
HOUSE BILL 2766

State of Washington

65th Legislature

2018 Regular Session

By Representatives Stanford, Sawyer, Pollet, and Appleton

Read first time 01/15/18. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to the certification and evidence of adequate and
2 available water; amending RCW 19.27.097 and 90.44.450; reenacting and
3 amending RCW 36.70A.070; adding a new section to chapter 90.44 RCW;
4 adding a new section to chapter 36.70A RCW; adding new sections to
5 chapter 90.54 RCW; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** In the 1990 growth management act, the
8 legislature directed that local governments include measures to
9 protect water resources in comprehensive land use plans and
10 development regulations and also required evidence of water supply
11 availability when issuing building permits and approving
12 subdivisions. Recently, the Washington state supreme court has
13 affirmed that under these provisions the water supply to serve any
14 building or subdivision must be both physically available and legally
15 available, meaning that the withdrawal of the supply will not impair
16 senior water rights, including senior instream flow rights
17 established by rule, or violate closures established by state rule,
18 and would not otherwise harm fish or other aquatic life or their
19 habitat unless otherwise mitigated under this act. Therefore, it is
20 the intent of this act to provide effective and timely mechanisms for
21 counties and the department of ecology to implement these

1 requirements, develop a means to mitigate for the withdrawal of
2 permit exempt well water, and to require state assistance in
3 providing technical and financial assistance as well as administering
4 the trust.

5 **PART 1**

6 **CERTIFICATION AND EVIDENCE OF ADEQUATE AND AVAILABLE WATER**

7 **Sec. 101.** RCW 19.27.097 and 2015 c 225 s 17 are each amended to
8 read as follows:

9 (1) Each applicant for a building permit of a building
10 necessitating potable water shall provide evidence of an adequate
11 water supply for the intended use of the building. ~~((Evidence may be
12 in the form of a water right permit from the department of ecology, a
13 letter from an approved water purveyor stating the ability to provide
14 water, or another form sufficient to verify the existence of an
15 adequate water supply. In addition to other authorities, the county
16 or city may impose conditions on building permits requiring
17 connection to an existing public water system where the existing
18 system is willing and able to provide safe and reliable potable water
19 to the applicant with reasonable economy and efficiency. An
20 application for a water right shall not be sufficient proof of an
21 adequate water supply.~~

22 ~~(2) Within counties not required or not choosing to plan pursuant
23 to RCW 36.70A.040, the county and the state may mutually determine
24 those areas in the county in which the requirements of subsection (1)
25 of this section shall not apply. The departments of health and
26 ecology shall coordinate on the implementation of this section.
27 Should the county and the state fail to mutually determine those
28 areas to be designated pursuant to this subsection, the county may
29 petition the department of enterprise services to mediate or, if
30 necessary, make the determination.~~

31 ~~(3) Buildings that do not need potable water facilities are
32 exempt from the provisions of this section. The department of
33 ecology, after consultation with local governments, may adopt rules
34 to implement this section, which may recognize differences between
35 high-growth and low-growth counties.)~~ However, no permit may be
36 issued that will operate to impair senior water rights, including
37 senior instream flow rights established by rule and would not

1 otherwise harm fish or other aquatic life or their habitat unless
2 otherwise mitigated under this act.

3 (2)(a) Subject to and in addition to these conditions, evidence
4 may be in the form of:

5 (i) A water right permit or certificate from the department of
6 ecology. An application for a water right is not sufficient proof of
7 an adequate water supply; or

8 (ii) A letter from an approved water purveyor stating the ability
9 to provide water.

10 (b) If either of these two forms of proof are not provided, then
11 evidence of an adequate water supply for the intended use of the
12 building must be in the form of the following:

13 (i) A water well report consistent with the requirements of
14 chapter 18.104 RCW from a groundwater withdrawal exempt from
15 permitting pursuant to RCW 90.44.050; and

16 (ii) Proof that a meter has been or will be installed, with such
17 metered use to be recorded by the county; and

18 (iii) Proof that water is legally and physically available in the
19 form of a mitigation certification stating that both the department
20 of ecology and the county have determined that water is legally
21 available and physically available and where the water use is fully
22 mitigated under this act; or

23 (iv) Another form sufficient to verify the physical and legal
24 existence of an adequate water supply, such as from an alternative
25 water supply.

