

1 1724-S.E AAS 4/11/95 S3113.1

2 **ESHB 1724** - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 4/11/95

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

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

1 **PART I - GROWTH MANAGEMENT ACT**

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

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

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

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

31 (b) Project review shall continue; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 residential, or industrial development consistent with public health or
2 safety concerns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) If it determines that advice from scientific or other experts
32 is necessary or will be of substantial assistance in reaching its
33 decision, a growth management hearings board may retain scientific or
34 other expert advice to assist in reviewing a petition under RCW
35 36.70A.290 that involves critical areas.

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) That a state agency, county, or city planning under this
26 chapter is not in compliance with the requirements of this chapter,
27 chapter 90.58 RCW as it relates to the adoption of shoreline master
28 programs or amendments thereto, or chapter 43.21C RCW as it relates to
29 plans, development regulations, or amendments, adopted under RCW
30 36.70A.040 or chapter 90.58 RCW; or

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

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

1 the request with the board, or a person qualified pursuant to RCW
2 34.05.530.

3 (3) For purposes of this section "person" means any individual,
4 partnership, corporation, association, governmental subdivision or unit
5 thereof, or public or private organization or entity of any character.

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

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

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

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

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

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

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

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

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

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

15 (3) Unless the board dismisses the petition as frivolous or finds
16 that the person filing the petition lacks standing, the board shall,
17 within ten days of receipt of the petition, set a time for hearing the
18 matter.

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

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

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

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

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

11 (2) A finding of noncompliance and an order of remand shall not
12 affect the validity of comprehensive plans and development regulations
13 during the period of remand, unless the 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 ((~~Thurston county~~)) superior court as
38 provided in RCW 34.05.514 or 36.01.050 within thirty days of the final
39 order of the board.

1 **Sec. 111.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended
2 to read as follows:

3 (1) Except as provided in subsection (2) of this section,
4 comprehensive plans and development regulations, and amendments
5 thereto, adopted under this chapter are presumed valid upon adoption.
6 In any petition under this chapter, the board, after full consideration
7 of the petition, shall determine whether there is compliance with the
8 requirements of this chapter. In making its determination, the board
9 shall consider the criteria adopted by the department under RCW
10 36.70A.190(4). The board shall find compliance unless it finds by a
11 preponderance of the evidence that the state agency, county, or city
12 erroneously interpreted or applied this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (f) Detailed environmental analysis integrated with comprehensive
5 plans, subarea plans, and development regulations will facilitate
6 planning for and managing growth, allow greater protection of the
7 environment, and benefit both the general public and private property
8 owners.

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

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

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

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

25 (1) The department of community, trade, and economic development
26 shall provide management services for the fund created by section 115
27 of this act. The department by rule shall establish procedures for
28 fund management.

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

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

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

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

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

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

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

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

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

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

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

26 (d) Programs for effective citizen and neighborhood involvement
27 that contribute to greater certainty that planning decisions will be
28 implemented; and

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

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

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

1 NEW SECTION. **Sec. 201.** (1) The legislature finds in adopting
2 section 202 of this act that:

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

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

15 (c) Proposed projects should continue to receive environmental
16 review, which should be conducted in a manner that is integrated with
17 and does not duplicate other requirements. Project-level environmental
18 review should be used to: (i) Review and document consistency with
19 comprehensive plans and development regulations; (ii) provide prompt
20 and coordinated review by government agencies and the public on
21 compliance with applicable environmental laws and plans, including
22 mitigation for specific project impacts that have not been considered
23 and addressed at the plan or development regulation level; and (iii)
24 ensure accountability by local government to applicants and the public
25 for requiring and implementing mitigation measures.

26 (d) When a project permit application is filed, an agency should
27 analyze the proposal's environmental impacts, as required by applicable
28 regulations and the environmental review process required by this
29 chapter, in one project review process. The project review process
30 should include land use, environmental, public, and governmental
31 review, as provided by the applicable regulations and the rules adopted
32 under this chapter, so that documents prepared under different
33 requirements can be reviewed together by the public and other agencies.
34 This project review will provide an agency with the information
35 necessary to make a decision on the proposed project.

36 (e) Through this project review process: (i) If the applicable
37 regulations require studies that adequately analyze all of the
38 project's specific probable adverse environmental impacts, additional
39 studies under this chapter will not be necessary on those impacts; (ii)

1 if the applicable regulations require measures that adequately address
2 such environmental impacts, additional measures would likewise not be
3 required under this chapter; and (iii) if the applicable regulations do
4 not adequately analyze or address a proposal's specific probable
5 adverse environmental impacts, this chapter provides the authority and
6 procedures for additional review.

7 (2) The legislature intends that a primary role of environmental
8 review under chapter 43.21C RCW is to focus on the gaps and overlaps
9 that may exist in applicable laws and requirements related to a
10 proposed action. The review of project actions conducted by counties,
11 cities, and towns planning under RCW 36.70A.040 should integrate
12 environmental review with project review. Chapter 43.21C RCW should
13 not be used as a substitute for other land use planning and
14 environmental requirements.

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

17 (1) If the requirements of subsection (2) of this section are
18 satisfied, a county, city, or town reviewing a project action may
19 determine that the requirements for environmental analysis, protection,
20 and mitigation measures in the county, city, or town's development
21 regulations and comprehensive plans adopted under chapter 36.70A RCW,
22 and in other applicable local, state, or federal laws and rules provide
23 adequate analysis of and mitigation for the specific adverse
24 environmental impacts of the project action to which the requirements
25 apply.

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

28 (a) In the course of project review, including any required
29 environmental analysis, the local government considers the specific
30 probable adverse environmental impacts of the proposed action and
31 determines that these specific impacts are adequately addressed by the
32 development regulations or other applicable requirements of the
33 comprehensive plan, subarea plan element of the comprehensive plan, or
34 other local, state, or federal rules or laws; and

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

37 (3) If a county, city, or town's comprehensive plans, subarea
38 plans, and development regulations adequately address a project's

1 probable specific adverse environmental impacts, as determined under
2 subsections (1) and (2) of this section, the county, city, or town
3 shall not impose additional mitigation under this chapter during
4 project review. Project review shall be integrated with environmental
5 analysis under this chapter.

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

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

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

16 (5) In deciding whether a specific adverse environmental impact has
17 been addressed by an existing rule or law of another agency with
18 jurisdiction with environmental expertise with regard to a specific
19 environmental impact, the county, city, or town shall consult orally
20 or in writing with that agency and may expressly defer to that agency.
21 In making this deferral, the county, city, or town shall base or
22 condition its project approval on compliance with these other existing
23 rules or laws.

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

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

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

32 (1) An environmental impact statement (the detailed statement
33 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
34 legislation and other major actions having a probable significant,
35 adverse environmental impact. The environmental impact statement may
36 be combined with the recommendation or report on the proposal or issued
37 as a separate document. The substantive decisions or recommendations
38 shall be clearly identifiable in the combined document. Actions

1 categorically exempt under RCW 43.21C.110(1)(a) do not require
2 environmental review or the preparation of an environmental impact
3 statement under this chapter. In a county, city, or town planning
4 under RCW 36.70A.040, a planned action, as provided for in subsection
5 (2) of this section, does not require a threshold determination or the
6 preparation of an environmental impact statement under this chapter,
7 but is subject to environmental review and mitigation as provided in
8 this chapter.

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

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

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

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

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

33 (iv) Are located within an urban growth area, as defined in RCW
34 36.70A.030;

35 (v) Are not essential public facilities, as defined in RCW
36 36.70A.200; and

37 (vi) Are consistent with a comprehensive plan adopted under chapter
38 36.70A RCW.

1 (b) A county, city, or town shall limit planned actions to certain
2 types of development or to specific geographical areas that are less
3 extensive than the jurisdictional boundaries of the county, city, or
4 town and may limit a planned action to a time period identified in the
5 environmental impact statement or the ordinance or resolution adopted
6 under this subsection.

7 **Sec. 204.** RCW 43.21C.075 and 1994 c 253 s 4 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 more than one agency appeal proceeding on a
26 procedural determination (the adequacy of a determination of
27 significance/nonsignificance or of a final environmental impact
28 statement)~~((, consistent with any state statutory requirements for~~
29 ~~appeals to local legislative bodies)).~~ The appeal proceeding on a
30 determination of significance~~((/nonsignificanee))~~ may occur before the
31 agency's final decision on a proposed action. The appeal proceeding on
32 a determination of nonsignificance may occur before the agency's final
33 decision on a proposed action only if the appeal is heard at a
34 proceeding where the hearing body or officer will render a final
35 recommendation or decision on the proposed underlying governmental
36 action. Such ~~((an))~~ appeals shall also be allowed for a determination
37 of significance/nonsignificance which may be issued by the agency after
38 supplemental review;

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

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

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

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

26 (5) (~~((RCW 43.21C.080 establishes an optional "notice of action"~~
27 ~~procedure which, if used, imposes a time period for appealing decisions~~
28 ~~under this chapter.))~~) Some statutes and ordinances contain time
29 periods for challenging governmental actions which are subject to
30 review under this chapter, such as various local land use approvals
31 (the "underlying governmental action"). RCW 43.21C.080 establishes an
32 optional "notice of action" procedure which, if used, imposes a time
33 period for appealing decisions under this chapter. This (~~((section))~~)
34 subsection does not modify any such time periods. (~~((This section~~
35 ~~governs when a judicial appeal must be brought under this chapter where~~
36 ~~a "notice of action" is used, and/or where there is another time period~~
37 ~~which is required by statute or ordinance for challenging the~~
38 ~~underlying governmental action.))~~) 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 ~~((thirty days))~~ such time period. The agency shall give
4 official notice stating the date and place for commencing an appeal.
5 ~~((If there is an agency proceeding under subsection (3) of this
6 section, the appellant shall, prior to commencing a judicial appeal,
7 submit to the responsible official a notice of intent to commence a
8 judicial appeal. This notice of intent shall be given within the time
9 period for commencing a judicial appeal on the underlying governmental
10 action.))~~

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

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

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

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

37 (c) Judicial review under this chapter shall without exception be
38 of the governmental action together with its accompanying environmental
39 determinations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 NOTICE OF ACTION BY

16

17 (Government agency or entity)

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

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

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

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

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

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

33 (3) Said action pertained to property commonly known as:
34
35

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (m) Rules and procedures that provide for the integration of
20 environmental review with project review as provided in section 202 of
21 this act. The rules and procedures shall be jointly developed with the
22 department of community, trade, and economic development and shall be
23 applicable to the preparation of environmental documents for actions in
24 counties, cities, and towns planning under RCW 36.70A.040. The rules
25 and procedures shall also include criteria to analyze the consistency
26 of project actions, including planned actions under RCW 43.21C.031(2),
27 with development regulations adopted under chapter 36.70A RCW, or in
28 the absence of applicable development regulations, the appropriate
29 elements of a comprehensive plan or subarea plan adopted under chapter
30 36.70A RCW. Ordinances or procedures adopted by a county, city, or
31 town to implement the provisions of section 202 of this act prior to
32 the effective date of rules adopted under this subsection (1)(m) shall
33 continue to be effective until the adoption of any new or revised
34 ordinances or procedures that may be required. If any revisions are
35 required as a result of rules adopted under this subsection (1)(m),
36 those revisions shall be made within the time limits specified in RCW
37 43.21C.120.

