.145, and through a continuing internal study,  
9 assisted by studies of the department of revenue. This net cash rental  
10 figure as it applies to any farm and agricultural land may be  
11 challenged before the same boards or authorities as would be the case  
12 with regard to assessed values on general property.

13 (2) The term "rate of interest" shall mean the rate of interest  
14 charged by the farm credit administration and other large financial  
15 institutions regularly making loans secured by farm and agricultural  
16 lands through mortgages or similar legal instruments, averaged over the  
17 immediate past five years.

18 The "rate of interest" shall be determined annually by a rule  
19 adopted by the department of revenue and such rule shall be published  
20 in the state register not later than January 1 of each year for use in  
21 that assessment year. The department of revenue determination may be  
22 appealed to the state board of tax appeals within thirty days after the  
23 date of publication by any owner of farm or agricultural land or the  
24 assessor of any county containing farm and agricultural land.

25 (3) The "component for property taxes" shall be a figure obtained  
26 by dividing the assessed value of all property in the county into the  
27 property taxes levied within the county in the year preceding the  
28 assessment and multiplying the quotient obtained by one hundred.

29 **Sec. 34.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to  
30 read as follows:

31 All property shall be valued at one hundred percent of its true and  
32 fair value in money and assessed on the same basis unless specifically  
33 provided otherwise by law.

34 Taxable leasehold estates shall be valued at such price as they  
35 would bring at a fair, voluntary sale for cash without any deductions  
36 for any indebtedness owed including rentals to be paid.

1 The true and fair value of real property for taxation purposes  
2 (including property upon which there is a coal or other mine, or stone  
3 or other quarry) shall be based upon the following criteria:

4 (1) Any sales of the property being appraised or similar properties  
5 with respect to sales made within the past five years. The appraisal  
6 shall be consistent with the comprehensive land use plan, development  
7 regulations under chapter 36.70A RCW, zoning, and any other  
8 governmental policies or practices in effect at the time of appraisal  
9 that affect the use of property, as well as physical and environmental  
10 influences. The appraisal shall also take into account: (a) In the  
11 use of sales by real estate contract as similar sales, the extent, if  
12 any, to which the stated selling price has been increased by reason of  
13 the down payment, interest rate, or other financing terms; and (b) the  
14 extent to which the sale of a similar property actually represents the  
15 general effective market demand for property of such type, in the  
16 geographical area in which such property is located. Sales involving  
17 deed releases or similar seller-developer financing arrangements shall  
18 not be used as sales of similar property.

19 (2) In addition to sales as defined in subsection (1),  
20 consideration may be given to cost, cost less depreciation,  
21 reconstruction cost less depreciation, or capitalization of income that  
22 would be derived from prudent use of the property. In the case of  
23 property of a complex nature, or being used under terms of a franchise  
24 from a public agency, or operating as a public utility, or property not  
25 having a record of sale within five years and not having a significant  
26 number of sales of similar property in the general area, the provisions  
27 of this subsection (2) shall be the dominant factors in valuation.  
28 When provisions of this subsection (2) are relied upon for establishing  
29 values the property owner shall be advised upon request of the factors  
30 used in arriving at such value.

31 (3) In valuing any tract or parcel of real property, the value of  
32 the land, exclusive of structures thereon shall be determined; also the  
33 value of structures thereon, but the valuation shall not exceed the  
34 value of the total property as it exists. In valuing agricultural  
35 land, growing crops shall be excluded.

36 (4) In valuing any tract or parcel of real property designated and  
37 zoned under a comprehensive plan adopted under chapter 36.70A RCW as  
38 agricultural, forest, or open space land, the appraisal shall not be  
39 based on similar sales of parcels that have been converted to

1 nonagricultural, nonforest, or nonopen-space uses within five years  
2 after the sale.

3       **Sec. 35.** RCW 90.60.030 and 1995 c 347 s 603 are each amended to  
4 read as follows:

5       The permit assistance center is established within the department.  
6 The center shall:

7       (1) Publish and keep current one or more handbooks containing lists  
8 and explanations of all permit laws. ~~((The center shall coordinate~~  
9 ~~with the business assistance center in providing and maintaining this~~  
10 ~~information to applicants and others.))~~ To the extent possible, the  
11 handbook shall include relevant federal and tribal laws. A state  
12 agency or local government shall provide a reasonable number of copies  
13 of application forms, statutes, ordinances, rules, handbooks, and other  
14 informational material requested by the center and shall otherwise  
15 fully cooperate with the center. The center shall seek the cooperation  
16 of relevant federal agencies and tribal governments;

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

20       (3) Work closely and cooperatively with the business license center  
21 ~~((and the business assistance center))~~ in providing efficient and  
22 nonduplicative service to the public;

23       (4) Seek the assignment of employees from the permit agencies  
24 listed under RCW 90.60.020(6)(a) to serve on a rotating basis in  
25 staffing the center; ~~((and))~~

26       (5) Collect and disseminate information to public and private  
27 entities on federal, state, local, and tribal government programs that  
28 rely on private professional expertise to assist governmental agencies  
29 in project permit review; and

30       (6) Provide an annual report to the legislature on potential  
31 conflicts and perceived inconsistencies among existing statutes. The  
32 first report shall be submitted to the appropriate standing committees  
33 of the house of representatives and senate by December 1, 1996.

34       **Sec. 36.** RCW 35A.14.295 and 1967 ex.s. c 119 s 35A.14.295 are each  
35 amended to read as follows:



1 ~~((When there is, within))~~ (1) The legislative body of a code city  
2 may resolve to annex territory containing residential property owners  
3 to the city if there is within the city, unincorporated territory:

4 (a) Containing less than one hundred acres and having at least  
5 eighty percent of the boundaries of such area contiguous to the code  
6 city(~~(, the legislative body may resolve to annex such territory to the~~  
7 code city)); or

8 (b) Of any size and having at least eighty percent of the  
9 boundaries of such area contiguous to the city if such area existed  
10 before June 30, 1994, and is within the same county and within the same  
11 urban growth area designated under RCW 36.70A.110, and the city was  
12 planning under chapter 36.70A RCW as of June 30, 1994.

13 (2) The resolution shall describe the boundaries of the area to be  
14 annexed, state the number of voters residing therein as nearly as may  
15 be, and set a date for a public hearing on such resolution for  
16 annexation. Notice of the hearing shall be given by publication of the  
17 resolution at least once a week for two weeks prior to the date of the  
18 hearing, in one or more newspapers of general circulation within the  
19 code city and one or more newspapers of general circulation within the  
20 area to be annexed.

21 (3) For purposes of subsection (1)(b) of this section, territory  
22 bounded by a river, lake, or other body of water is considered  
23 contiguous to a city that is also bounded by the same river, lake, or  
24 other body of water.