26 NEW SECTION. Sec. 102. A new section is added to chapter 90.44
27 RCW to read as follows:

28 (1) A groundwater withdrawal exempt from permitting under RCW
29 90.44.050 may receive a building permit provided that the
30 requirements of RCW 19.27.097 and section 202 of this act are met and
31 if the quantity of water use is limited to water for domestic use up
32 to three hundred fifty gallons per day. Withdrawals from all permit
33 exempt wells under RCW 90.44.050 must be metered, measured, and
34 reported to the county and the department. This information is a
35 matter of public record.

36 (2) In water resource inventory areas where rules have not been
37 adopted under chapter 90.22 or 90.54 RCW, proof of an adequate water
38 supply must be by certification and use under the requirements of RCW
39 19.27.097 and section 202 of this act.

1 (3) In water resource inventory areas where rules have been
2 adopted under chapter 90.22 or 90.54 RCW after 2000 or where a
3 federal or state administered adjudication exists or has occurred and
4 if those rules, consent decrees, or court orders specify mitigation
5 requirements, the proof of an adequate water supply must meet the
6 mitigation requirements specified in the applicable rule, consent
7 decree, or court order. If mitigation requirements have been met
8 under the applicable rule, consent decree, or court order, additional
9 withdrawals of water that exceed those requirements must follow the
10 requirements of this act.

11 (4) In water resource inventory areas where rules have been
12 adopted under chapter 90.22 or 90.54 RCW before 2000, mitigation must
13 follow the requirements of this act.

14 **Sec. 103.** RCW 90.44.450 and 1989 c 348 s 7 are each amended to
15 read as follows:

16 The department of ecology (~~may~~) shall require withdrawals of
17 groundwater to be metered, or measured by other approved methods, as
18 a condition for a new water right permit. The department (~~may~~)
19 shall also require, as a condition for such permits, reports
20 regarding such withdrawals as to the amount of water being withdrawn.
21 These reports shall be in a form prescribed by the department.

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

24 (1) In addition to other authorities, the county or city:

25 (a) Shall impose conditions on building permits requiring
26 connection to an existing public water system where the existing
27 system is willing and able to provide safe and reliable potable water
28 to the applicant if the new uses are within five hundred feet of an
29 existing public water supply delivery system.

30 (b) May require additional information from an applicant needed
31 to determine that adequate potable water is available.

32 (2) Appropriate provisions for water supply for a subdivision,
33 dedication, or short subdivision under this chapter must be
34 consistent with applicable laws and rules adopted pursuant to
35 chapters 90.03, 90.22, 90.44, and 90.54 RCW.

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PART 2
MITIGATION AND CERTIFICATES

1 NEW SECTION. **Sec. 201.** A new section is added to chapter 90.54
2 RCW to read as follows:

3 (1) Unless mitigation requirements are otherwise specified in an
4 applicable rule adopted after 2000, any new domestic or industrial
5 groundwater withdrawal exempt from permitting under RCW 90.44.050 is
6 entitled to receive a mitigation certificate by complying with the
7 mitigation requirements established in section 202 of this act.

8 (2) A mitigation certificate to withdraw water under this section
9 may only be issued if the water withdrawal would not cause,
10 individually or cumulatively, an impairment to senior water rights,
11 including senior instream flow rights, established by rule and would
12 not otherwise harm fish or other aquatic life or their habitat unless
13 mitigated under this act.

14 (3) Impairment or harm means any reduction in flow whether
15 measured or modeled, that will impair a senior water right, including
16 senior instream flow rights, established by rule and would not
17 otherwise harm fish or other aquatic life or their habitat unless
18 mitigated under this act.

19 (4) A mitigation certificate may only be issued once mitigation
20 has been implemented as agreed upon by the government entities and as
21 provided in section 202 of this act.