38 (2) In exercising its powers, functions, and duties under this
39 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 (~~(34.05.538 and 34.05.240)~~).

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

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

17 **PART III - SHORELINE MANAGEMENT ACT**

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

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

1 governments, to prevent the inherent harm in an uncoordinated and
2 piecemeal development of the state's shorelines.

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

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

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

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

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

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

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

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

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

30 In the implementation of this policy the public's opportunity to
31 enjoy the physical and aesthetic qualities of natural shorelines of the
32 state shall be preserved to the greatest extent feasible consistent
33 with the overall best interest of the state and the people generally.
34 To this end uses shall be preferred which are consistent with control
35 of pollution and prevention of damage to the natural environment, or
36 are unique to or dependent upon use of the state's shoreline.
37 Alterations of the natural condition of the shorelines of the state, in
38 those limited instances when authorized, shall be given priority for
39 single family residences and their appurtenant structures, ports,

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

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

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

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

25 (1) Administration:

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

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

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

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

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

37 (2) Geographical:

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

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

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

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

25 (e) "Shorelines of state-wide significance" means the following
26 shorelines of the state:

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

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

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

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

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

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

37 and

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

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

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

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

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

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

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

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

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

1 (h) "Wetlands" means areas that are inundated or saturated by
2 surface water or ground water at a frequency and duration sufficient to
3 support, and that under normal circumstances do support, a prevalence
4 of vegetation typically adapted for life in saturated soil conditions.
5 Wetlands generally include swamps, marshes, bogs, and similar areas.
6 Wetlands do not include those artificial wetlands intentionally created
7 from nonwetland sites, including, but not limited to, irrigation and
8 drainage ditches, grass-lined swales, canals, detention facilities,
9 wastewater treatment facilities, farm ponds, and landscape amenities.
10 Wetlands may include those artificial wetlands intentionally created
11 from nonwetland areas to mitigate the conversion of wetlands.

12 (3) Procedural terms:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (a) Development of master programs for regulation of the uses of
33 shorelines; and

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

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

4 (a) The department shall mail copies of the proposal to all cities,
5 counties, and federally recognized Indian tribes, and to any other
6 person who has requested a copy, and shall publish the proposed
7 guidelines in the Washington state register. Comments shall be
8 submitted in writing to the department within sixty days from ((receipt
9 of such proposed guidelines, local governments shall submit to the
10 department in writing proposed changes, if any, and comments upon the
11 proposed guidelines.

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

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

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

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

37 ~~((5) Within ninety days following such public hearings, the~~
38 ~~department at a public hearing to be held in Olympia shall adopt~~
39 ~~guidelines.)) (3) The department may propose amendments to the~~

1 guidelines not more than once each year. At least once every five
2 years the department shall conduct a review of the guidelines pursuant
3 to the procedures outlined in subsection (2) of this section.

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

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

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

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

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

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

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

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

38 (3) The department shall approve the segment of a master program
39 relating to shorelines unless it determines that the submitted segments

1 are not consistent with the policy of RCW 90.58.020 and the applicable
2 guidelines. ~~((If approval is denied, the department shall state within
3 ninety days from the date of submission in detail the precise facts
4 upon which that decision is based, and shall submit to the local
5 government suggested modifications to the program to make it consistent
6 with said policy and guidelines. The local government shall have
7 ninety days after it receives recommendations from the department to
8 make modifications designed to eliminate the inconsistencies and to
9 resubmit the program to the department for approval. Any resubmitted
10 program shall take effect when and in such form and content as is
11 approved by the department.~~

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

31 ~~((3))~~ (5) In the event a local government has not complied with
32 the requirements of RCW 90.58.070 it may thereafter upon written notice
33 to the department elect to adopt a master program for the shorelines
34 within its jurisdiction, in which event it shall comply with the
35 provisions established by this chapter for the adoption of a master
36 program for such shorelines.

37 Upon approval of such master program by the department it shall
38 supersede such master program as may have been adopted by the
39 department for such shorelines.

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

7 **Sec. 307.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to
8 read as follows:

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

14 (a) Utilize a systematic interdisciplinary approach which will
15 insure the integrated use of the natural and social sciences and the
16 environmental design arts;

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

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

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

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

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

31 (2) The master programs shall include, when appropriate, the
32 following:

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

37 (b) A public access element making provision for public access to
38 publicly owned areas;

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

4 (d) A circulation element consisting of the general location and
5 extent of existing and proposed major thoroughfares, transportation
6 routes, terminals, and other public utilities and facilities, all
7 correlated with the shoreline use element;

8 (e) A use element which considers the proposed general distribution
9 and general location and extent of the use on shorelines and adjacent
10 land areas for housing, business, industry, transportation,
11 agriculture, natural resources, recreation, education, public buildings
12 and grounds, and other categories of public and private uses of the
13 land;

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

17 (g) An historic, cultural, scientific, and educational element for
18 the protection and restoration of buildings, sites, and areas having
19 historic, cultural, scientific, or educational values;

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

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

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

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

31 (5) Each master program shall contain provisions to allow for the
32 varying of the application of use regulations of the program, including
33 provisions for permits for conditional uses and variances, to insure
34 that strict implementation of a program will not create unnecessary
35 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
36 varying shall be allowed only if extraordinary circumstances are shown
37 and the public interest suffers no substantial detrimental effect. The
38 concept of this subsection shall be incorporated in the rules adopted

1 by the department relating to the establishment of a permit system as
2 provided in RCW 90.58.140(3).

3 (6) Each master program shall contain standards governing the
4 protection of single family residences and appurtenant structures
5 against damage or loss due to shoreline erosion. The standards shall
6 govern the issuance of substantial development permits for shoreline
7 protection, including structural methods such as construction of
8 bulkheads, and nonstructural methods of protection. The standards
9 shall provide for methods which achieve effective and timely protection
10 against loss or damage to single family residences and appurtenant
11 structures due to shoreline erosion. The standards shall provide a
12 preference for permit issuance for measures to protect single family
13 residences occupied prior to January 1, 1992, where the proposed
14 measure is designed to minimize harm to the shoreline natural
15 environment.

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

18 All rules, regulations, ~~((master programs,))~~ designations, and
19 guidelines, issued by the department, and master programs and
20 amendments adopted by the department pursuant to RCW 90.58.070(2) or
21 90.58.090(4) shall be adopted or approved in accordance with the
22 provisions of RCW 34.05.310 through 34.05.395 insofar as such
23 provisions are not inconsistent with the provisions of this chapter.
24 In addition:

25 (1) Prior to the ~~((approval or))~~ adoption by the department of a
26 master program, or portion thereof pursuant to RCW 90.58.070(2) or
27 90.58.090(4), at least one public hearing shall be held in each county
28 affected by a program or portion thereof for the purpose of obtaining
29 the views and comments of the public. Notice of each such hearing
30 shall be published at least once in each of the three weeks immediately
31 preceding the hearing in one or more newspapers of general circulation
32 in the county in which the hearing is to be held.

33 (2) All guidelines, regulations, designations, or master programs
34 adopted or approved under this chapter shall be available for public
35 inspection at the office of the department or the appropriate county
36 ~~((auditor))~~ and city ~~((clerk))~~. The terms "adopt" and "approve" for
37 purposes of this section, shall include modifications and rescission of
38 guidelines.

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

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

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

10 A permit shall be granted:

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

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

20 (3) The local government shall establish a program, consistent with
21 rules adopted by the department, for the administration and enforcement
22 of the permit system provided in this section. The administration of
23 the system so established shall be performed exclusively by the local
24 government.

25 (4) Except as otherwise specifically provided in subsection
26 ~~((+13))~~ (11) of this section, the local government shall require
27 notification of the public of all applications for permits governed by
28 any permit system established pursuant to subsection (3) of this
29 section by ensuring that~~((+)~~

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

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

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

1 (~~(iii)~~) (b) Posting of the notice in a conspicuous manner on the
2 property upon which the project is to be constructed; or

3 (~~(iii)~~) (c) Any other manner deemed appropriate by local
4 authorities to accomplish the objectives of reasonable notice to
5 adjacent landowners and the public.

6 The notices shall include a statement that any person desiring to
7 submit written comments concerning an application, or desiring to
8 receive (~~a copy~~) notification of the final (~~order~~) decision
9 concerning an application as expeditiously as possible after the
10 issuance of the (~~order~~) decision, may submit the comments or requests
11 for (~~orders~~) decisions to the local government within thirty days of
12 the last date the notice is to be published pursuant to (~~subsection~~
13 ~~(a) of~~) this subsection. The local government shall forward, in a
14 timely manner following the issuance of (~~an order~~) a decision, a copy
15 of the (~~order~~) decision to each person who submits a request for the
16 (~~order~~) decision.

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

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

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

32 (b) Construction may be commenced no sooner than thirty days after
33 the date of the appeal of the board's decision is filed if a permit is
34 granted by the local government and (i) the granting of the permit is
35 appealed to the shorelines hearings board within (~~thirty~~) twenty-one
36 days of the date of filing, (ii) the hearings board approves the
37 granting of the permit by the local government or approves a portion of
38 the substantial development for which the local government issued the
39 permit, and (iii) an appeal for judicial review of the hearings board

1 decision is filed pursuant to chapter 34.05 RCW(~~(, the permittee)~~).
2 The appellant may request, within ten days of the filing of the appeal
3 with the court, a hearing before the court to determine whether
4 construction (~~(may begin)~~) pursuant to the permit approved by the
5 hearings board or to a revised permit issued pursuant to the order of
6 the hearings board should not commence. If, at the conclusion of the
7 hearing, the court finds that construction pursuant to such a permit
8 would (~~(not)~~) involve a significant, irreversible damaging of the
9 environment, the court (~~(may allow)~~) shall prohibit the permittee (~~(to~~
10 ~~begin)~~) from commencing the construction pursuant to the approved or
11 revised permit (~~(as the court deems appropriate. The court may require~~
12 ~~the permittee to post bonds, in the name of the local government that~~
13 ~~issued the permit, sufficient to remove the substantial development or~~
14 ~~to restore the environment if the permit is ultimately disapproved by~~
15 ~~the courts, or to alter the substantial development if the alteration~~
16 ~~is ultimately ordered by the courts)~~) until all review proceedings are
17 final. Construction pursuant to a permit revised at the direction of
18 the hearings board may begin only on that portion of the substantial
19 development for which the local government had originally issued the
20 permit, and construction pursuant to such a revised permit on other
21 portions of the substantial development may not begin until after all
22 review proceedings are terminated. In such a hearing before the court,
23 the burden of proving whether the construction may involve significant
24 irreversible damage to the environment and demonstrating whether such
25 construction would or would not be appropriate is on the appellant;

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

36 (d)) If the permit is for a substantial development meeting the
37 requirements of subsection (~~(+13)~~) (11) of this section, construction
38 pursuant to that permit may not begin or be authorized until (~~(thirty)~~)

1 twenty-one days from the date the (~~(final order)~~) permit decision was
2 filed as provided in subsection (6) of this section.