25 NEW SECTION. Sec. 37. A new section is added to chapter 35.13 RCW  
26 to read as follows:

27 (1) The legislative body of a city or town planning under chapter  
28 36.70A RCW as of June 30, 1994, may resolve to annex territory to the  
29 city or town if there is, within the city or town, unincorporated  
30 territory containing residential property owners within the same county  
31 and within the same urban growth area designated under RCW 36.70A.110  
32 as the city or town:

33 (a) Containing less than one hundred acres and having at least  
34 eighty percent of the boundaries of such area contiguous to the city or  
35 town if such area existed before June 30, 1994; or

36 (b) Of any size and having at least eighty percent of the  
37 boundaries of the area contiguous to the city if the area existed  
38 before June 30, 1994.

1 (2) The resolution shall describe the boundaries of the area to be  
2 annexed, state the number of voters residing in the area as nearly as  
3 may be, and set a date for a public hearing on the resolution for  
4 annexation. Notice of the hearing shall be given by publication of the  
5 resolution at least once a week for two weeks before the date of the  
6 hearing in one or more newspapers of general circulation within the  
7 city or town and one or more newspapers of general circulation within  
8 the area to be annexed.

9 (3) For purposes of subsection (1)(b) of this section, territory  
10 bounded by a river, lake, or other body of water is considered  
11 contiguous to a city that is also bounded by the same river, lake, or  
12 other body of water.

13 **Sec. 38.** RCW 35.13.174 and 1973 1st ex.s. c 164 s 17 are each  
14 amended to read as follows:

15 Upon receipt by the board of county commissioners of a  
16 determination by a majority of the review board favoring annexation of  
17 the proposed area that has been initiated by resolution pursuant to RCW  
18 35.13.015 by the city or town legislative body, the board of county  
19 commissioners, or the city or town legislative body for any city or  
20 town within an urban growth area designated under RCW 36.70A.110, shall  
21 fix a date on which an annexation election shall be held, which date  
22 will be not less than thirty days nor more than sixty days thereafter.

23 **Sec. 39.** RCW 36.93.170 and 1989 c 84 s 5 are each amended to read  
24 as follows:

25 In reaching a decision on a proposal or an alternative, the board  
26 shall consider the factors affecting such proposal, which shall  
27 include, but not be limited to the following:

28 (1) Population and territory; population density; land area and  
29 land uses; comprehensive plans and zoning, as adopted under chapter  
30 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development  
31 regulations adopted under chapter 36.70A RCW; applicable service  
32 agreements entered into under chapter 36.115 or 39.34 RCW; applicable  
33 interlocal annexation agreements between a county and its cities; per  
34 capita assessed valuation; topography, natural boundaries and drainage  
35 basins, proximity to other populated areas; the existence and  
36 preservation of prime agricultural soils and productive agricultural  
37 uses; the likelihood of significant growth in the area and in adjacent

1 incorporated and unincorporated areas during the next ten years;  
2 location and most desirable future location of community facilities;

3 (2) Municipal services; need for municipal services; effect of  
4 ordinances, governmental codes, regulations and resolutions on existing  
5 uses; present cost and adequacy of governmental services and controls  
6 in area; prospects of governmental services from other sources;  
7 probable future needs for such services and controls; probable effect  
8 of proposal or alternative on cost and adequacy of services and  
9 controls in area and adjacent area; the effect on the finances, debt  
10 structure, and contractual obligations and rights of all affected  
11 governmental units; and

12 (3) The effect of the proposal or alternative on adjacent areas, on  
13 mutual economic and social interests, and on the local governmental  
14 structure of the county.

15 The provisions of chapter 43.21C RCW, State Environmental Policy,  
16 shall not apply to incorporation proceedings covered by chapter 35.02  
17 RCW.

18 **Sec. 40.** RCW 84.14.010 and 1995 c 375 s 3 are each amended to read  
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter.

22 (1) "City" means either (a) a city or town with a population of at  
23 least one hundred ((fifty)) thousand or (b) the largest city or town,  
24 if there is no city or town with a population of at least one hundred  
25 thousand, located in a county planning under the growth management act.

26 (2) "Governing authority" means the local legislative authority of  
27 a city having jurisdiction over the property for which an exemption may  
28 be applied for under this chapter.

29 (3) "Growth management act" means chapter 36.70A RCW.

30 (4) "Multiple-unit housing" means a building having four or more  
31 dwelling units not designed or used as transient accommodations and not  
32 including hotels and motels. Multifamily units may result from new  
33 construction or rehabilitated or conversion of vacant, underutilized,  
34 or substandard buildings to multifamily housing.

35 (5) "Owner" means the property owner of record.

36 (6) "Permanent residential occupancy" means multiunit housing that  
37 provides either rental or owner occupancy on a nontransient basis.  
38 This includes owner-occupied or rental accommodation that is leased for

1 a period of at least one month. This excludes hotels and motels that  
2 predominately offer rental accommodation on a daily or weekly basis.

3 (7) "Rehabilitation improvements" means modifications to existing  
4 structures, that are vacant for twelve months or longer, that are made  
5 to achieve a condition of substantial compliance with existing building  
6 codes or modification to existing occupied structures which increase  
7 the number of multifamily housing units.

8 (8) "Residential targeted area" means an area within an urban  
9 center that has been designated by the governing authority as a  
10 residential targeted area in accordance with this chapter.

11 (9) "Substantial compliance" means compliance with local building  
12 or housing code requirements that are typically required for  
13 rehabilitation as opposed to new construction.

14 (10) "Urban center" means a compact identifiable district where  
15 urban residents may obtain a variety of products and services. An  
16 urban center must contain:

17 (a) Several existing or previous, or both, business establishments  
18 that may include but are not limited to shops, offices, banks,  
19 restaurants, governmental agencies;

20 (b) Adequate public facilities including streets, sidewalks,  
21 lighting, transit, domestic water, and sanitary sewer systems; and

22 (c) A mixture of uses and activities that may include housing,  
23 recreation, and cultural activities in association with either  
24 commercial or office, or both, use.

25 NEW SECTION. **Sec. 41.** A new section is added to chapter 36.70A  
26 RCW to read as follows:

27 The legislature recognizes that the preservation of urban  
28 greenbelts is an integral part of comprehensive growth management in  
29 Washington. The legislature further recognizes that certain greenbelts  
30 are subject to adverse possession action which, if carried out,  
31 threaten the comprehensive nature of this chapter. Therefore, a party  
32 shall not acquire by adverse possession property that is designated as  
33 a plat greenbelt or open space area or that is dedicated as open space  
34 to a public agency or to a bona fide homeowner's association.