22 (5) Appeals of the department's issuance of all mitigation
23 certificates, and the pollution control hearings board review
24 thereof, are subject to de novo review by a superior court.

25 NEW SECTION. **Sec. 202.** A new section is added to chapter 90.54
26 RCW to read as follows:

27 (1) Mitigation certificates may be provided to applicants by the
28 department for projects developed through the collaboration and
29 mutual agreement of the following government entities: The county,
30 the department of ecology, the department of fish and wildlife, and
31 any federally recognized tribe or tribes whose reservation, usual and
32 accustomed fishing areas, or areas that support tribal treaty
33 fisheries may be impaired by the withdrawal. An applicant may provide
34 additional methods for mitigation if mutually approved by the
35 government entities.

36 (2) Mitigation projects must be completed before withdrawal or
37 after withdrawal by the mutual agreement of the government entities
38 identified in subsection (1) of this section.

1 (3) Mitigation certificates may only be issued once the
2 department has certified that the applicant has achieved one hundred
3 percent mitigation for the total annual increased consumptive uses of
4 proposed withdrawals and if other requirements of this section are
5 met, unless other mitigation is approved by the governmental entities
6 as prescribed in this section.

7 **PART 3**

8 **ELEMENTS OF COMPREHENSIVE PLANS**

9 **Sec. 301.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017
10 3rd sp.s. c 16 s 4 are each reenacted and amended to read as follows:

11 The comprehensive plan of a county or city that is required or
12 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
13 and descriptive text covering objectives, principles, and standards
14 used to develop the comprehensive plan. The plan shall be an
15 internally consistent document and all elements shall be consistent
16 with the future land use map. A comprehensive plan shall be adopted
17 and amended with public participation as provided in RCW 36.70A.140.
18 Each comprehensive plan shall include a plan, scheme, or design for
19 each of the following:

20 (1) A land use element designating the proposed general
21 distribution and general location and extent of the uses of land,
22 where appropriate, for agriculture, timber production, housing,
23 commerce, industry, recreation, open spaces, general aviation
24 airports, public utilities, public facilities, and other land uses.
25 The land use element shall include population densities, building
26 intensities, and estimates of future population growth. The land use
27 element shall provide for protection of the quality and quantity of
28 groundwater used for public water supplies. In providing for the
29 protection of the quantity of groundwater used for public water
30 supplies, a county or city must ensure stream flow monitoring,
31 measuring, and reporting in all subbasins where mitigation or new
32 permit exempt wells are proposed. Local governments may, at their
33 discretion, work with the department of ecology to fulfill these
34 requirements. Additionally, in providing for the protection of the
35 quantity of groundwater used for public water supplies, a county or
36 city must require physical and legal water availability be determined
37 and be consistent with best available science and applicable laws and
38 rules adopted pursuant to chapters 90.03, 90.22, 90.44, and 90.54

1 RCW, provided that the portions of such rules that were adopted
2 before 2000 that purport to exempt certain consumptive uses shall not
3 be relied upon by counties or cities, and scientifically supportable
4 water resource data, including water quantity, water quality, and
5 instream flow assessments, to evaluate water resource impacts from
6 projected growth. This information must include groundwater modeling
7 representing recent conditions. Wherever possible, the land use
8 element should consider utilizing urban planning approaches that
9 promote physical activity. Where applicable, the land use element
10 shall review drainage, flooding, and storm water run-off in the area
11 and nearby jurisdictions and provide guidance for corrective actions
12 to mitigate or cleanse those discharges that pollute waters of the
13 state, including Puget Sound or waters entering Puget Sound.