3 If a permittee begins construction pursuant to subsections (a),
4 (b), or (c)(~~, or (d)~~) of this subsection, the construction is begun
5 at the permittee's own risk. If, as a result of judicial review, the
6 courts order the removal of any portion of the construction or the
7 restoration of any portion of the environment involved or require the
8 alteration of any portion of a substantial development constructed
9 pursuant to a permit, the permittee is barred from recovering damages
10 or costs involved in adhering to such requirements from the local
11 government that granted the permit, the hearings board, or any
12 appellant or intervener.

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

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

31 (8) Any permit may, after a hearing with adequate notice to the
32 permittee and the public, be rescinded by the issuing authority upon
33 the finding that a permittee has not complied with conditions of a
34 permit. If the department is of the opinion that noncompliance exists,
35 the department shall provide written notice to the local government and
36 the permittee. If the department is of the opinion that the
37 noncompliance continues to exist thirty days after the date of the
38 notice, and the local government has taken no action to rescind the
39 permit, the department may petition the hearings board for a rescission

1 of the permit upon written notice of the petition to the local
2 government and the permittee if the request by the department is made
3 to the hearings board within fifteen days of the termination of the
4 thirty-day notice to the local government.

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

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

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

14 ~~(b) The development is completed within two years after June 1,
15 1971.~~

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

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

27 ~~((13))~~ (11)(a) An application for a substantial development
28 permit for a limited utility extension or for the construction of a
29 bulkhead or other measures to protect a single family residence and its
30 appurtenant structures from shoreline erosion shall be subject to the
31 following procedures:

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

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

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

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

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

9 (ii) Will serve an existing use in compliance with this chapter;
10 and

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

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

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

20 ~~((Concurrently with))~~ Within seven days of the filing of any
21 ~~((request))~~ petition for review with the board as provided in this
22 section pertaining to a final ~~((order))~~ decision of a local government,
23 the ~~((requestor))~~ petitioner shall ~~((file a copy))~~ serve copies of
24 ~~((his or her request with))~~ the petition on the department and the
25 office of the attorney general. ~~((If it appears to the department or~~
26 ~~the attorney general that the requestor has valid reasons to seek~~
27 ~~review, either the department or the attorney general may certify the~~
28 ~~request within thirty days after its receipt to the shorelines hearings~~
29 ~~board following which the board shall then, but not otherwise, review~~
30 ~~the matter covered by the requestor. The failure to obtain such~~
31 ~~certification shall not preclude the requestor from obtaining a review~~
32 ~~in the superior court under any right to review otherwise available to~~
33 ~~the requestor.))~~ The department and the attorney general may intervene
34 to protect the public interest and insure that the provisions of this
35 chapter are complied with at any time within fifteen days from the date
36 of the receipt by the department or the attorney general of a copy of
37 the ~~((request))~~ petition for review filed pursuant to this section.
38 The shorelines hearings board shall ~~((initially))~~ schedule review

1 proceedings on (~~such requests~~) the petition for review without regard
2 as to whether (~~such requests have or have not been certified or as to~~
3 ~~whether~~) the period for the department or the attorney general to
4 intervene has or has not expired(~~(, unless such review is to begin~~
5 ~~within thirty days of such scheduling. If at the end of the thirty day~~
6 ~~period for certification neither the department nor the attorney~~
7 ~~general has certified a request for review, the hearings board shall~~
8 ~~remove the request from its review schedule))~~).

9 (2) The department or the attorney general may obtain review of any
10 final (~~order~~) decision granting a permit, or granting or denying an
11 application for a permit issued by a local government by filing a
12 written (~~request~~) petition with the shorelines hearings board and the
13 appropriate local government within (~~thirty~~) twenty-one days from the
14 date the final (~~order~~) decision was filed as provided in RCW
15 90.58.140(6).

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

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

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

- 35 (a) Is clearly erroneous in light of the policy of this chapter; or
36 (b) Constitutes an implementation of this chapter in violation of
37 constitutional or statutory provisions; or
38 (c) Is arbitrary and capricious; or

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

4 (e) Was not adopted in accordance with required procedures(~~((?))~~).

5 (6) If the board makes a determination under subsection (5) (a)
6 through (e) of this section, it shall enter a final decision declaring
7 the rule, regulation, or guideline invalid, remanding the rule,
8 regulation, or guideline to the department with a statement of the
9 reasons in support of the determination, and directing the department
10 to adopt, after a thorough consultation with the affected local
11 government and any other interested party, a new rule, regulation, or
12 guideline consistent with the board's decision. (~~((Unless the board~~
13 ~~makes one or more of the determinations as hereinbefore provided, the~~
14 ~~board shall find the rule, regulation, or guideline to be valid and~~
15 ~~enter a final decision to that effect.~~

16 ~~((5) Rules, regulations, and guidelines))~~ (7) A decision of the
17 board on the validity of a rule, regulation, or guideline shall be
18 subject to review in superior court, if authorized pursuant to ((RCW
19 34.05.570(2).— No review shall be granted by a superior court on
20 petition from a local government unless the local government shall
21 first have obtained review under subsection (4) of this section and the
22 petition for court review is)) chapter 34.05 RCW. A petition for
23 review of the decision of the shorelines hearings board on a rule,
24 regulation, or guideline shall be filed within ((three months)) thirty
25 days after the date of final decision by the shorelines hearings board.

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

28 (1) (~~((The department and each local government shall periodically~~
29 ~~review any master programs under its jurisdiction and make such~~
30 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~
31 ~~local government to its master program shall be forwarded to the~~
32 ~~department for review. The department shall approve, reject, or~~
33 ~~propose modification to the adjustment. If the department either~~
34 ~~rejects or proposes modification to the master program adjustment, it~~
35 ~~shall provide substantive written comments as to why the proposal is~~
36 ~~being rejected or modified.))~~) The appeal of the department s decision
37 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or
38 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.

1 (2)(a) The department's decision to approve, reject, or modify a
2 proposed master program or amendment adopted by a local government
3 planning under RCW 36.70A.040 shall be appealed to the growth
4 management hearings board with jurisdiction over the local government.
5 The appeal shall be initiated by filing a petition as provided in RCW
6 36.70A.250 through 36.70A.320.

7 (b) If the appeal to the growth management hearings board concerns
8 shorelines, the growth management hearings board shall review the
9 proposed master program or amendment for compliance with the
10 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
11 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
12 relates to the adoption of master programs and amendments under chapter
13 90.58 RCW.

14 (c) If the appeal to the growth management hearings board concerns
15 a shoreline of state-wide significance, the board shall uphold the
16 decision by the department unless the board, by clear and convincing
17 evidence, determines that the decision of the department is
18 inconsistent with the policy of RCW 90.58.020 and the applicable
19 guidelines.

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

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

25 ~~((Any local government aggrieved by))~~ (3)(a) The department's
26 decision to approve, reject, or modify a proposed master program or
27 master program ((adjustment may appeal the department's decision))
28 amendment by a local government not planning under RCW 36.70A.040 shall
29 be appealed to the shorelines hearings board by filing a petition
30 within thirty days of the date of the department s written notice to
31 the local government of the department s decision to approve, reject,
32 or modify a proposed master program or master program amendment as
33 provided in RCW 90.58.090(2).

34 (b) In an appeal relating to shorelines, the shorelines hearings
35 board shall review the proposed master program or master program
36 ((adjustment)) amendment and, after full consideration of the
37 presentations of the local government and the department, shall
38 determine the validity of the local government's ((adjustment)) master

1 program or amendment in light of the policy of RCW 90.58.020 and the
2 applicable guidelines.

3 (c) In an appeal relating to shorelines of state-wide significance,
4 the shorelines hearings board shall uphold the decision by the
5 department unless ~~((a local government shall))~~ the board determines, by
6 clear and convincing evidence ~~((and argument, persuade the board))~~ that
7 the decision of the department is inconsistent with the policy of RCW
8 90.58.020 and the applicable guidelines.

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

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

19 ~~((+3))~~ (4) A master program amendment shall become effective after
20 the approval of the department or after the decision of the shorelines
21 hearings board to uphold the master program or master program
22 ~~((adjustment))~~ amendment, provided that the board may remand the master
23 program or master program adjustment to the local government or the
24 department for modification prior to the final adoption of the master
25 program or master program ~~((adjustment))~~ amendment.

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

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

29 (a) If the presiding officer is the agency head or one or more
30 members of the agency head, the presiding officer may enter an initial
31 order if further review is available within the agency, or a final
32 order if further review is not available;

33 (b) If the presiding officer is a person designated by the agency
34 to make the final decision and enter the final order, the presiding
35 officer shall enter a final order; and

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

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

7 (3) Initial and final orders shall include a statement of findings
8 and conclusions, and the reasons and basis therefor, on all the
9 material issues of fact, law, or discretion presented on the record,
10 including the remedy or sanction and, if applicable, the action taken
11 on a petition for a stay of effectiveness. Any findings based
12 substantially on credibility of evidence or demeanor of witnesses shall
13 be so identified. Findings set forth in language that is essentially
14 a repetition or paraphrase of the relevant provision of law shall be
15 accompanied by a concise and explicit statement of the underlying
16 evidence of record to support the findings. The order shall also
17 include a statement of the available procedures and time limits for
18 seeking reconsideration or other administrative relief. An initial
19 order shall include a statement of any circumstances under which the
20 initial order, without further notice, may become a final order.

21 (4) Findings of fact shall be based exclusively on the evidence of
22 record in the adjudicative proceeding and on matters officially noticed
23 in that proceeding. Findings shall be based on the kind of evidence on
24 which reasonably prudent persons are accustomed to rely in the conduct
25 of their affairs. Findings may be based on such evidence even if it
26 would be inadmissible in a civil trial. However, the presiding officer
27 shall not base a finding exclusively on such inadmissible evidence
28 unless the presiding officer determines that doing so would not unduly
29 abridge the parties' opportunities to confront witnesses and rebut
30 evidence. The basis for this determination shall appear in the order.

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

34 (6) If a person serving or designated to serve as presiding officer
35 becomes unavailable for any reason before entry of the order, a
36 substitute presiding officer shall be appointed as provided in RCW
37 34.05.425. The substitute presiding officer shall use any existing
38 record and may conduct any further proceedings appropriate in the
39 interests of justice.