35 **Sec. 42.** RCW 84.14.030 and 1995 c 375 s 6 are each amended to read  
36 as follows:

1 An owner of property making application under this chapter must  
2 meet the following requirements:

3 (1) The new or rehabilitated multiple-unit housing must be located  
4 in a residential targeted area as designated by the city;

5 (2) The multiple-unit housing must meet the guidelines as adopted  
6 by the governing authority that may include height, density, public  
7 benefit features, number and size of proposed development, parking,  
8 low-income or moderate-income occupancy requirements, and other adopted  
9 requirements indicated necessary by the city. The required amenities  
10 should be relative to the size of the project and tax benefit to be  
11 obtained;

12 (3) The new, converted, or rehabilitated multiple-unit housing must  
13 provide for a minimum of fifty percent of the space for permanent  
14 residential occupancy. In the case of existing occupied multifamily  
15 development, the multifamily housing must also provide for a minimum of  
16 four additional multifamily units. Existing multifamily vacant housing  
17 that has been vacant for twelve months or more does not have to provide  
18 additional multifamily units;

19 (4) New construction multifamily housing and rehabilitation  
20 improvements must be completed within three years from the date of  
21 approval of the application;

22 (5) Property proposed to be rehabilitated must be vacant at least  
23 twelve months before submitting an application and fail to comply with  
24 one or more standards of the applicable state or local building or  
25 housing codes on or after July 23, 1995; and

26 (6) The applicant must enter into a contract with the city approved  
27 by the governing body under which the applicant has agreed to the  
28 implementation of the development on terms and conditions satisfactory  
29 to the governing authority.

30 **Sec. 43.** RCW 84.14.050 and 1995 c 375 s 8 are each amended to read  
31 as follows:

32 An owner of property seeking tax incentives under this chapter must  
33 complete the following procedures:

34 (1) In the case of rehabilitation or where demolition or new  
35 construction is required, the owner shall secure from the governing  
36 authority or duly authorized agent, before commencement of  
37 rehabilitation improvements or new construction, verification of  
38 property noncompliance with applicable building and housing codes;

1 (2) In the case of new and rehabilitated multifamily housing, the  
2 owner shall apply to the city on forms adopted by the governing  
3 authority. The application must contain the following:

4 (a) Information setting forth the grounds supporting the requested  
5 exemption including information indicated on the application form or in  
6 the guidelines;

7 (b) A description of the project and site plan, including the floor  
8 plan of units and other information requested;

9 (c) A statement that the applicant is aware of the potential tax  
10 liability involved when the property ceases to be eligible for the  
11 incentive provided under this chapter;

12 (3) The applicant must verify the application by oath or  
13 affirmation; and

14 (4) The application must be made on or before April 1 of each year,  
15 and must be accompanied by the application fee, if any, required under  
16 RCW ((84.14.070)) 84.14.080. The governing authority may permit the  
17 applicant to revise an application before final action by the governing  
18 authority.

19 *\*Sec. 44. RCW 90.61.020 and 1995 c 347 s 802 are each amended to*  
20 *read as follows:*

21 *The commission shall consist of not more than ((fourteen)) twenty-*  
22 *two members. ((Eleven)) Fifteen members of the commission shall be*  
23 *appointed by the governor. ((Membership)) The commission members*  
24 *appointed by the governor shall reflect the interests of business,*  
25 *((agriculture)) operators of small businesses, owners of small property*  
26 *holdings, livestock producers, irrigated agriculture, dryland farmers*  
27 *or major crop commodity producers, labor, the environment, neighborhood*  
28 *groups, other citizens, the legislature, cities, counties, and*  
29 *federally recognized Indian tribes. ((Members)) The commission members*  
30 *appointed by the governor shall have substantial experience in matters*  
31 *relating to land use and environmental planning and regulation, and*  
32 *shall have the ability to work toward cooperative solutions among*  
33 *diverse interests. The director of the department of community, trade,*  
34 *and economic development, or the director s designee, shall be a member*  
35 *and shall serve as chair of the commission. The director of the*  
36 *department of ecology, or the director s designee, and the secretary of*  
37 *the department of transportation, or the secretary's designee, shall*  
38 *also be members of the commission. Two members of the commission shall*

1 be members of the senate, one from each caucus appointed by the  
2 president of the senate, and two members of the commission shall be  
3 members of the house of representatives, one from each caucus appointed  
4 by the speaker of the house of representatives. Staff for the  
5 commission shall be provided by the department of community, trade, and  
6 economic development, with additional staff to be provided by other  
7 state agencies and the legislature, as may be required. State agencies  
8 shall provide the commission with information and assistance as needed.

9 This section expires June 30, 1998.

10 \*Sec. 44 was vetoed. See message at end of chapter.

11 \*Sec. 45. RCW 90.61.040 and 1995 c 347 s 804 are each amended to  
12 read as follows:

13 The commission shall:

14 (1) Consider the effectiveness of state and local government  
15 efforts to consolidate and integrate the growth management act, the  
16 state environmental policy act, the shoreline management act, and other  
17 land use, planning, environmental, and permitting laws.

18 (2) Identify the revisions and modifications needed in state land  
19 use, planning, and environmental law and practice to adequately plan  
20 for growth and achieve economically and environmentally sustainable  
21 development, to adequately assess environmental impacts of  
22 comprehensive plans, development regulations, and growth, and to reduce  
23 the time and cost of obtaining project permits.

24 (3) Draft a consolidated land use procedure, following these  
25 guidelines:

26 (a) Conduct land use planning through the comprehensive planning  
27 process under chapter 36.70A RCW rather than through review of  
28 individual projects;

29 (b) Involve diverse sectors of the public in the planning process.  
30 Early and informal environmental analysis should be incorporated into  
31 planning and decision making;

32 (c) Recognize that different questions need to be answered and  
33 different levels of detail applied at each planning phase, from the  
34 initial development of plan concepts or plan elements to implementation  
35 programs;

36 (d) Integrate and combine to the fullest extent possible the  
37 processes, analysis, and documents currently required under chapters  
38 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent

1 implementation will incorporate measures to promote the environmental,  
2 economic, and other goals and to mitigate undesirable or unintended  
3 adverse impacts on a community's quality of life;

4 (e) Focus environmental review and the level of detail needed for  
5 different stages of plan and project decisions on the environmental  
6 considerations most relevant to that stage of the process;

7 (f) Avoid duplicating review that has occurred for plan decisions  
8 when specific projects are proposed;

9 (g) Use environmental review on projects to: (i) Review and  
10 document consistency with comprehensive plans and development  
11 regulations; (ii) provide prompt and coordinated review by agencies,  
12 tribes, and the public on compliance with applicable environmental laws  
13 and plans, including mitigation for site specific project impacts that  
14 have not been considered and addressed at the plan or development  
15 regulation level; and (iii) ensure accountability by local government  
16 to applicants and the public for requiring and implementing mitigation  
17 measures;

18 (h) Maintain or improve the quality of environmental analysis both  
19 for plan and for project decisions, while integrating these analyses  
20 with improved state and local planning and permitting processes;

21 (i) Examine existing land use and environmental permits for  
22 necessity and utility. To the extent possible, existing permits should  
23 be combined into fewer permits, assuring that the values and principles  
24 intended to be protected by those permits remain protected; and

25 (j) Consolidate local government appeal processes to allow a single  
26 appeal of permits at local government levels, a single state level  
27 administrative appeal, and a final judicial appeal.