14 (2) A housing element ensuring the vitality and character of
15 established residential neighborhoods that: (a) Includes an inventory
16 and analysis of existing and projected housing needs that identifies
17 the number of housing units necessary to manage projected growth; (b)
18 includes a statement of goals, policies, objectives, and mandatory
19 provisions for the preservation, improvement, and development of
20 housing, including single-family residences; (c) identifies
21 sufficient land for housing, including, but not limited to,
22 government-assisted housing, housing for low-income families,
23 manufactured housing, multifamily housing, and group homes and foster
24 care facilities; and (d) makes adequate provisions for existing and
25 projected needs of all economic segments of the community. In
26 counties and cities subject to the review and evaluation requirements
27 of RCW 36.70A.215, any revision to the housing element shall include
28 consideration of prior review and evaluation reports and any
29 reasonable measures identified.

30 (3) A capital facilities plan element consisting of: (a) An
31 inventory of existing capital facilities owned by public entities,
32 showing the locations and capacities of the capital facilities; (b) a
33 forecast of the future needs for such capital facilities; (c) the
34 proposed locations and capacities of expanded or new capital
35 facilities; (d) at least a six-year plan that will finance such
36 capital facilities within projected funding capacities and clearly
37 identifies sources of public money for such purposes; and (e) a
38 requirement to reassess the land use element if probable funding
39 falls short of meeting existing needs and to ensure that the land use
40 element, capital facilities plan element, and financing plan within

1 the capital facilities plan element are coordinated and consistent.
2 Park and recreation facilities shall be included in the capital
3 facilities plan element.

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

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

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

18 (b) Rural development. The rural element shall permit rural
19 development, forestry, and agriculture in rural areas. The rural
20 element shall provide for a variety of rural densities, uses,
21 essential public facilities, and rural governmental services needed
22 to serve the permitted densities and uses. To achieve a variety of
23 rural densities and uses, counties may provide for clustering,
24 density transfer, design guidelines, conservation easements, and
25 other innovative techniques that will accommodate appropriate rural
26 economic advancement, densities, and uses that are not characterized
27 by urban growth and that are consistent with rural character.

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

31 (i) Containing or otherwise controlling rural development;

32 (ii) Assuring visual compatibility of rural development with the
33 surrounding rural area;

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

36 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
37 and surface water and groundwater resources in a manner that must be
38 consistent with applicable laws, applicable rules adopted pursuant to
39 chapters 90.03, 90.22, 90.44, and 90.54 RCW, although the portions of
40 such rules that were adopted before 2000 that purport to exempt

1 certain consumptive uses shall not be relied upon by counties or
2 cites, and scientifically supportable water resource data, including
3 water quantity, water quality, and instream flow assessments, using
4 best available science to evaluate water resource impacts from
5 projected growth; and

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

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

14 (i) Rural development consisting of the infill, development, or
15 redevelopment of existing commercial, industrial, residential, or
16 mixed-use areas, whether characterized as shoreline development,
17 villages, hamlets, rural activity centers, or crossroads
18 developments.

19 (A) A commercial, industrial, residential, shoreline, or mixed-
20 use area are subject to the requirements of (d)(iv) of this
21 subsection, but are not subject to the requirements of (c)(ii) and
22 (iii) of this subsection.

23 (B) Any development or redevelopment other than an industrial
24 area or an industrial use within a mixed-use area or an industrial
25 area under this subsection (5)(d)(i) must be principally designed to
26 serve the existing and projected rural population.

27 (C) Any development or redevelopment in terms of building size,
28 scale, use, or intensity shall be consistent with the character of
29 the existing areas. Development and redevelopment may include changes
30 in use from vacant land or a previously existing use so long as the
31 new use conforms to the requirements of this subsection (5);

32 (ii) The intensification of development on lots containing, or
33 new development of, small-scale recreational or tourist uses,
34 including commercial facilities to serve those recreational or
35 tourist uses, that rely on a rural location and setting, but that do
36 not include new residential development. A small-scale recreation or
37 tourist use is not required to be principally designed to serve the
38 existing and projected rural population. Public services and public
39 facilities shall be limited to those necessary to serve the

1 recreation or tourist use and shall be provided in a manner that does
2 not permit low-density sprawl;