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

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

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

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

13 NEW SECTION. Sec. 313. RCW 90.58.145 and 1979 ex.s. c 84 s 4 are
14 each repealed.

15 PART IV - LOCAL PERMIT PROCESS

16 NEW SECTION. Sec. 401. The legislature finds and declares the
17 following:

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

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

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

31 NEW SECTION. Sec. 402. Unless the context clearly requires
32 otherwise, the definitions in this section apply throughout this
33 chapter.

34 (1) "Closed record appeal" means an administrative appeal on the
35 record to a local government body or officer, including the legislative

1 body, following an open record hearing on a project permit application
2 when the appeal is on the record with no or limited new evidence or
3 information allowed to be submitted and only appeal argument allowed.

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

5 (3) "Open record hearing" means a hearing, conducted by a single
6 hearing body or officer authorized by the local government to conduct
7 such hearings, that creates the local government's record through
8 testimony and submission of evidence and information, under procedures
9 prescribed by the local government by ordinance or resolution. An open
10 record hearing may be held prior to a local government's decision on a
11 project permit to be known as an "open record predecision hearing." An
12 open record hearing may be held on an appeal, to be known as an "open
13 record appeal hearing," if no open record predecision hearing has been
14 held on the project permit.

15 (4) "Project permit" or "project permit application" means any land
16 use or environmental permit or license required from a local government
17 for a project action, including but not limited to building permits,
18 subdivisions, binding site plans, planned unit developments,
19 conditional uses, shoreline substantial development permits, site plan
20 review, permits or approvals required by critical area ordinances,
21 site-specific rezones authorized by a comprehensive plan or subarea
22 plan, but excluding the adoption or amendment of a comprehensive plan,
23 subarea plan, or development regulations except as otherwise
24 specifically included in this subsection.

25 (5) "Public meeting" means an informal meeting, hearing, workshop,
26 or other public gathering of people to obtain comments from the public
27 or other agencies on a proposed project permit prior to the local
28 government's decision. A public meeting may include, but is not
29 limited to, a design review or architectural control board meeting, a
30 special review district or community council meeting, or a scoping
31 meeting on a draft environmental impact statement. A public meeting
32 does not include an open record hearing. The proceedings at a public
33 meeting may be recorded and a report or recommendation may be included
34 in the local government's project permit application file.

35 NEW SECTION. **Sec. 403.** In enacting sections 404 and 405 of this
36 act, the legislature intends to establish a mechanism for implementing
37 the provisions of chapter 36.70A RCW regarding compliance, conformity,
38 and consistency of proposed projects with adopted comprehensive plans

1 and development regulations. In order to achieve this purpose the
2 legislature finds that:

3 (1) Given the extensive investment that public agencies and a broad
4 spectrum of the public are making and will continue to make in
5 comprehensive plans and development regulations for their communities,
6 it is essential that project review start from the fundamental land use
7 planning choices made in these plans and regulations. If the
8 applicable regulations or plans identify the type of land use, specify
9 residential density in urban growth areas, and identify and provide for
10 funding of public facilities needed to serve the proposed development
11 and site, these decisions at a minimum provide the foundation for
12 further project review unless there is a question of code
13 interpretation. The project review process, including the
14 environmental review process under chapter 43.21C RCW and the
15 consideration of consistency, should start from this point and should
16 not reanalyze these land use planning decisions in making a permit
17 decision.

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

36 (3) Given the hundreds of jurisdictions and agencies in the state
37 and the numerous communities and applicants affected by development
38 regulations and comprehensive plans adopted under chapter 36.70A RCW,
39 it is essential to establish a uniform framework for considering the

1 consistency of a proposed project with the applicable regulations or
2 plan. Consistency should be determined in the project review process
3 by considering four factors found in applicable regulations or plans:
4 The type of land use allowed; the level of development allowed, such as
5 units per acre or other measures of density; infrastructure, such as
6 the adequacy of public facilities and services to serve the proposed
7 project; and the character of the proposed development, such as
8 compliance with specific development standards. This uniform approach
9 corresponds to existing project review practices and will not place a
10 burden on applicants or local government. The legislature intends that
11 this approach should be largely a matter of checking compliance with
12 existing requirements for most projects, which are simple or routine,
13 while more complex projects may require more analysis. Sections 202
14 and 404 of this act establish this uniform framework and also direct
15 state agencies to consult with local government and the public to
16 develop a better format than the current environmental checklist to
17 meet this objective.

18 (4) When an applicant applies for a project permit, consistency
19 between the proposed project and applicable regulations or plan should
20 be determined through a project review process that integrates land use
21 and environmental impact analysis, so that governmental and public
22 review of the proposed project as required by this chapter, by
23 development regulations under chapter 36.70A RCW, and by the
24 environmental process under chapter 43.21C RCW run concurrently and not
25 separately.

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

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

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

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

1 NEW SECTION. **Sec. 404.** (1) Fundamental land use planning choices
2 made in adopted comprehensive plans and development regulations shall
3 serve as the foundation for project review. The review of a proposed
4 project's consistency with applicable development regulations, or in
5 the absence of applicable regulations the adopted comprehensive plan,
6 under section 405 of this act shall incorporate the determinations
7 under this section.

8 (2) During project review, a local government or any subsequent
9 reviewing body shall determine whether the items listed in this
10 subsection are defined in the development regulations applicable to the
11 proposed project or, in the absence of applicable regulations the
12 adopted comprehensive plan. At a minimum, such applicable regulations
13 or plans shall be determinative of the:

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

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

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

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

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

33 (5) Nothing in this section limits the authority of a permitting
34 agency to approve, condition, or deny a project as provided in its
35 development regulations adopted under chapter 36.70A RCW and in its
36 policies adopted under RCW 43.21C.060. Project review shall be used to
37 identify specific project design and conditions relating to the
38 character of development, such as the details of site plans, curb cuts,
39 drainage swales, transportation demand management, the payment of

1 impact fees, or other measures to mitigate a proposal's probable
2 adverse environmental impacts, if applicable.

3 (6) Subsections (1) through (4) of this section apply only to local
4 governments planning under RCW 36.70A.040.

5 NEW SECTION. **Sec. 405.** (1) A proposed project's consistency with
6 a local government's development regulations adopted under chapter
7 36.70A RCW, or, in the absence of applicable development regulations,
8 the appropriate elements of the comprehensive plan or subarea plan
9 adopted under chapter 36.70A RCW shall be determined by consideration
10 of:

11 (a) The type of land use;

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

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

16 (d) The character of the development, such as development
17 standards.

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

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

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

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

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

34 (2) Except for the appeal of a determination of significance as
35 provided in RCW 43.21C.075, provide for no more than one open record
36 hearing and one closed record appeal.

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

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

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

11 (3) Except as provided in section 418 of this act, an optional
12 consolidated project permit review process as provided in section 416
13 of this act. The review process shall provide for no more than one
14 consolidated open record hearing and one closed record appeal. If an
15 open record predecision hearing is provided prior to the decision on a
16 project permit, the process shall not allow a subsequent open record
17 appeal hearing;

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

23 (5) A single report stating all the decisions made as of the date
24 of the report on all project permits included in the consolidated
25 permit process that do not require an open record predecision hearing
26 and any recommendations on project permits that do not require an open
27 record predecision hearing. The report shall state any mitigation
28 required or proposed under the development regulations or the agency's
29 authority under RCW 43.21C.060. The report may be the local permit.
30 If a threshold determination other than a determination of significance
31 has not been issued previously by the local government, the report
32 shall include or append this determination.

33 (6) Except for the appeal of a determination of significance as
34 provided in RCW 43.21C.075, if a local government elects to provide an
35 appeal of its threshold determinations or project permit decisions, the
36 local government shall provide for no more than one consolidated open
37 record hearing on such appeal. The local government need not provide
38 for any further appeal and may provide an appeal for some but not all
39 project permit decisions. If an appeal is provided after the open

1 record hearing, it shall be a closed record appeal before a single
2 decision-making body or officer;

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

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

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

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

14 ~~((Each city and county))~~ (1) Within twenty-eight days after
15 receiving a project permit application, a local government planning
16 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~
17 ~~receiving a development permit application as defined in RCW~~
18 ~~36.70A.030(7),))~~ mail or provide in person a written ~~((notice))~~
19 determination to the applicant, stating either:

20 (a) That the application is complete; or

21 (b) That the application is incomplete and what is necessary to
22 make the application complete.

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

27 (2) A project permit application is complete for purposes of this
28 section when it meets the procedural submission requirements of the
29 local government and is sufficient for continued processing even though
30 additional information may be required or project modifications may be
31 undertaken subsequently. The determination of completeness shall not
32 preclude the local government from requesting additional information or
33 studies either at the time of the notice of completeness or
34 subsequently if new information is required or substantial changes in
35 the proposed action occur.

36 (3) The determination of completeness may include the following as
37 optional information:

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

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

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

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

10 (b) Within fourteen days after an applicant has submitted to a
11 local government additional information identified by the local
12 government as being necessary for a complete application, the local
13 government shall notify the applicant whether the application is
14 complete or what additional information is necessary.

15 **Sec. 409.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
16 read as follows:

17 Development regulations adopted pursuant to RCW 36.70A.040 shall
18 establish time periods consistent with section 413 of this act for
19 local government actions on specific ~~((development))~~ project permit
20 applications and provide timely and predictable procedures to determine
21 whether a completed ~~((development))~~ project permit application meets
22 the requirements of those development regulations. Such development
23 regulations shall specify the contents of a completed ~~((development))~~
24 project permit application necessary for the application of such time
25 periods and procedures.

26 **Sec. 410.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
27 read as follows:

28 Development regulations adopted pursuant to RCW 36.70A.040 shall
29 establish time periods for local government actions on specific
30 ~~((development))~~ project permit applications and provide timely and
31 predictable procedures to determine whether a completed ~~((development))~~
32 project permit application meets the requirements of those development
33 regulations. Such development regulations shall specify the contents
34 of a completed ~~((development))~~ project permit application necessary for
35 the application of such time periods and procedures.

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

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

5 NEW SECTION. **Sec. 413.** (1) Except as otherwise provided in
6 subsection (2) of this section, a local government planning under RCW
7 36.70A.040 shall issue its notice of final decision on a project permit
8 application within one hundred twenty days after the local government
9 notifies the applicant that the application is complete, as provided in
10 RCW 36.70A.440 (as recodified by this act). In determining the number
11 of days that have elapsed after the local government has notified the
12 applicant that the application is complete, the following periods shall
13 be excluded:

14 (a)(i) Any period during which the applicant has been requested by
15 the local government to correct plans, perform required studies, or
16 provide additional required information. The period shall be
17 calculated from the date the local government notifies the applicant of
18 the need for additional information until the earlier of the date the
19 local government determines whether the additional information
20 satisfies the request for information or fourteen days after the date
21 the information has been provided to the local government.