28 (4) Monitor instances state-wide of the vesting of project permit  
29 applications during the period that an appeal is pending before a  
30 growth management hearings board, as authorized under RCW 36.70A.300.  
31 The commission shall also review the extent to which such vesting  
32 results in the approval of projects that are inconsistent with a  
33 comprehensive plan or development regulation provision ultimately found  
34 to be in compliance with a board's order or remand. The commission  
35 shall analyze the impact of such approvals on ensuring the attainment  
36 of the goals and policies of chapter 36.70A RCW, and make  
37 recommendations to the governor and the legislature on statutory  
38 changes to address any adverse impacts from the provisions of RCW  
39 36.70A.300. The commission shall provide an initial report on its



1 findings and recommendations by November 1, 1995, and submit its  
2 further findings and recommendations subsequently in the reports  
3 required under RCW 90.61.030.

4 (5) Monitor local government consolidated permit procedures and the  
5 effectiveness of the timelines established by RCW 36.70B.090. The  
6 commission shall include in its report submitted to the governor and  
7 the legislature on November 1, 1997, its recommendation about what  
8 timelines, if any, should be imposed on the local government  
9 consolidated permit process required by chapter 36.70B RCW.

10 (6) Evaluate funding mechanisms that will enable local governments  
11 to pay for and recover the costs of conducting integrated planning and  
12 environmental analysis. The commission shall include its conclusions  
13 in its first report to the legislature on November 1, 1995, and include  
14 any recommended statutory changes.

15 (7) Study, in cooperation with the state board for registration of  
16 professional engineers and the state building code council, ways in  
17 which state agencies and local governments could authorize  
18 professionals with appropriate qualifications to certify a project's  
19 compliance with certain state and local land use and environmental  
20 requirements. The commission shall report to the legislature on  
21 measures necessary to implement such a system of professional  
22 certification.

23 (8) Review long-term approaches for resolving disputes that arise  
24 under the growth management act, chapter 36.70A RCW; the shoreline  
25 management act, chapter 90.58 RCW; and other environmental laws. In  
26 particular, in the commission's recommendations on a consolidated land  
27 use procedure and integration and consolidation of Washington's land  
28 use and environmental laws, identify needed changes to the structure of  
29 the boards that hear environmental appeals as well as the extent to  
30 which quasi-judicial bodies are needed to provide continued oversight  
31 of matters currently brought before the growth management hearings  
32 board and other boards that hear such appeals.

33 (9) If the commission finds that there is no longer a need for the  
34 growth management hearings boards and recommends sunset of the boards,  
35 include in its recommendations a plan for implementing the sunset  
36 process. Alternatively, if the boards are to become advisory bodies  
37 with the primary duty of mediating disputes and making advisory  
38 decisions, the commission shall make recommendations as to how such a  
39 change in the board's authority should be implemented. If the

1 commission makes other recommendations with respect to the boards, it  
2 shall make recommendations to implement any needed changes.

3 (10) Evaluate the effect of the 1997 amendments to this chapter  
4 that raise the standard of review of agency, county, and city actions  
5 by the growth management hearings boards and make changes with respect  
6 to board determinations of invalidity, and make recommendations as to  
7 whether the latitude of the boards should be further curtailed and  
8 greater deference given to local decisions by raising the standard of  
9 review, limiting the authority of the board to make determinations of  
10 invalidity, or making other changes.

11 These guidelines are intended to guide the work of the commission,  
12 without limiting its charge to integrate and consolidate Washington's  
13 land use and environmental laws into a single, manageable statutory  
14 framework.

15 This section expires June 30, 1998.

16 \*Sec. 45 was vetoed. See message at end of chapter.

17 **Sec. 46.** RCW 36.70B.040 and 1995 c 347 s 405 are each amended to  
18 read as follows:

19 (1) A proposed project's consistency with a local government's  
20 development regulations adopted under chapter 36.70A RCW, or, in the  
21 absence of applicable development regulations, the appropriate elements  
22 of the comprehensive plan (~~(or subarea plan)~~) adopted under chapter  
23 36.70A RCW shall be (~~(determined)~~) decided by the local government  
24 during project review by consideration of:

25 (a) The type of land use;

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

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

30 (d) The (~~(character)~~) characteristics of the development, such as  
31 development standards.

32 (2) In (~~(determining consistency)~~) deciding whether a project is  
33 consistent, the determinations made pursuant to RCW 36.70B.030(2) shall  
34 be controlling.

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

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

6 (5) The department of community, trade, and economic development is  
7 authorized to develop and adopt by rule criteria to assist local  
8 governments planning under RCW 36.70A.040 to analyze the consistency of  
9 project actions. These criteria shall be jointly developed with the  
10 department of ecology.

11 **Sec. 47.** RCW 43.21C.110 and 1995 c 347 s 206 are each amended to  
12 read as follows:

13 It shall be the duty and function of the department of ecology:

14 (1) To adopt and amend thereafter rules of interpretation and  
15 implementation of this chapter, subject to the requirements of chapter  
16 34.05 RCW, for the purpose of providing uniform rules and guidelines to  
17 all branches of government including state agencies, political  
18 subdivisions, public and municipal corporations, and counties. The  
19 proposed rules shall be subject to full public hearings requirements  
20 associated with rule promulgation. Suggestions for modifications of  
21 the proposed rules shall be considered on their merits, and the  
22 department shall have the authority and responsibility for full and  
23 appropriate independent promulgation and adoption of rules, assuring  
24 consistency with this chapter as amended and with the preservation of  
25 protections afforded by this chapter. The rule-making powers  
26 authorized in this section shall include, but shall not be limited to,  
27 the following phases of interpretation and implementation of this  
28 chapter:

29 (a) Categories of governmental actions which are not to be  
30 considered as potential major actions significantly affecting the  
31 quality of the environment, including categories pertaining to  
32 applications for water right permits pursuant to chapters 90.03 and  
33 90.44 RCW. The types of actions included as categorical exemptions in  
34 the rules shall be limited to those types which are not major actions  
35 significantly affecting the quality of the environment. The rules  
36 shall provide for certain circumstances where actions which potentially  
37 are categorically exempt require environmental review. An action that

1 is categorically exempt under the rules adopted by the department may  
2 not be conditioned or denied under this chapter.

3 (b) Rules for criteria and procedures applicable to the  
4 determination of when an act of a branch of government is a major  
5 action significantly affecting the quality of the environment for which  
6 a detailed statement is required to be prepared pursuant to RCW  
7 43.21C.030.

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

14 (d) Scope of coverage and contents of detailed statements assuring  
15 that such statements are simple, uniform, and as short as practicable;  
16 statements are required to analyze only reasonable alternatives and  
17 probable adverse environmental impacts which are significant, and may  
18 analyze beneficial impacts.

19 (e) Rules and procedures for public notification of actions taken  
20 and documents prepared.