3 (iii) The intensification of development on lots containing
4 isolated nonresidential uses or new development of isolated cottage
5 industries and isolated small-scale businesses that are not
6 principally designed to serve the existing and projected rural
7 population and nonresidential uses, but do provide job opportunities
8 for rural residents. Rural counties may allow the expansion of small-
9 scale businesses as long as those small-scale businesses conform with
10 the rural character of the area as defined by the local government
11 according to RCW 36.70A.030(16). Rural counties may also allow new
12 small-scale businesses to utilize a site previously occupied by an
13 existing business as long as the new small-scale business conforms to
14 the rural character of the area as defined by the local government
15 according to RCW 36.70A.030(16). Public services and public
16 facilities shall be limited to those necessary to serve the isolated
17 nonresidential use and shall be provided in a manner that does not
18 permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the
20 existing areas or uses of more intensive rural development, as
21 appropriate, authorized under this subsection. Lands included in such
22 existing areas or uses shall not extend beyond the logical outer
23 boundary of the existing area or use, thereby allowing a new pattern
24 of low-density sprawl. Existing areas are those that are clearly
25 identifiable and contained and where there is a logical boundary
26 delineated predominately by the built environment, but that may also
27 include undeveloped lands if limited as provided in this subsection.
28 The county shall establish the logical outer boundary of an area of
29 more intensive rural development. In establishing the logical outer
30 boundary, the county shall address (A) the need to preserve the
31 character of existing natural neighborhoods and communities, (B)
32 physical boundaries, such as bodies of water, streets and highways,
33 and land forms and contours, (C) the prevention of abnormally
34 irregular boundaries, and (D) the ability to provide public
35 facilities and public services in a manner that does not permit low-
36 density sprawl;

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

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

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

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

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

12 (6) A transportation element that implements, and is consistent
13 with, the land use element.

14 (a) The transportation element shall include the following
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation
18 facilities resulting from land use assumptions to assist the
19 department of transportation in monitoring the performance of state
20 facilities, to plan improvements for the facilities, and to assess
21 the impact of land-use decisions on state-owned transportation
22 facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation
25 facilities and services, including transit alignments and general
26 aviation airport facilities, to define existing capital facilities
27 and travel levels as a basis for future planning. This inventory must
28 include state-owned transportation facilities within the city or
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials
31 and transit routes to serve as a gauge to judge performance of the
32 system. These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service
34 standards for highways, as prescribed in chapters 47.06 and 47.80
35 RCW, to gauge the performance of the system. The purposes of
36 reflecting level of service standards for state highways in the local
37 comprehensive plan are to monitor the performance of the system, to
38 evaluate improvement strategies, and to facilitate coordination
39 between the county's or city's six-year street, road, or transit
40 program and the office of financial management's ten-year investment

1 program. The concurrency requirements of (b) of this subsection do
2 not apply to transportation facilities and services of statewide
3 significance except for counties consisting of islands whose only
4 connection to the mainland are state highways or ferry routes. In
5 these island counties, state highways and ferry route capacity must
6 be a factor in meeting the concurrency requirements in (b) of this
7 subsection;

8 (D) Specific actions and requirements for bringing into
9 compliance locally owned transportation facilities or services that
10 are below an established level of service standard;

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

14 (F) Identification of state and local system needs to meet
15 current and future demands. Identified needs on state-owned
16 transportation facilities must be consistent with the statewide
17 multimodal transportation plan required under chapter 47.06 RCW;

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against
20 probable funding resources;

21 (B) A multiyear financing plan based on the needs identified in
22 the comprehensive plan, the appropriate parts of which shall serve as
23 the basis for the six-year street, road, or transit program required
24 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
25 35.58.2795 for public transportation systems. The multiyear financing
26 plan should be coordinated with the ten-year investment program
27 developed by the office of financial management as required by RCW
28 47.05.030;

29 (C) If probable funding falls short of meeting identified needs,
30 a discussion of how additional funding will be raised, or how land
31 use assumptions will be reassessed to ensure that level of service
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an
34 assessment of the impacts of the transportation plan and land use
35 assumptions on the transportation systems of adjacent jurisdictions;

36 (vi) Demand-management strategies;

37 (vii) Pedestrian and bicycle component to include collaborative
38 efforts to identify and designate planned improvements for pedestrian
39 and bicycle facilities and corridors that address and encourage
40 enhanced community access and promote healthy lifestyles.