22 (ii) If the local government determines that the information
23 submitted by the applicant under (a)(i) of this subsection is
24 insufficient, it shall notify the applicant of the deficiencies and the
25 procedures under (a)(i) of this subsection shall apply as if a new
26 request for studies had been made;

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

34 (c) Any period for administrative appeals of project permits, if an
35 open record appeal hearing or a closed record appeal, or both, are
36 allowed. The local government by ordinance or resolution shall
37 establish a time period to consider and decide such appeals. The time

1 period shall not exceed: (i) Ninety days for an open record appeal
2 hearing; and (ii) sixty days for a closed record appeal. The parties
3 to an appeal may agree to extend these time periods; and

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

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

8 (a) Requires an amendment to the comprehensive plan or a
9 development regulation;

10 (b) Requires approval of a new fully contained community as
11 provided in RCW 36.70A.350, a master planned resort as provided in RCW
12 36.70A.360, or the siting of an essential public facility as provided
13 in RCW 36.70A.200; or

14 (c) Is substantially revised by the applicant, in which case the
15 time period shall start from the date at which the revised project
16 application is determined to be complete under RCW 36.70A.440 (as
17 recodified by this act).

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

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

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

28 NEW SECTION. **Sec. 415.** (1) Not later than April 1, 1996, a local
29 government planning under RCW 36.70A.040 shall provide a notice of
30 application to the public and the departments and agencies with
31 jurisdiction as provided in this section. If a local government has
32 made a determination of significance under chapter 43.21C RCW
33 concurrently with the notice of application, the notice of application
34 shall be combined with the determination of significance and scoping
35 notice. Nothing in this section prevents a determination of
36 significance and scoping notice from being issued prior to the notice
37 of application.

1 (2) The notice of application shall be provided within fourteen
2 days after the determination of completeness as provided in RCW
3 36.70A.440 (as recodified by this act) and include the following in
4 whatever sequence or format the local government deems appropriate:

5 (a) The date of application, the date of the notice of completion
6 for the application, and the date of the notice of application;

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

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

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

18 (e) A statement of the public comment period, which shall be not
19 less than fourteen nor more than thirty days following the date of
20 notice of application, and statements of the right of any person to
21 comment on the application, receive notice of and participate in any
22 hearings, request a copy of the decision once made, and any appeal
23 rights. A local government may accept public comments at any time
24 prior to the closing of the record of an open record predecision
25 hearing, if any, or, if no open record predecision hearing is provided,
26 prior to the decision on the project permit;

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

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

33 (h) Any other information determined appropriate by the local
34 government.

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

38 (4) A local government shall use reasonable methods to give the
39 notice of application to the public and agencies with jurisdiction and

1 may use its existing notice procedures. A local government may use
2 different types of notice for different categories of project permits
3 or types of project actions. If a local government by resolution or
4 ordinance does not specify its method of public notice, the local
5 government shall use the methods provided for in (a) and (b) of this
6 subsection. Examples of reasonable methods to inform the public are:

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

8 (b) Publishing notice, including at least the project location,
9 description, type of permit(s) required, comment period dates, and
10 location where the complete application may be reviewed, in the
11 newspaper of general circulation in the general area where the proposal
12 is located or in a local land use newsletter published by the local
13 government;

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

16 (d) Notifying the news media;

17 (e) Placing notices in appropriate regional or neighborhood
18 newspapers or trade journals;

19 (f) Publishing notice in agency newsletters or sending notice to
20 agency mailing lists, either general lists or lists for specific
21 proposals or subject areas; and

22 (g) Mailing to neighboring property owners.

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

27 (6) A local government shall integrate the permit procedures in
28 this section with environmental review under chapter 43.21C RCW as
29 follows:

30 (a) Except for a determination of significance, the local
31 government may not issue its threshold determination, or issue a
32 decision or a recommendation on a project permit until the expiration
33 of the public comment period on the notice of application.

34 (b) If an open record predecision hearing is required and the local
35 government's threshold determination requires public notice under
36 chapter 43.21C RCW, the local government shall issue its threshold
37 determination at least fifteen days prior to the open record
38 predecision hearing.

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

1 (7) A local government may combine any hearing on a project permit
2 with any hearing that may be held by another local, state, regional,
3 federal, or other agency provided that the hearing is held within the
4 geographic boundary of the local government. Hearings shall be
5 combined if requested by an applicant, as long as the joint hearing can
6 be held within the time periods specified in section 413 of this act or
7 the applicant agrees to the schedule in the event that additional time
8 is needed in order to combine the hearings. All agencies of the state
9 of Washington, including municipal corporations and counties
10 participating in a combined hearing, are hereby authorized to issue
11 joint hearing notices and develop a joint format, select a mutually
12 acceptable hearing body or officer, and take such other actions as may
13 be necessary to hold joint hearings consistent with each of their
14 respective statutory obligations.

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

18 (a) The agency is not expressly prohibited by statute from doing
19 so;

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

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

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

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

1 (11) Each local government planning under RCW 36.70A.040 shall
2 adopt procedures for administrative interpretation of its development
3 regulations.

4 NEW SECTION. **Sec. 416.** (1) Each local government planning under
5 RCW 36.70A.040 shall establish a permit review process that provides
6 for the integrated and consolidated review and decision on two or more
7 project permits relating to a proposed project action, including a
8 single application review and approval process covering all project
9 permits requested by an applicant for all or part of a project action
10 and a designated permit coordinator. If an applicant elects the
11 consolidated permit review process, the determination of completeness,
12 notice of application, and notice of final decision must include all
13 project permits being reviewed through the consolidated permit review
14 process.

15 (2) Consolidated permit review may provide different procedures for
16 different categories of project permits, but if a project action
17 requires project permits from more than one category, the local
18 government shall provide for consolidated permit review with a single
19 open record hearing and no more than one closed record appeal as
20 provided in section 407 of this act. Each local government shall
21 determine which project permits are subject to an open record hearing
22 and a closed record appeal. Examples of categories of project permits
23 include but are not limited to:

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

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

29 (c) Permits that require a threshold determination and an open
30 record predecision hearing and may provide for a closed record appeal
31 to a hearing body or officer or to the local government legislative
32 body.

33 (3) A local government may provide by ordinance or resolution for
34 the same or a different decision maker or hearing body or officer for
35 different categories of project permits. In the case of consolidated
36 project permit review, the local government shall specify which
37 decision makers shall make the decision or recommendation, conduct the
38 hearing, or decide the appeal to ensure that consolidated permit review

1 occurs as provided in this section. The consolidated permit review may
2 combine an open record predecision hearing on one or more permits with
3 an open record appeal hearing on other permits. In such cases, the
4 local government by ordinance or resolution shall specify which project
5 permits, if any, shall be subject to a closed record appeal.

6 NEW SECTION. **Sec. 417.** A local government planning under RCW
7 36.70A.040 shall provide a notice of decision that also includes a
8 statement of any threshold determination made under chapter 43.21C RCW
9 and the procedures for administrative appeal, if any. The notice of
10 decision may be a copy of the report or decision on the project permit
11 application. The notice shall be provided to the applicant and to any
12 person who, prior to the rendering of the decision, requested notice of
13 the decision or submitted substantive comments on the application. The
14 local government shall provide for notice of its decision as provided
15 in section 415(4) of this act.

16 NEW SECTION. **Sec. 418.** (1) A local government by ordinance or
17 resolution may exclude the following project permits from the
18 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065
19 (as recodified by this act), and sections 407, 413, and 415 through 417
20 of this act: Landmark designations, street vacations, or other
21 approvals relating to the use of public areas or facilities, or other
22 project permits, whether administrative or quasi-judicial, that the
23 local government by ordinance or resolution has determined present
24 special circumstances that warrant a review process different from that
25 provided in RCW 36.70A.440 (as recodified by this act), 36.70A.065 (as
26 recodified by this act), and sections 407, 413, and 415 through 417 of
27 this act.

28 (2) A local government by ordinance or resolution also may exclude
29 the following project permits from the provisions of sections 407 and
30 415 through 417 of this act: Lot line or boundary adjustments and
31 building and other construction permits, or similar administrative
32 approvals, categorically exempt from environmental review under chapter
33 43.21C RCW, or for which environmental review has been completed in
34 connection with other project permits.

35 NEW SECTION. **Sec. 419.** A local government not planning under RCW
36 36.70A.040 may incorporate some or all of the provisions of sections

1 407, 413, and 415 through 417 of this act and RCW 36.70A.065 and
2 36.70A.440 (as recodified by this act) into its procedures for review
3 of project permits or other project actions.

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

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

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

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

18 NEW SECTION. **Sec. 421.** A new section is added to chapter 64.40
19 RCW to read as follows:

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

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

25 (1) Except as provided in subsection (2) of this section, the
26 responsible official shall make a threshold determination on a
27 completed application within ninety days after the application and
28 supporting documentation are complete. The applicant may request an
29 additional thirty days for the threshold determination. The
30 governmental entity responsible for making the threshold determination
31 shall by rule, resolution, or ordinance adopt standards, consistent
32 with rules adopted by the department to implement this chapter, for
33 determining when an application and supporting documentation are
34 complete.

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

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

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

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

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

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

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

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

25 The legislative body shall prescribe procedures to be followed by
26 the hearing examiner.

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

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

35 (b) The decision may be given the effect of an administrative
36 decision appealable within a specified time limit to the legislative
37 body((-

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

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

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

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

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

28 (a) Applications for conditional uses, variances, subdivisions,
29 shoreline permits, or any other class of applications for or pertaining
30 to development of land or land use((s which the legislative body
31 believes should be reviewed and decided by a hearing examiner));

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

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

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

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

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

9 (b) The decision may be given the effect of an administrative
10 decision appealable within a specified time limit to the legislative
11 body(~~(-~~

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

16 or
17 (c) Except in the case of a rezone, the decision may be given the
18 effect of a final decision of the legislative body.

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

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

30 (1) As an alternative to those provisions of this chapter relating
31 to powers or duties of the planning commission to hear and issue
32 recommendations on applications for plat approval and applications for
33 amendments to the zoning ordinance, the county legislative authority
34 may adopt a hearing examiner system under which a hearing examiner or
35 hearing examiners may hear and issue decisions on proposals for plat
36 approval and for amendments to the zoning ordinance when the amendment
37 which is applied for is not of general applicability. In addition, the
38 legislative authority may vest in a hearing examiner the power to hear

1 and decide those issues it believes should be reviewed and decided by
2 a hearing examiner, including but not limited to:

3 (a) Applications for conditional uses ((applications)), variances
4 ((applications)), ((applications for)) shoreline permits, or any other
5 class of applications for or pertaining to development of land or land
6 use((s));

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

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

10 The legislative authority shall prescribe procedures to be followed
11 by a hearing examiner.

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

15 (2) Each county legislative authority electing to use a hearing
16 examiner pursuant to this section shall by ordinance specify the legal
17 effect of the decisions made by the examiner. ((Except as provided in
18 subsection (2) of this section,)) Such legal effect may vary for the
19 different classes of applications decided by the examiner but shall
20 include one of the following:

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

23 (b) The decision may be given the effect of an administrative
24 decision appealable within a specified time limit to the legislative
25 authority((-

26 ~~(2) The legislative authority may specify the legal effect of a~~
27 ~~hearing examiner's procedural determination under the state~~
28 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
29 ~~have the effect under subsection (1) (a) or (b) of this section, or))~~
30 or

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

33 (3) Each final decision of a hearing examiner shall be in writing
34 and shall include findings and conclusions, based on the record, to
35 support the decision. Such findings and conclusions shall also set
36 forth the manner in which the decision would carry out and conform to
37 the county's comprehensive plan and the county's development
38 regulations. Each final decision of a hearing examiner, unless a
39 longer period is mutually agreed to in writing by the applicant and the

1 hearing examiner, shall be rendered within ten working days following
2 conclusion of all testimony and hearings.