21 (f) Definition of terms relevant to the implementation of this  
22 chapter including the establishment of a list of elements of the  
23 environment. Analysis of environmental considerations under RCW  
24 43.21C.030(2) may be required only for those subjects listed as  
25 elements of the environment (or portions thereof). The list of  
26 elements of the environment shall consist of the "natural" and "built"  
27 environment. The elements of the built environment shall consist of  
28 public services and utilities (such as water, sewer, schools, fire and  
29 police protection), transportation, environmental health (such as  
30 explosive materials and toxic waste), and land and shoreline use  
31 (including housing, and a description of the relationships with land  
32 use and shoreline plans and designations, including population).

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

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

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

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

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

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

14 (m) Rules and procedures that provide for the integration of  
15 environmental review with project review as provided in RCW 43.21C.240.  
16 The rules and procedures shall be jointly developed with the department  
17 of community, trade, and economic development and shall be applicable  
18 to the preparation of environmental documents for actions in counties,  
19 cities, and towns planning under RCW 36.70A.040. The rules and  
20 procedures shall also include procedures and criteria to analyze ((the  
21 consistency of project actions, including)) planned actions under RCW  
22 43.21C.031(2)((, with development regulations adopted under chapter  
23 36.70A RCW, or in the absence of applicable development regulations,  
24 the appropriate elements of a comprehensive plan or subarea plan  
25 adopted under chapter 36.70A RCW)) and revisions to the rules adopted  
26 under this section to ensure that they are compatible with the  
27 requirements and authorizations of chapter 347, Laws of 1995, as  
28 amended by chapter . . . , Laws of 1997 (this act). Ordinances or  
29 procedures adopted by a county, city, or town to implement the  
30 provisions of ((RCW 43.21C.240)) chapter 347, Laws of 1995 prior to the  
31 effective date of rules adopted under this subsection (1)(m) shall  
32 continue to be effective until the adoption of any new or revised  
33 ordinances or procedures that may be required. If any revisions are  
34 required as a result of rules adopted under this subsection (1)(m),  
35 those revisions shall be made within the time limits specified in RCW  
36 43.21C.120.

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

1 (a) Consult with the state agencies and with representatives of  
2 science, industry, agriculture, labor, conservation organizations,  
3 state and local governments, and other groups, as it deems advisable;  
4 and

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

11 (3) Rules adopted pursuant to this section shall be subject to the  
12 review procedures of chapter 34.05 RCW.

13 **Sec. 48.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to  
14 read as follows:

15 (1) Not later than April 1, 1996, a local government planning under  
16 RCW 36.70A.040 shall provide a notice of application to the public and  
17 the departments and agencies with jurisdiction as provided in this  
18 section. If a local government has made a determination of  
19 significance under chapter 43.21C RCW concurrently with the notice of  
20 application, the notice of application shall be combined with the  
21 determination of significance and scoping notice. Nothing in this  
22 section prevents a determination of significance and scoping notice  
23 from being issued prior to the notice of application. Nothing in this  
24 section or this chapter prevents a lead agency, when it is a project  
25 proponent or is funding a project, from conducting its review under  
26 chapter 43.21C RCW or from allowing appeals of procedural  
27 determinations prior to submitting a project permit application.

28 (2) The notice of application shall be provided within fourteen  
29 days after the determination of completeness as provided in RCW  
30 36.70B.070 and, except as limited by the provisions of subsection  
31 (4)(b) of this section, shall include the following in whatever  
32 sequence or format the local government deems appropriate:

33 (a) The date of application, the date of the notice of completion  
34 for the application, and the date of the notice of application;

35 (b) A description of the proposed project action and a list of the  
36 project permits included in the application and, if applicable, a list  
37 of any studies requested under RCW 36.70B.070 or 36.70B.090;

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

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

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

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

19 (g) A statement of the preliminary determination, if one has been  
20 made at the time of notice, of those development regulations that will  
21 be used for project mitigation and of consistency as provided in RCW  
22 (~~(36.70B.040)~~) 36.70B.030(2); and

23 (h) Any other information determined appropriate by the local  
24 government.

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

28 (4) A local government shall use reasonable methods to give the  
29 notice of application to the public and agencies with jurisdiction and  
30 may use its existing notice procedures. A local government may use  
31 different types of notice for different categories of project permits  
32 or types of project actions. If a local government by resolution or  
33 ordinance does not specify its method of public notice, the local  
34 government shall use the methods provided for in (a) and (b) of this  
35 subsection. Examples of reasonable methods to inform the public are:

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

37 (b) Publishing notice, including at least the project location,  
38 description, type of permit(s) required, comment period dates, and  
39 location where the notice of application required by subsection (2) of

1 this section and the complete application may be reviewed, in the  
2 newspaper of general circulation in the general area where the proposal  
3 is located or in a local land use newsletter published by the local  
4 government;

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

7 (d) Notifying the news media;

8 (e) Placing notices in appropriate regional or neighborhood  
9 newspapers or trade journals;

10 (f) Publishing notice in agency newsletters or sending notice to  
11 agency mailing lists, either general lists or lists for specific  
12 proposals or subject areas; and

13 (g) Mailing to neighboring property owners.

14 (5) A notice of application shall not be required for project  
15 permits that are categorically exempt under chapter 43.21C RCW, unless  
16 ~~((a public comment period or))~~ an open record predecision hearing is  
17 required or an open record appeal hearing is allowed on the project  
18 permit decision.

19 (6) A local government shall integrate the permit procedures in  
20 this section with its environmental review under chapter 43.21C RCW as  
21 follows:

22 (a) Except for a determination of significance and except as  
23 otherwise expressly allowed in this section, the local government may  
24 not issue its threshold determination ~~(, or issue a decision or a~~  
25 ~~recommendation on a project permit))~~ until the expiration of the public  
26 comment period on the notice of application.

27 (b) If an open record predecision hearing is required ~~((and the~~  
28 ~~local government's threshold determination requires public notice under~~  
29 ~~chapter 43.21C RCW))~~, the local government shall issue its threshold  
30 determination at least fifteen days prior to the open record  
31 predecision hearing.

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

33 (d) A local government is not required to provide for  
34 administrative appeals of its threshold determination. If provided, an  
35 administrative appeal shall be filed within fourteen days after notice  
36 that the determination has been made and is appealable. Except as  
37 otherwise expressly provided in this section, the appeal hearing on a  
38 determination of nonsignificance shall be consolidated with any open  
39 record hearing on the project permit.



1       (7) At the request of the applicant, a local government may combine  
2 any hearing on a project permit with any hearing that may be held by  
3 another local, state, regional, federal, or other agency (~~provided~~  
4 ~~that~~), if:

5       (a) The hearing is held within the geographic boundary of the local  
6 government(~~(. Hearings shall be combined if requested by an applicant,~~  
7 ~~as long as)~~); and

8       (b) The joint hearing can be held within the time periods specified  
9 in RCW 36.70B.090 or the applicant agrees to the schedule in the event  
10 that additional time is needed in order to combine the hearings. All  
11 agencies of the state of Washington, including municipal corporations  
12 and counties participating in a combined hearing, are hereby authorized  
13 to issue joint hearing notices and develop a joint format, select a  
14 mutually acceptable hearing body or officer, and take such other  
15 actions as may be necessary to hold joint hearings consistent with each  
16 of their respective statutory obligations.