1 (b) After adoption of the comprehensive plan by jurisdictions
2 required to plan or who choose to plan under RCW 36.70A.040, local
3 jurisdictions must adopt and enforce ordinances which prohibit
4 development approval if the development causes the level of service
5 on a locally owned transportation facility to decline below the
6 standards adopted in the transportation element of the comprehensive
7 plan, unless transportation improvements or strategies to accommodate
8 the impacts of development are made concurrent with the development.
9 These strategies may include increased public transportation service,
10 ride-sharing programs, demand management, and other transportation
11 systems management strategies. For the purposes of this subsection
12 (6), "concurrent with the development" means that improvements or
13 strategies are in place at the time of development, or that a
14 financial commitment is in place to complete the improvements or
15 strategies within six years. If the collection of impact fees is
16 delayed under RCW 82.02.050(3), the six-year period required by this
17 subsection (6)(b) must begin after full payment of all impact fees is
18 due to the county or city.

19 (c) The transportation element described in this subsection (6),
20 the six-year plans required by RCW 35.77.010 for cities, RCW
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation
22 systems, and the ten-year investment program required by RCW
23 47.05.030 for the state, must be consistent.

24 (7) An economic development element establishing local goals,
25 policies, objectives, and provisions for economic growth and vitality
26 and a high quality of life. A city that has chosen to be a
27 residential community is exempt from the economic development element
28 requirement of this subsection.

29 (8) A park and recreation element that implements, and is
30 consistent with, the capital facilities plan element as it relates to
31 park and recreation facilities. The element shall include: (a)
32 Estimates of park and recreation demand for at least a ten-year
33 period; (b) an evaluation of facilities and service needs; and (c) an
34 evaluation of intergovernmental coordination opportunities to provide
35 regional approaches for meeting park and recreational demand.

36 (9) It is the intent that new or amended elements required after
37 January 1, 2002, be adopted concurrent with the scheduled update
38 provided in RCW 36.70A.130. Requirements to incorporate any such new
39 or amended elements shall be null and void until funds sufficient to
40 cover applicable local government costs are appropriated and

1 distributed by the state at least two years before local government
2 must update comprehensive plans as required in RCW 36.70A.130.

3 **PART 4**

4 **WATERSHED RESTORATION ACCOUNT**

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 90.54
6 RCW to read as follows:

7 The watershed restoration account is created in the custody of
8 the state treasurer. The account may receive such moneys as may be
9 appropriated by the legislature for the purpose of funding water
10 availability assessment and mitigation projects as approved by
11 governmental entities listed in section 202 of this act. Expenditures
12 from the account may be used only for the costs of administering this
13 act, including implementing mitigation projects as developed by
14 governmental entities listed in section 202 of this act, and
15 collecting data and completing studies necessary to develop,
16 implement, and evaluate mitigation projects under this act. Only the
17 director of the department or the director's designee may authorize
18 expenditures from the account. Fees or any additional appropriated
19 revenues must be used exclusively within the water resource inventory
20 area in which the withdrawals and the agreed upon mitigation
21 originated. Moneys appropriated may not supplant state and federally
22 appropriated salmon recovery moneys. The account is subject to the
23 allotment procedures under chapter 43.88 RCW, but an appropriation is
24 not required for expenditures.

25 NEW SECTION. **Sec. 402.** This act does not apply in the Yakima
26 basin, water resource inventory areas 37, 38, and 39, those portions
27 of water resource inventory areas 3 and 4 located in the Skagit river
28 basin, or the Methow basin, water resource inventory area 48.

29 NEW SECTION. **Sec. 403.** A new section is added to chapter 90.54
30 RCW to read as follows:

31 Nothing in this chapter affects the ability of any person to
32 pursue a cause of action for the protection of any water right.

33 NEW SECTION. **Sec. 404.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- END ---