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

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

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

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

27 (2) All hearings shall be public. All hearing notices shall
28 include a description of the location of the proposed subdivision. The
29 description may be in the form of either a vicinity location sketch or
30 a written description other than a legal description.

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

33 Any notice made under chapter 58.17 or 36.-- (the new chapter
34 created in section 431 of this act) RCW that identifies affected
35 property may identify this affected property without using a legal
36 description of the property including, but not limited to,

1 identification by an address, written description, vicinity sketch, or
2 other reasonable means.

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

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

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

35 Every decision or recommendation made under this section shall be
36 in writing and shall include findings of fact and conclusions to
37 support the decision or recommendation.

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

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

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

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

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

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

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

22 The legislative authority shall prescribe procedures to be followed by
23 a hearing examiner.

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

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

35 NEW SECTION. **Sec. 430.** The department of community, trade, and
36 economic development shall provide training and technical assistance to

1 counties and cities to assist them in fulfilling the requirements of
2 chapter 36.-- RCW (the new chapter created in section 431 of this act).

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

6 NEW SECTION. **Sec. 432.** RCW 36.70A.065 and 36.70A.440 are
7 recodified as sections within the new chapter created in section 431 of
8 this act.

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

14 **PART V - DEVELOPMENT AGREEMENTS**

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

1 NEW SECTION. **Sec. 502.** (1) A local government may enter into a
2 development agreement with a person having ownership or control of real
3 property within its jurisdiction. A city may enter into a development
4 agreement for real property outside its boundaries as part of a
5 proposed annexation or a service agreement. A development agreement
6 must set forth the development standards and other provisions that
7 shall apply to and govern and vest the development, use, and mitigation
8 of the development of the real property for the duration specified in
9 the agreement. A development agreement shall be consistent with
10 applicable development regulations adopted by a local government
11 planning under chapter 36.70A RCW.

12 (2) Sections 501 through 504 of this act do not affect the validity
13 of a contract rezone, concomitant agreement, annexation agreement, or
14 other agreement in existence on the effective date of sections 501
15 through 504 of this act, or adopted under separate authority, that
16 includes some or all of the development standards provided in
17 subsection (3) of this section.

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

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

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

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

28 (d) Design standards such as maximum heights, setbacks, drainage
29 and water quality requirements, landscaping, and other development
30 features;

31 (e) Affordable housing;

32 (f) Parks and open space preservation;

33 (g) Phasing;

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

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

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

37 (4) The execution of a development agreement is a proper exercise
38 of county and city police power and contract authority. A development
39 agreement may obligate a party to fund or provide services,

1 infrastructure, or other facilities. A development agreement shall
2 reserve authority to impose new or different regulations to the extent
3 required by a serious threat to public health and safety.

4 NEW SECTION. **Sec. 503.** Unless amended or terminated, a
5 development agreement is enforceable during its term by a party to the
6 agreement. A development agreement and the development standards in
7 the agreement govern during the term of the agreement, or for all or
8 that part of the build-out period specified in the agreement, and may
9 not be subject to an amendment to a zoning ordinance or development
10 standard or regulation or a new zoning ordinance or development
11 standard or regulation adopted after the effective date of the
12 agreement. A permit or approval issued by the county or city after the
13 execution of the development agreement must be consistent with the
14 development agreement.

15 NEW SECTION. **Sec. 504.** A development agreement shall be recorded
16 with the real property records of the county in which the property is
17 located. During the term of the development agreement, the agreement
18 is binding on the parties and their successors, including a city that
19 assumes jurisdiction through incorporation or annexation of the area
20 covering the property covered by the development agreement.

21 NEW SECTION. **Sec. 505.** A county or city shall only approve a
22 development agreement by ordinance or resolution after a public
23 hearing. The county or city legislative body or a planning commission,
24 hearing examiner, or other body designated by the legislative body to
25 conduct the public hearing may conduct the hearing. If the development
26 agreement relates to a project permit application, the provisions of
27 chapter 36.-- RCW (sections 701 through 715 of this act) shall apply to
28 the appeal of the decision on the development agreement.

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

34 **PART VI - STATE PERMIT COORDINATION**

1 NEW SECTION. **Sec. 601.** The legislature hereby finds and declares:

2 (1) Washington's environmental protection programs have established
3 strict standards to reduce pollution and protect the public health and
4 safety and the environment. The single-purpose programs instituted to
5 achieve these standards have been successful in many respects, and have
6 produced significant gains in protecting Washington's environment in
7 the face of substantial population growth.

8 (2) Continued progress to achieve the environmental standards in
9 the face of continued population growth will require greater
10 coordination between the single-purpose environmental programs and more
11 efficient operation of these programs overall. Pollution must be
12 prevented and controlled and not simply transferred to another media or
13 another place. This goal can only be achieved by maintaining the
14 current environmental protection standards and by greater integration
15 of the existing programs.

16 (3) As the number of environmental laws and regulations have grown
17 in Washington, so have the number of permits required of business and
18 government. This regulatory burden has significantly added to the cost
19 and time needed to obtain essential permits in Washington. The
20 increasing number of individual permits and permit authorities has
21 generated the continuing potential for conflict, overlap, and
22 duplication between the various state, local, and federal permits.

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

27 (5) Those procedures need to provide a permit process that promotes
28 effective dialogue and ensures ease in the transfer and clarification
29 of technical information, while preventing duplication. It is
30 necessary that the procedures establish a process for preliminary and
31 ongoing meetings between the applicant, the coordinating permit agency,
32 and the participating permit agencies, but do not preclude the
33 applicant or participating permit agencies from individually
34 coordinating with each other.

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

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

4 (8) It is the intent of this chapter to provide an optional process
5 by which a project proponent may obtain active coordination of all
6 applicable regulatory and land-use permitting procedures. This process
7 is not to replace individual laws, or diminish the substantive
8 decision-making role of individual jurisdictions. Rather it is to
9 provide predictability, administrative consolidation, and, where
10 possible, consolidation of appeal processes.

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

14 NEW SECTION. **Sec. 602.** Unless the context clearly requires
15 otherwise, the definitions in this section apply throughout this
16 chapter.

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

19 (2) "Coordinating permit agency" means the permit agency that has
20 the greatest overall jurisdiction over a project.

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

22 (4) "Participating permit agency" means a permit agency, other than
23 the coordinating permit agency, that is responsible for the issuance of
24 a permit for a project.

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

28 (6) "Permit agency" means:

29 (a) The department of ecology, an air pollution control authority,
30 the department of natural resources, the department of fish and
31 wildlife, and the department of health; and

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

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

1 NEW SECTION. **Sec. 603.** The permit assistance center is
2 established within the department. The center shall:

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

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

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

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

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

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

29 (2) The administrative process shall consist of the establishment
30 of guidelines for designating the coordinating permit agency for a
31 project. If a permit agency is the lead agency for purposes of chapter
32 43.21C RCW, that permit agency shall be the coordinating permit agency.
33 In other cases, the guidelines shall require that at least the
34 following factors be considered in determining which permit agency has
35 the greatest overall jurisdiction over the project:

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

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

1 (c) The environmental medium that may be affected by the project,
2 the extent of those potential effects, and the environmental protection
3 measures that may be taken to prevent the occurrence of, or to
4 mitigate, those potential effects;

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

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

10 NEW SECTION. **Sec. 605.** Upon the request of a project applicant,
11 the center shall appoint a project facilitator to assist the applicant
12 in determining which regulatory requirements, processes, and permits
13 may be required for development and operation of the proposed project.
14 The project facilitator shall provide the information to the applicant
15 and explain the options available to the applicant in obtaining the
16 required permits. If the applicant requests, the center shall
17 designate a coordinating permit agency as provided in section 606 of
18 this act.

19 NEW SECTION. **Sec. 606.** (1) A permit applicant who requests the
20 designation of a coordinating permit agency shall provide the center
21 with a description of the project, a preliminary list of the permits
22 that the project may require, the identity of any public agency that
23 has been designated the lead agency for the project pursuant to chapter
24 43.21C RCW, and the identity of the participating permit agencies. The
25 center may request any information from the permit applicant that is
26 necessary to make the designation under this section, and may convene
27 a scoping meeting of the likely coordinating permit agency and
28 participating permit agencies in order to make that designation.

29 (2) The coordinating permit agency shall serve as the main point of
30 contact for the permit applicant with regard to the coordinated permit
31 process for the project and shall manage the procedural aspects of that
32 processing consistent with existing laws governing the coordinating
33 permit agency and participating permit agencies, and with the
34 procedures agreed to by those agencies in accordance with section 607
35 of this act. In carrying out these responsibilities, the coordinating
36 permit agency shall ensure that the permit applicant has all the
37 information needed to apply for all the component permits that are

1 incorporated in the coordinated permit process for the project,
2 coordinate the review of those permits by the respective participating
3 permit agencies, ensure that timely permit decisions are made by the
4 participating permit agencies, and assist in resolving any conflict or
5 inconsistency among the permit requirements and conditions that are to
6 be imposed by the participating permit agencies with regard to the
7 project. The coordinating permit agency shall keep in contact with the
8 applicant as well as other permit agencies in order to assure that the
9 process is progressing as scheduled. The coordinating permit agency
10 shall also make contact, at least once, with any local jurisdiction
11 that is responsible for issuing a permit for the project if the local
12 jurisdiction has not agreed to be a participating permit agency as
13 provided in section 602(6) of this act.

14 (3) This chapter shall not be construed to limit or abridge the
15 powers and duties granted to a participating permit agency under the
16 law that authorizes or requires the agency to issue a permit for a
17 project. Each participating permit agency shall retain its authority
18 to make all decisions on all nonprocedural matters with regard to the
19 respective component permit that is within its scope of its
20 responsibility, including, but not limited to, the determination of
21 permit application completeness, permit approval or approval with
22 conditions, or permit denial. The coordinating permit agency may not
23 substitute its judgment for that of a participating permit agency on
24 any such nonprocedural matters.