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

20       (a) The agency is not expressly prohibited by statute from doing  
21 so;

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

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

28       (9) A local government is not required to provide for  
29 administrative appeals. If provided, an administrative appeal of the  
30 project decision(~~(, combined with)~~) and of any environmental  
31 determination(~~(s)~~) issued at the same time as the project decision,  
32 shall be filed within fourteen days after the notice of the decision or  
33 after other notice that the decision has been made and is appealable.  
34 The local government shall extend the appeal period for an additional  
35 seven days, if state or local rules adopted pursuant to chapter 43.21C  
36 RCW allow public comment on a determination of nonsignificance issued  
37 as part of the appealable project permit decision.

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

4 (11) Each local government planning under RCW 36.70A.040 shall  
5 adopt procedures for administrative interpretation of its development  
6 regulations.

7 **Sec. 49.** RCW 43.21C.075 and 1995 c 347 s 204 are each amended to  
8 read as follows:

9 (1) Because a major purpose of this chapter is to combine  
10 environmental considerations with public decisions, any appeal brought  
11 under this chapter shall be linked to a specific governmental action.  
12 The State Environmental Policy Act provides a basis for challenging  
13 whether governmental action is in compliance with the substantive and  
14 procedural provisions of this chapter. The State Environmental Policy  
15 Act is not intended to create a cause of action unrelated to a specific  
16 governmental action.

17 (2) Unless otherwise provided by this section:

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

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

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

25 (a) Shall ~~((not))~~ allow no more than one agency appeal proceeding  
26 on ~~((a))~~ each procedural determination (the adequacy of a determination  
27 of significance/nonsignificance or of a final environmental impact  
28 statement)~~((. The appeal proceeding on a determination of significance  
29 may occur before the agency's final decision on a proposed action. The  
30 appeal proceeding on a determination of nonsignificance may occur  
31 before the agency's final decision on a proposed action only if the  
32 appeal is heard at a proceeding where the hearing body or officer will  
33 render a final recommendation or decision on the proposed underlying  
34 governmental action. Such appeals shall also be allowed for a  
35 determination of significance/nonsignificance which may be issued by  
36 the agency after supplemental review))~~;

37 (b) Shall consolidate an appeal of procedural issues and of  
38 substantive determinations made under this chapter (such as a decision

1 to require particular mitigation measures or to deny a proposal) with  
2 a hearing or appeal on the underlying governmental action by providing  
3 for a single simultaneous hearing before one hearing officer or body to  
4 consider the agency decision or recommendation on a proposal and any  
5 environmental determinations made under this chapter, with the  
6 exception of ((the)):

7 (i) An appeal((, if any,)) of a determination of significance ((as  
8 provided in (a) of this subsection));

9 (ii) An appeal of a procedural determination made by an agency when  
10 the agency is a project proponent, or is funding a project, and chooses  
11 to conduct its review under this chapter, including any appeals of its  
12 procedural determinations, prior to submitting an application for a  
13 project permit;

14 (iii) An appeal of a procedural determination made by an agency on  
15 a nonproject action; or

16 (iv) An appeal to the local legislative authority under RCW  
17 43.21C.060 or other applicable state statutes;

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

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

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

32 (5) Some statutes and ordinances contain time periods for  
33 challenging governmental actions which are subject to review under this  
34 chapter, such as various local land use approvals (the "underlying  
35 governmental action"). RCW 43.21C.080 establishes an optional "notice  
36 of action" procedure which, if used, imposes a time period for  
37 appealing decisions under this chapter. This subsection does not  
38 modify any such time periods. In this subsection, the term "appeal"  
39 refers to a judicial appeal only.

1 (a) If there is a time period for appealing the underlying  
2 governmental action, appeals under this chapter shall be commenced  
3 within such time period. The agency shall give official notice stating  
4 the date and place for commencing an appeal.

5 (b) If there is no time period for appealing the underlying  
6 governmental action, and a notice of action under RCW 43.21C.080 is  
7 used, appeals shall be commenced within the time period specified by  
8 RCW 43.21C.080.

9 (6)(a) Judicial review under subsection (5) of this section of an  
10 appeal decision made by an agency under subsection (3) of this section  
11 shall be on the record, consistent with other applicable law.

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

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

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

1 and shall issue a final order within one hundred eighty days as  
2 provided in RCW 90.58.180.

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

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

19 **Sec. 50.** RCW 90.58.090 and 1995 c 347 s 306 are each amended to  
20 read as follows:

21 (1) A master program, segment of a master program, or an amendment  
22 to a master program shall become effective when approved by the  
23 department. Within the time period provided in RCW 90.58.080, each  
24 local government shall have submitted a master program, either totally  
25 or by segments, for all shorelines of the state within its jurisdiction  
26 to the department for review and approval.

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

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

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

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

8 (d) Within thirty days after receipt of the local government  
9 response pursuant to (c) of this subsection, make written findings and  
10 conclusions regarding the consistency of the proposal with the policy  
11 of RCW 90.58.020 and the applicable guidelines, provide a response to  
12 the issues identified in (c) of this subsection, and either approve the  
13 proposal as submitted, recommend specific changes necessary to make the  
14 proposal approvable, or deny approval of the proposal in those  
15 instances where no alteration of the proposal appears likely to be  
16 consistent with the policy of RCW 90.58.020 and the applicable  
17 guidelines. The written findings and conclusions shall be provided to  
18 the local government, all interested persons, parties, groups, and  
19 agencies of record on the proposal;

20 (e) If the department recommends changes to the proposed master  
21 program or amendment, within thirty days after the department mails the  
22 written findings and conclusions to the local government, the local  
23 government may:

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

27 (ii) Submit an alternative proposal. If, in the opinion of the  
28 department, the alternative is consistent with the purpose and intent  
29 of the changes originally submitted by the department and with this  
30 chapter it shall approve the changes and provide written notice to all  
31 recipients of the written findings and conclusions. If the department  
32 determines the proposal is not consistent with the purpose and intent  
33 of the changes proposed by the department, the department may resubmit  
34 the proposal for public and agency review pursuant to this section or  
35 reject the proposal.

36 (3) The department shall approve the segment of a master program  
37 relating to shorelines unless it determines that the submitted segments  
38 are not consistent with the policy of RCW 90.58.020 and the applicable  
39 guidelines.

1 (4) The department shall approve those segments of the master  
2 program relating to shorelines of state-wide significance only after  
3 determining the program provides the optimum implementation of the  
4 policy of this chapter to satisfy the state-wide interest. If the  
5 department does not approve a segment of a local government master  
6 program relating to a shoreline of state-wide significance, the  
7 department may develop and by rule adopt an alternative to the local  
8 government s proposal.

9 (5) In the event a local government has not complied with the  
10 requirements of RCW 90.58.070 it may thereafter upon written notice to  
11 the department elect to adopt a master program for the shorelines  
12 within its jurisdiction, in which event it shall comply with the  
13 provisions established by this chapter for the adoption of a master  
14 program for such shorelines.