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

30 (a) A determination of the permits that are required for the
31 project;

32 (b) A review of the permit application forms and other application
33 requirements of the agencies that are participating in the coordinated
34 permit process;

35 (c)(i) A determination of the timelines that will be used by the
36 coordinating permit agency and each participating permit agency to make
37 permit decisions, including the time periods required to determine if
38 the permit applications are complete, to review the application or

1 applications, and to process the component permits. In the development
2 of this timeline, full attention shall be given to achieving the
3 maximum efficiencies possible through concurrent studies, consolidated
4 applications, hearings, and comment periods. Except as provided in
5 (c)(ii) of this subsection, the timelines established under this
6 subsection, with the assent of the coordinating permit agency and each
7 participating permit agency, shall commit the coordinating permit
8 agency and each participating permit agency to act on the component
9 permit within time periods that are different than those required by
10 other applicable provisions of law.

11 (ii) An accelerated time period for the consideration of a permit
12 application may not be set if that accelerated time period would be
13 inconsistent with, or in conflict with, any time period or series of
14 time periods set by statute for that consideration, or with any
15 statute, rule, or regulation, or adopted state policy, standard, or
16 guideline that requires any of the following:

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

19 (B) Other agencies to be given a role in, or be allowed to
20 participate in, the decision to approve or disapprove the application;
21 or

22 (C) Interested persons or the public to be provided the opportunity
23 to challenge, comment on, or otherwise voice their concerns regarding
24 the application;

25 (d) The scheduling of any public hearings that are required to
26 issue permits for the project and a determination of the feasibility of
27 coordinating or consolidating any of those required public hearings;
28 and

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

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

38 (3) If a permit agency or the applicant foresees, at any time, that
39 it will be unable to meet its obligations under the agreement, it shall

1 notify the coordinating permit agency of the problem. The coordinating
2 permit agency shall notify the participating permit agencies and the
3 applicant and, upon agreement of all parties, adjust the schedule, or,
4 if necessary, schedule another work plan meeting.

5 (4) The coordinating permit agency may request any information from
6 the applicant that is necessary to comply with its obligations under
7 this section, consistent with the timelines set pursuant to this
8 section.

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

12 NEW SECTION. **Sec. 608.** (1) The permit applicant may withdraw from
13 the coordinated permit process by submitting to the coordinating permit
14 agency a written request that the process be terminated. Upon receipt
15 of the request, the coordinating permit agency shall notify the center
16 and each participating permit agency that a coordinated permit process
17 is no longer applicable to the project.

18 (2) The permit applicant may submit a written request to the
19 coordinating permit agency that the permit applicant wishes a
20 participating permit agency to withdraw from participation on the basis
21 of a reasonable belief that the issuance of the coordinated permit
22 process would be accelerated if the participating permit agency
23 withdraws. In that event, the participating permit agency shall
24 withdraw from participation if the coordinating permit agency approves
25 the request.

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

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

35 (2) The coordinating permit agency may recover only the costs of
36 performing those coordinated permit services and shall be negotiated

1 with the permit applicant in the meeting required pursuant to section
2 607 of this act. The billing process shall provide for accurate time
3 and cost accounting and may include a billing cycle that provides for
4 progress payments.

5 NEW SECTION. **Sec. 611.** A petition by the permit applicant for
6 review of an agency action in issuing, denying, or amending a permit,
7 or any portion of a coordinating permit agency permit, shall be
8 submitted by the permit applicant to the coordinating permit agency or
9 the participating permit agency having jurisdiction over that permit
10 and shall be processed in accordance with the procedures of that permit
11 agency. Within thirty days of receiving the petition, the coordinating
12 permit agency shall notify the other environmental agencies
13 participating in the original coordinated permit process.

14 NEW SECTION. **Sec. 612.** If an applicant petitions for a
15 significant amendment or modification to a coordinated permit process
16 application or any of its component permit applications, the
17 coordinating permit agency shall reconvene a meeting of the
18 participating permit agencies, conducted in accordance with section 607
19 of this act.

20 NEW SECTION. **Sec. 613.** If an applicant fails to provide
21 information required for the processing of the component permit
22 applications for a coordinated permit process or for the designation of
23 a coordinating permit agency, the time requirements of this chapter
24 shall be held in abeyance until such time as the information is
25 provided.

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

31 (2) If the center finds that the time limits under appeal have been
32 violated without good cause, it shall establish a date certain by which
33 the permit agency shall act on the permit application with adequate
34 provision for the requirements of section 607(1)(c)(ii) (A) through (C)
35 of this act, and provide for the full reimbursement of any filing or

1 permit processing fees paid by the applicant to the permit agency for
2 the permit application under appeal.

3 NEW SECTION. **Sec. 615.** Nothing in this chapter affects the
4 jurisdiction of the energy facility site evaluation council as provided
5 in chapter 80.50 RCW.

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

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

11 (2) The amount of time elapsed between an initial request by a
12 permit applicant for a coordinated permit process and the ultimate
13 approval or disapproval of the permits included in the process; and

14 (3) The number of instances in which the expedited appeals process
15 was requested, and the disposition of those cases.

16 NEW SECTION. **Sec. 617.** A new section is added to chapter 43.131
17 RCW to read as follows:

18 The permit assistance center and its powers and duties shall be
19 terminated June 30, 1999, as provided in section 618 of this act.

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

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

24 (1) RCW 90.---.--- and 1995 c -- s 601 (section 601 of this act);

25 (2) RCW 90.---.--- and 1995 c -- s 602 (section 602 of this act);

26 (3) RCW 90.---.--- and 1995 c -- s 603 (section 603 of this act);

27 (4) RCW 90.---.--- and 1995 c -- s 604 (section 604 of this act);

28 (5) RCW 90.---.--- and 1995 c -- s 605 (section 605 of this act);

29 (6) RCW 90.---.--- and 1995 c -- s 606 (section 606 of this act);

30 (7) RCW 90.---.--- and 1995 c -- s 607 (section 607 of this act);

31 (8) RCW 90.---.--- and 1995 c -- s 608 (section 608 of this act);

32 (9) RCW 90.---.--- and 1995 c -- s 609 (section 609 of this act);

33 (10) RCW 90.---.--- and 1995 c -- s 610 (section 610 of this act);

34 (11) RCW 90.---.--- and 1995 c -- s 611 (section 611 of this act);

35 (12) RCW 90.---.--- and 1995 c -- s 612 (section 612 of this act);

- 1 (13) RCW 90.---.--- and 1995 c -- s 613 (section 613 of this act);
2 (14) RCW 90.---.--- and 1995 c -- s 614 (section 614 of this act);
3 (15) RCW 90.---.--- and 1995 c -- s 615 (section 615 of this act);
4 and
5 (16) RCW 90.---.--- and 1995 c -- s 616 (section 616 of this act).

6 NEW SECTION. **Sec. 619.** The following acts or parts of acts are
7 each repealed:

- 8 (1) RCW 90.62.010 and 1982 c 179 s 1, 1977 c 54 s 1, & 1973 1st
9 ex.s. c 185 s 1;
10 (2) RCW 90.62.020 and 1994 c 264 s 96, 1988 c 36 s 71, 1977 c 54 s
11 2, & 1973 1st ex.s. c 185 s 2;
12 (3) RCW 90.62.030 and 1973 1st ex.s. c 185 s 3;
13 (4) RCW 90.62.040 and 1990 c 137 s 1, 1977 c 54 s 3, & 1973 1st
14 ex.s. c 185 s 4;
15 (5) RCW 90.62.050 and 1977 c 54 s 4 & 1973 1st ex.s. c 185 s 5;
16 (6) RCW 90.62.060 and 1982 c 179 s 2, 1977 c 54 s 5, & 1973 1st
17 ex.s. c 185 s 6;
18 (7) RCW 90.62.070 and 1973 1st ex.s. c 185 s 7;
19 (8) RCW 90.62.080 and 1987 c 109 s 156, 1977 c 54 s 6, & 1973 1st
20 ex.s. c 185 s 8;
21 (9) RCW 90.62.090 and 1977 c 54 s 7 & 1973 1st ex.s. c 185 s 9;
22 (10) RCW 90.62.100 and 1977 c 54 s 8 & 1973 1st ex.s. c 185 s 10;
23 (11) RCW 90.62.110 and 1973 1st ex.s. c 185 s 11;
24 (12) RCW 90.62.120 and 1973 1st ex.s. c 185 s 12;
25 (13) RCW 90.62.130 and 1977 c 54 s 9;
26 (14) RCW 90.62.900 and 1973 1st ex.s. c 185 s 13;
27 (15) RCW 90.62.901 and 1973 1st ex.s. c 185 s 14;
28 (16) RCW 90.62.904 and 1973 1st ex.s. c 185 s 15;
29 (17) RCW 90.62.905 and 1973 1st ex.s. c 185 s 16;
30 (18) RCW 90.62.906 and 1973 1st ex.s. c 185 s 18;
31 (19) RCW 90.62.907 and 1973 1st ex.s. c 185 s 19; and
32 (20) RCW 90.62.908 and 1977 c 54 s 10.

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

35

PART VII - APPEALS

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

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

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

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

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

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

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

31 (2) "Local jurisdiction" means a county, city, or incorporated
32 town.

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

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

5 (a) Judicial review of:

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

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

11 (b) Judicial review of applications for a writ of mandamus or
12 prohibition; or

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

20 (2) The superior court civil rules govern procedural matters under
21 this chapter to the extent that the rules are consistent with this
22 chapter.

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

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

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

33 (b) Each of the following persons if the person is not the
34 petitioner:

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

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

3 (c) If no person is identified in a written decision as provided in
4 (b) of this subsection, each person identified by name and address as
5 a taxpayer for the property at issue in the records of the county
6 assessor, based upon the description of the property in the
7 application; and

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

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

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

19 (a) Three days after a written decision is mailed by the local
20 jurisdiction or, if not mailed, the date on which the local
21 jurisdiction provides notice that a written decision is publicly
22 available;

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

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

28 (5) Service on the local jurisdiction must be by delivery of a copy
29 of the petition to the persons identified by or pursuant to RCW
30 4.28.080 to receive service of process. Service on other parties must
31 be in accordance with the superior court civil rules or by first class
32 mail to:

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

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

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

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

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

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

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

30 (2) Another person aggrieved or adversely affected by the land use
31 decision, or who would be aggrieved or adversely affected by a reversal
32 or modification of the land use decision. A person is aggrieved or
33 adversely affected within the meaning of this section only when all of
34 the following conditions are present:

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

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

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

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

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

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

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

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

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

18 (5) Identification of each person to be made a party under section
19 705(2) (b) through (d) of this act;

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

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

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

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

28 NEW SECTION. **Sec. 709.** (1) Within seven days after the petition
29 is served on the parties identified in section 705(2) of this act, the
30 petitioner shall note, according to the local rules of superior court,
31 an initial hearing on jurisdictional and preliminary matters. This
32 initial hearing shall be set no sooner than thirty-five days and no
33 later than fifty days after the petition is served on the parties
34 identified in section 705(2) of this act.