15 Upon approval of such master program by the department it shall  
16 supersede such master program as may have been adopted by the  
17 department for such shorelines.

18 (6) A master program or amendment to a master program takes effect  
19 when and in such form as approved or adopted by the department.  
20 Shoreline master programs that were adopted by the department prior to  
21 July 22, 1995, in accordance with the provisions of this section then  
22 in effect, shall be deemed approved by the department in accordance  
23 with the provisions of this section that became effective on that date.  
24 The department shall maintain a record of each master program, the  
25 action taken on any proposal for adoption or amendment of the master  
26 program, and any appeal of the department's action. The department's  
27 approved document of record constitutes the official master program.

28 **Sec. 51.** RCW 90.58.143 and 1996 c 62 s 1 are each amended to read  
29 as follows:

30 (1) The time requirements of this section shall apply to all  
31 substantial development permits and to any development authorized  
32 pursuant to a variance or conditional use permit authorized under this  
33 chapter. Upon a finding of good cause, based on the requirements and  
34 circumstances of the project proposed and consistent with the policy  
35 and provisions of the master program and this chapter, local government  
36 may adopt different time limits from those set forth in subsections (2)  
37 and (3) of this section as a part of action on a substantial  
38 development permit.

1 (2) Construction activities shall be commenced or, where no  
2 construction activities are involved, the use or activity shall be  
3 commenced within two years of the effective date of a substantial  
4 development permit. However, local government may authorize a single  
5 extension for a period not to exceed one year based on reasonable  
6 factors, if a request for extension has been filed before the  
7 expiration date and notice of the proposed extension is given to  
8 parties of record on the substantial development permit and to the  
9 department.

10 (3) Authorization to conduct construction activities shall  
11 terminate five years after the effective date of a substantial  
12 development permit. However, local government may authorize a single  
13 extension for a period not to exceed one year based on reasonable  
14 factors, if a request for extension has been filed before the  
15 expiration date and notice of the proposed extension is given to  
16 parties of record and to the department.

17 (4) The effective date of a substantial development permit shall be  
18 the date of ~~((the last action required on the substantial development  
19 permit and all))~~ filing as provided in RCW 90.58.140(6). The permit  
20 time periods in subsections (2) and (3) of this section do not include  
21 the time during which a use or activity was not actually pursued due to  
22 the pendency of administrative appeals or legal actions or due to the  
23 need to obtain any other government permits and approvals for the  
24 development that authorize the development to proceed, including all  
25 reasonably related administrative ((and)) or legal actions on any such  
26 permits or approvals.

27 *\*Sec. 52. RCW 34.05.518 and 1995 c 382 s 5 are each amended to*  
28 *read as follows:*

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

37 (2) *For direct review upon certification by the superior court, an*  
38 *application for direct review must be filed with the superior court*



1 within thirty days of the filing of the petition for review in superior  
2 court. The superior court may certify a case for direct review only if  
3 the judicial review is limited to the record of the agency proceeding  
4 and the court finds that:

5 (a) Fundamental and urgent issues affecting the future  
6 administrative process or the public interest are involved which  
7 require a prompt determination;

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

10 (c) An appeal to the court of appeals would be likely regardless of  
11 the determination in superior court; and

12 (d) The appellate court's determination in the proceeding would  
13 have significant precedential value.

14 Procedures for certification shall be established by court rule.

15 (3)(a) For the purposes of direct review of final decisions of  
16 environmental boards, environmental boards include those boards  
17 identified in RCW 43.21B.005 (~~and growth management hearings boards as~~  
18 ~~identified in RCW 36.70A.250~~)).

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

23 (i) Fundamental and urgent state-wide or regional issues are  
24 raised; or

25 (ii) The proceeding is likely to have significant precedential  
26 value.

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

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

33 (6) The procedures for direct review of final decisions of  
34 environmental boards include:

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

1       (b) If an issue on review is the jurisdiction of the environmental  
2 board, the board may file an application for direct review on that  
3 issue.

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

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

12       (e) If the appellate court accepts review, the certificate of  
13 appealability shall be transmitted to the court of appeals as part of  
14 the certified record.

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

18 \*Sec. 52 was vetoed. See message at end of chapter.

19       NEW SECTION.   **Sec. 53.** Except as otherwise specifically provided  
20 in section 22 of this act, sections 1 through 21, chapter . . ., Laws  
21 of 1997 (sections 1 through 21 of this act) are prospective in effect  
22 and shall not affect the validity of actions taken or decisions made  
23 before the effective date of this section.

24       NEW SECTION.   **Sec. 54.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28       NEW SECTION.   **Sec. 55.** Sections 29 and 30 of this act are  
29 necessary for the immediate preservation of the public peace, health,  
30 or safety, or support of the state government and its existing public  
31 institutions, and take effect immediately.

Passed the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 19, 1997, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 19, 1997.

1       Note: Governor's explanation of partial veto is as follows:

1 "I am returning herewith, without my approval as to sections 1, 4,  
2 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, Engrossed Senate Bill No. 6094  
3 entitled:

4 "AN ACT Relating to growth management;"

5 This bill, enacting the recommendations of the Land Use Study  
6 Commission, was introduced at my request. However, the bill was  
7 amended significantly in the legislative process. Therefore, I have  
8 listened to the input of a broad range of interests and conducted a  
9 thorough review of all of the provisions of the bill as passed by the  
10 Legislature.

11 I have maintained throughout the 1997 legislative session that the  
12 consensus recommendations of the Land Use Study Commission, comprising  
13 representatives of business, agricultural, local and state government,  
14 neighborhood activists and environmentalists, should provide the  
15 framework for the debate over how best to improve the state's Growth  
16 Management Act. I thank the members of the commission for their  
17 diligent work, developing a variety of issue papers, conducting hours  
18 of public hearings, and developing a well-reasoned and well-crafted  
19 legislative proposal.

20 As I reviewed this bill as passed by the legislature, I always kept  
21 in mind the framework for the analysis provided by the Commission. I  
22 believe that this bill will go a long way toward resolving many of the  
23 specific concerns people have had with the way the Growth Management  
24 Act has worked since it was first enacted. Among other things, this  
25 bill provides greater deference to the decisions of local elected  
26 officials throughout the state, improves public participation in the  
27 growth management process, and gives the Growth Management Hearings  
28 Boards the added direction they need in resolving some very difficult  
29 land use issues. I have signed every section of this bill that  
30 includes the language proposed by the Land Use Study Commission, as  
31 well as some other sections. However, I was unable to sign the bill in  
32 its entirety and have vetoed the following sections.

33 Section 1 changes the intent section recommended by the Land Use  
34 Study Commission. The language of the recommended intent section  
35 represented a fine balance of the interests represented on the  
36 Commission and should not have been altered, thereby implying an intent  
37 that was not agreed to by the Commission.

38 Section 4 provides that a county, after conferring with its cities,  
39 may develop alternative methods of achieving the planning goals of the  
40 Growth Management Act. This GMA-flex option was briefly discussed by  
41 the Land Use Study Commission and dismissed without recommendation  
42 because it is an issue that represents a major change in direction and  
43 needs much more discussion and refinement before it is a viable  
44 alternative.

45 Section 5 states that the goal of the state is to achieve no  
46 overall net loss of wetland functions. This section also provides that  
47 in adopting critical areas development regulations, counties and cities  
48 should balance all of the goals of the GMA and that the legislature  
49 intends that no goal takes precedence, but that counties and cities may  
50 prioritize the goals in accordance with local history, conditions,  
51 circumstances, and choice. This issue was not addressed by the Land

1 Use Study Commission and seems to me to be inconsistent with the tenor  
2 of the Commission's recommendations.

3 Section 6 allows for exemptions from critical area development  
4 regulations for emergency activities and activities with minor impacts  
5 on critical areas. This idea was not considered by the Land Use Study  
6 Commission. This change in policy would have to be fully explored  
7 before I could be comfortable signing it into law.

8 Section 8 provides that in certain counties, developments in rural  
9 areas shall not require urban services and shall be principally  
10 designed to serve and provide jobs for the local rural population.  
11 This section creates confusion because it states a rule that currently  
12 applies in all counties planning under the Growth Management Act, but  
13 implies that the rule applies only to specific counties. Section 7 of  
14 this bill provides all the direction needed by counties to plan for the  
15 rural element, including guidelines for rural development.

16 Section 7 provides that the rural element shall permit rural  
17 development providing for a variety of rural densities, uses, essential  
18 public facilities, and rural governmental services to serve the  
19 permitted densities and uses in the rural element. There are three  
20 exceptions in which businesses in the rural element are not required to  
21 be principally designed to serve the existing and projected rural  
22 population. These exceptions are: (1) infill of existing development;  
23 (2) small-scale recreational or tourist uses; and (3) development of  
24 cottage industries and small-scale businesses. Therefore, section 8 is  
25 unnecessary, confusing, and potentially more restrictive in certain  
26 counties than are the recommendations of the Land Use Study Commission  
27 embodied in section 7.

28 Section 15 provides that all appeals of Growth Management Hearings  
29 Board decisions shall be filed directly in the Court of Appeals. This  
30 is not a recommendation of the Land Use Study Commission and I am not  
31 certain that it would be in the best interest of the parties who appear  
32 before the boards. Most parties believe that Superior Court review of  
33 board decisions is appropriate and is working well.

34 Section 17 establishes a new and higher standard for findings of  
35 invalidity - the "arbitrary and capricious" standard. I believe this  
36 would strip too much authority from the Growth Management Hearings  
37 Boards and severely weaken the important state role in the Growth  
38 Management Act.

39 Section 18 adds language to the Land Use Study Commission  
40 recommendation which clarifies the current expedited review provision  
41 relating to orders of invalidity. The new language creates a burden on  
42 those who challenge land use decisions that in many instances would be  
43 impossible to meet, because the plan or regulation has not been in  
44 effect long enough to have caused actual harm. In some instances there  
45 is no prudent policy justification for waiting until actual harm can be  
46 proven before allowing the invalidation of a comprehensive plan or  
47 development regulation.

48 Section 19 would allow the Superior Court, when reviewing an order  
49 of invalidity, to: affirm, set aside, enjoin, or remand orders of the  
50 Growth Management Hearings Boards; or enter a declaratory judgment of  
51 compliance or noncompliance, which may include an order of invalidity  
52 setting out the particular part or parts of the plan or regulation that

1 are invalid. This was not a recommendation of the Land Use Study  
2 Commission and was not the subject of any other bills introduced this  
3 session. The concept received no public scrutiny or debate. This  
4 provision could have the unintended effect of providing for review of  
5 a comprehensive plan without the court having the benefit of the entire  
6 record.

7 I recognize that there is not enough money provided in the  
8 operating budget (ESHB 2259) to accomplish the full purpose of section  
9 25. However, by approving section 25 of this bill and section 103(4)  
10 of the operating budget, I am indicating my commitment to beginning the  
11 work of reviewing and evaluating the effectiveness of the growth  
12 management act in achieving the desired densities in urban growth  
13 areas. To accomplish this, I will work with the legislature to  
14 identify additional resources, a cost recovery program, or other means  
15 to assure sufficient funding to allow the first evaluations to be  
16 completed by the September 1, 2002 deadline.

17 By approving sections 29 and 30, I have approved the use of the  
18 Public Works Trust Fund and the Centennial Clean Water Fund to address  
19 critical or emergent public health and existing environmental problems  
20 related to infrastructure in jurisdictions that are not currently in  
21 compliance with the Growth Management Act. I am very concerned that  
22 this legislation not be used as a method to provide unrestricted access  
23 to these accounts for local governments that are not in compliance with  
24 the law. For this reason, I have directed the Department of Health,  
25 the Department of Ecology, the Department of Community, Trade and  
26 Economic Development, and the Public Works Board to interpret this new  
27 authority conservatively.

28 Section 44 would add new members to the Land Use Study Commission.  
29 I am concerned that the Commission may already be unable to meet its  
30 time schedule for completing its ambitious work plan. The selection  
31 and appointment of new members to the Commission is likely to cause  
32 delay in the Commission's process. Furthermore, I believe the  
33 Commission is currently well-balanced in its composition. I would like  
34 to see that same balance maintained for the last year of the  
35 Commission's work. However, I do encourage interested legislators to  
36 attend the meetings of the Commission and to provide input when  
37 appropriate.

38 Section 45 amends the charge given to the Land Use Study Commission  
39 by adding the following requirements: (1) Review long-term approaches  
40 for resolving disputes that arise under the Growth Management Act, the  
41 Shoreline Management Act, and other environmental laws, including  
42 identifying needed changes to the structure of the boards that hear  
43 environmental appeals; (2) If the LUSC determines that there is no  
44 longer a need for the Growth Management Hearings Boards, recommend a  
45 plan for sunseting the boards; and (3) Evaluate the effect of the  
46 changes to the standard of review and make recommendations raising the  
47 standard of review, limiting the authority of the boards to make  
48 determinations of invalidity, or making other changes.

49 The ambitious Land Use Study Commission work plan for 1997-98  
50 already includes much of the work proposed in section 45. However, I  
51 am concerned that the language of this section has the unintended  
52 effect of predetermining a result or, at least, a range of results. I  
53 encourage the Land Use Study Commission to review as many of these

1 issues as it can reasonably fit within its crowded work plan and narrow  
2 time constraints.

3 Section 52 makes a technical change to effectuate the purpose of  
4 section 15, which I have vetoed.

5 For the reasons stated above, I have vetoed sections 1, 4, 5, 6, 8,  
6 15, 17, 18, 19, 44, 45, and 52 of Engrossed Senate Bill No. 6094.

7 With the exception of sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44,  
8 45, and 52, Engrossed Senate Bill No. 6094 is approved."