35 (2) The parties shall note all motions on jurisdictional and
36 procedural issues for resolution at the initial hearing, except that a
37 motion to allow discovery may be brought sooner. Where confirmation of

1 motions is required, each party shall be responsible for confirming its
2 own motions.

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

7 (4) The petitioner shall move the court for an order at the initial
8 hearing that sets the date on which the record must be submitted, sets
9 a briefing schedule, sets a discovery schedule if discovery is to be
10 allowed, and sets a date for the hearing or trial on the merits.

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

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

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

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

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

28 (a) The party requesting the stay is likely to prevail on the
29 merits;

30 (b) Without the stay the party requesting it will suffer
31 irreparable harm;

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

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

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

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

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

15 (3) The petitioner shall pay the local jurisdiction the cost of
16 preparing the record before the local jurisdiction submits the record
17 to the court. Failure by the petitioner to timely pay the local
18 jurisdiction relieves the local jurisdiction of responsibility to
19 submit the record and is grounds for dismissal of the petition.

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

26 NEW SECTION. Sec. 713. (1) When the land use decision being
27 reviewed was made by a quasi-judicial body or officer who made factual
28 determinations in support of the decision and the parties to the quasi-
29 judicial proceeding had an opportunity consistent with due process to
30 make a record on the factual issues, judicial review of factual issues
31 and the conclusions drawn from the factual issues shall be confined to
32 the record created by the quasi-judicial body or officer, except as
33 provided in subsections (2) through (4) of this section.

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

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

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

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

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

12 (4) The court may require or permit corrections of ministerial
13 errors or inadvertent omissions in the preparation of the record.

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

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

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

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

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

6 (d) The land use decision is a clearly erroneous application of the
7 law to the facts;

8 (e) The land use decision is outside the authority or jurisdiction
9 of the body or officer making the decision; or

10 (f) The land use decision violates the constitutional rights of the
11 party seeking relief.

12 (2) In order to grant relief under this chapter, it is not
13 necessary for the court to find that the local jurisdiction engaged in
14 arbitrary and capricious conduct. A grant of relief by itself may not
15 be deemed to establish liability for monetary damages or compensation.

16 NEW SECTION. **Sec. 715.** The court may affirm or reverse the land
17 use decision under review or remand it for modification or further
18 proceedings. If the decision is remanded for modification or further
19 proceedings, the court may make such an order as it finds necessary to
20 preserve the interests of the parties and the public, pending further
21 proceedings or action by the local jurisdiction.

22 **Sec. 716.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to
23 read as follows:

24 This chapter does not apply to state agency action reviewable under
25 chapter 34.05 RCW or to land use decisions of local jurisdictions
26 reviewable under chapter 36.-- RCW (sections 701 through 715 of this
27 act).

28 **Sec. 717.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to
29 read as follows:

30 Any decision approving or disapproving any plat shall be reviewable
31 ~~((for unlawful, arbitrary, capricious or corrupt action or nonaction by~~
32 ~~writ of review before the superior court of the county in which such~~
33 ~~matter is pending. Standing to bring the action is limited to the~~
34 ~~following parties:~~

35 ~~(1) The applicant or owner of the property on which the subdivision~~
36 ~~is proposed;~~

1 NEW SECTION. **Sec. 801.** The land use study commission is hereby
2 established. The commission s goal shall be the integration and
3 consolidation of the state s land use and environmental laws into a
4 single, manageable statute. In fulfilling its responsibilities, the
5 commission shall evaluate the effectiveness of the growth management
6 act, the state environmental policy act, the shoreline management act,
7 and other state land use, planning, environmental, and permitting
8 statutes in achieving their stated goals.

9 NEW SECTION. **Sec. 802.** The commission shall consist of not more
10 than fourteen members. Eleven members of the commission shall be
11 appointed by the governor. Membership shall reflect the interests of
12 business, agriculture, labor, the environment, neighborhood groups,
13 other citizens, the legislature, cities, counties, and federally
14 recognized Indian tribes. Members shall have substantial experience in
15 matters relating to land use and environmental planning and regulation,
16 and shall have the ability to work toward cooperative solutions among
17 diverse interests. The director of the department of community, trade,
18 and economic development, or the director s designee, shall be a member
19 and shall serve as chair of the commission. The director of the
20 department of ecology, or the director s designee, and the secretary of
21 the department of transportation, or the secretary's designee, shall
22 also be members of the commission. Staff for the commission shall be
23 provided by the department of community, trade, and economic
24 development, with additional staff to be provided by other state
25 agencies and the legislature, as may be required. State agencies shall
26 provide the commission with information and assistance as needed.

27 NEW SECTION. **Sec. 803.** The commission shall convene commencing
28 June 1, 1995, and shall complete its work by June 30, 1998. The
29 commission shall submit a report to the governor and the legislature
30 stating its findings, conclusions, and recommendations not later than
31 November 1 of each year. The commission shall submit its final report
32 to the governor and the legislature not later than November 1, 1997.

33 NEW SECTION. **Sec. 804.** The commission shall:

34 (1) Consider the effectiveness of state and local government
35 efforts to consolidate and integrate the growth management act, the

1 state environmental policy act, the shoreline management act, and other
2 land use, planning, environmental, and permitting laws.

3 (2) Identify the revisions and modifications needed in state land
4 use, planning, and environmental law and practice to adequately plan
5 for growth and achieve economically and environmentally sustainable
6 development, to adequately assess environmental impacts of
7 comprehensive plans, development regulations, and growth, and to reduce
8 the time and cost of obtaining project permits.

9 (3) Draft a consolidated land use procedure, following these
10 guidelines:

11 (a) Conduct land use planning through the comprehensive planning
12 process under chapter 36.70A RCW rather than through review of
13 individual projects;

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

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

21 (d) Integrate and combine to the fullest extent possible the
22 processes, analysis, and documents currently required under chapters
23 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent
24 implementation will incorporate measures to promote the environmental,
25 economic, and other goals and to mitigate undesirable or unintended
26 adverse impacts on a community's quality of life;

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

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

32 (g) Use environmental review on projects to: (i) Review and
33 document consistency with comprehensive plans and development
34 regulations; (ii) provide prompt and coordinated review by agencies,
35 tribes, and the public on compliance with applicable environmental laws
36 and plans, including mitigation for site specific project impacts that
37 have not been considered and addressed at the plan or development
38 regulation level; and (iii) ensure accountability by local government

1 to applicants and the public for requiring and implementing mitigation
2 measures;

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

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

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

13 (4) Monitor instances state-wide of the vesting of project permit
14 applications during the period that an appeal is pending before a
15 growth management hearings board, as authorized under RCW 36.70A.300.
16 The commission shall also review the extent to which such vesting
17 results in the approval of projects that are inconsistent with a
18 comprehensive plan or development regulation provision ultimately found
19 to be in compliance with a board's order or remand. The commission
20 shall analyze the impact of such approvals on ensuring the attainment
21 of the goals and policies of chapter 36.70A RCW, and make
22 recommendations to the governor and the legislature on statutory
23 changes to address any adverse impacts from the provisions of RCW
24 36.70A.300. The commission shall provide an initial report on its
25 findings and recommendations by November 1, 1995, and submit its
26 further findings and recommendations subsequently in the reports
27 required under section 803 of this act.

28 (5) Monitor local government consolidated permit procedures and the
29 effectiveness of the timelines established by section 413 of this act.
30 The commission shall include in its report submitted to the governor
31 and the legislature on November 1, 1997, its recommendation about what
32 timelines, if any, should be imposed on the local government
33 consolidated permit process required by chapter 36.-- RCW (the new
34 chapter created in section 431 of this act).

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

1 (7) Study, in cooperation with the state board for registration of
2 professional engineers and the state building code council, ways in
3 which state agencies and local governments could authorize
4 professionals with appropriate qualifications to certify a project's
5 compliance with certain state and local land use and environmental
6 requirements. The commission shall report to the legislature on
7 measures necessary to implement such a system of professional
8 certification.

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

13 NEW SECTION. **Sec. 805.** Members of the commission shall be
14 reimbursed for travel expenses as provided in RCW 43.03.050 and
15 43.03.060.

16 NEW SECTION. **Sec. 806.** Sections 801 through 805 of this act shall
17 expire June 30, 1998.

18 **PART IX - MISCELLANEOUS**

19 NEW SECTION. **Sec. 901.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 902.** Part headings and the table of contents as
24 used in this act do not constitute any part of the law.

25 NEW SECTION. **Sec. 903.** If specific funding for the purposes of
26 this act, referencing this act by bill number, is not provided by June
27 30, 1995, in the omnibus appropriations act, this act shall be null and
28 void.

29 NEW SECTION. **Sec. 904.** Sections 801 through 806 of this act are
30 necessary for the immediate preservation of the public peace, health,
31 or safety, or support of the state government and its existing public
32 institutions, and shall take effect June 1, 1995."

1 **ESHB 1724** - S COMM AMD
2 By Committee on Ways & Means

ADOPTED 4/11/95

3
4 On page 1, line 3 of the title, after "review;" strike the
5 remainder of the title and insert "amending RCW 36.70A.130, 36.70A.140,
6 36.70A.280, 36.70A.300, 36.70A.320, 36.70A.330, 34.05.514, 43.21C.031,
7 43.21C.075, 43.21C.080, 43.21C.110, 43.21C.900, 90.58.020, 90.58.030,
8 90.58.050, 90.58.060, 90.58.080, 90.58.090, 90.58.100, 90.58.120,
9 90.58.140, 90.58.180, 90.58.190, 34.05.461, 36.70A.440, 36.70A.065,
10 36.70A.065, 43.21C.033, 35.63.130, 35A.63.170, 36.70.970, 58.17.090,
11 58.17.092, 58.17.100, 58.17.330, 7.16.360, and 58.17.180; reenacting
12 and amending RCW 36.70A.030 and 36.70A.290; adding new sections to
13 chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; adding
14 a new section to chapter 64.40 RCW; adding new sections to chapter
15 43.131 RCW; adding a new section to chapter 4.84 RCW; adding new
16 chapters to Title 36 RCW; adding a new chapter to Title 90 RCW; adding
17 a new chapter to Title 82 RCW; creating new sections; recodifying RCW
18 36.70A.065 and 36.70A.440; repealing RCW 90.58.145, 90.62.010,
19 90.62.020, 90.62.030, 90.62.040, 90.62.050, 90.62.060, 90.62.070,
20 90.62.080, 90.62.090, 90.62.100, 90.62.110, 90.62.120, 90.62.130,
21 90.62.900, 90.62.901, 90.62.904, 90.62.905, 90.62.906, 90.62.907, and
22 90.62.908; providing effective dates; providing expiration dates; and
23 declaring an emergency."

--- END ---