

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1724**

54th Legislature  
1995 Regular Session

Passed by the House April 23, 1995  
Yeas 94 Nays 0

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**Speaker of the  
House of Representatives**

Passed by the Senate April 11, 1995  
Yeas 44 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1724** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1724**

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AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

**State of Washington                      54th Legislature                      1995 Regular Session**

**By** House Committee on Government Operations (originally sponsored by Representatives Reams, Rust, L. Thomas, Goldsmith, Ogden, Patterson, Poulsen, Scott, Regala, Mastin, Valle and Chopp; by request of Governor Lowry)

Read first time 03/01/95.

1            AN ACT Relating to implementing the recommendations of the  
2 governor's task force on regulatory reform on integrating growth  
3 management planning and environmental review; amending RCW 36.70A.130,  
4 36.70A.140, 36.70A.280, 36.70A.300, 36.70A.320, 36.70A.330, 34.05.514,  
5 43.21C.031, 43.21C.075, 43.21C.080, 43.21C.110, 43.21C.900, 90.58.020,  
6 90.58.030, 90.58.050, 90.58.060, 90.58.080, 90.58.090, 90.58.100,  
7 90.58.120, 90.58.140, 90.58.180, 90.58.190, 34.05.461, 36.70A.440,  
8 36.70A.065, 36.70A.065, 43.21C.033, 35.63.130, 35A.63.170, 36.70.970,  
9 58.17.090, 58.17.092, 58.17.100, 58.17.330, 7.16.360, and 58.17.180;  
10 reenacting and amending RCW 36.70A.030 and 36.70A.290; adding new  
11 sections to chapter 36.70A RCW; adding a new section to chapter 43.21C  
12 RCW; adding a new section to chapter 64.40 RCW; adding new sections to  
13 chapter 43.131 RCW; adding a new section to chapter 4.84 RCW; adding  
14 new chapters to Title 36 RCW; adding a new chapter to Title 90 RCW;  
15 adding a new chapter to Title 82 RCW; creating new sections;  
16 recodifying RCW 36.70A.065 and 36.70A.440; repealing RCW 90.58.145,  
17 90.62.010, 90.62.020, 90.62.030, 90.62.040, 90.62.050, 90.62.060,  
18 90.62.070, 90.62.080, 90.62.090, 90.62.100, 90.62.110, 90.62.120,  
19 90.62.130, 90.62.900, 90.62.901, 90.62.904, 90.62.905, 90.62.906,  
20 90.62.907, and 90.62.908; providing effective dates; providing  
21 expiration dates; and declaring an emergency.



1 process for applicants, citizens, or agency staff to ensure that these  
2 improvements are considered in the plan review process. The  
3 legislature also finds that in the past environmental review and  
4 permitting of proposed projects have been used to reopen and make land  
5 use planning decisions that should have been made through the  
6 comprehensive planning process, in part because agency staff and  
7 hearing examiners have not been able to ensure consideration of all  
8 issues in the local planning process. The legislature further finds  
9 that, while plans and regulations should be improved and refined over  
10 time, it is unfair to penalize applicants that have submitted permit  
11 applications that meet current requirements. It is the intent of the  
12 legislature in enacting section 102 of this act to establish a means by  
13 which cities and counties will docket suggested plan or development  
14 regulation amendments and ensure their consideration during the  
15 planning process.

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

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

24 (a) The permitting process shall not be used as a comprehensive  
25 planning process;

26 (b) Project review shall continue; and

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

29 (2) Each county and city planning under RCW 36.70A.040 shall  
30 include in its development regulations a procedure for any interested  
31 person, including applicants, citizens, hearing examiners, and staff of  
32 other agencies, to suggest plan or development regulation amendments.  
33 The suggested amendments shall be docketed and considered on at least  
34 an annual basis, consistent with the provisions of RCW 36.70A.130.

35 (3) For purposes of this section, a deficiency in a comprehensive  
36 plan or development regulation refers to the absence of required or  
37 potentially desirable contents of a comprehensive plan or development  
38 regulation. It does not refer to whether a development regulation

1 addresses a project's probable specific adverse environmental impacts  
2 which the permitting agency could mitigate in the normal project review  
3 process.

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

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

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

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

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

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

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

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

35 (~~(7) ((For purposes of RCW 36.70A.065 and 36.70A.440, "development~~  
36 ~~permit application" means any application for a development proposal~~  
37 ~~for a use that could be permitted under a plan adopted pursuant to this~~  
38 ~~chapter and is consistent with the underlying land use and zoning,~~

1 including but not limited to building permits, subdivisions, binding  
2 site plans, planned unit developments, conditional uses or other  
3 applications pertaining to land uses, but shall not include rezones,  
4 proposed amendments to comprehensive plans or the adoption or amendment  
5 of development regulations.

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

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

30 ~~((10))~~) (9) "Geologically hazardous areas" means areas that  
31 because of their susceptibility to erosion, sliding, earthquake, or  
32 other geological events, are not suited to the siting of commercial,  
33 residential, or industrial development consistent with public health or  
34 safety concerns.

35 ~~((11))~~) (10) "Long-term commercial significance" includes the  
36 growing capacity, productivity, and soil composition of the land for  
37 long-term commercial production, in consideration with the land's  
38 proximity to population areas, and the possibility of more intense  
39 uses of the land.

1       (~~(12)~~) (11) "Minerals" include gravel, sand, and valuable  
2 metallic substances.

3       (~~(13)~~) (12) "Public facilities" include streets, roads, highways,  
4 sidewalks, street and road lighting systems, traffic signals, domestic  
5 water systems, storm and sanitary sewer systems, parks and recreational  
6 facilities, and schools.

7       (~~(14)~~) (13) "Public services" include fire protection and  
8 suppression, law enforcement, public health, education, recreation,  
9 environmental protection, and other governmental services.

10       (~~(15)~~) (14) "Urban growth" refers to growth that makes intensive  
11 use of land for the location of buildings, structures, and impermeable  
12 surfaces to such a degree as to be incompatible with the primary use of  
13 such land for the production of food, other agricultural products, or  
14 fiber, or the extraction of mineral resources. When allowed to spread  
15 over wide areas, urban growth typically requires urban governmental  
16 services. "Characterized by urban growth" refers to land having urban  
17 growth located on it, or to land located in relationship to an area  
18 with urban growth on it as to be appropriate for urban growth.

19       (~~(16)~~) (15) "Urban growth areas" means those areas designated by  
20 a county pursuant to RCW 36.70A.110.

21       (~~(17)~~) (16) "Urban governmental services" include those  
22 governmental services historically and typically delivered by cities,  
23 and include storm and sanitary sewer systems, domestic water systems,  
24 street cleaning services, fire and police protection services, public  
25 transit services, and other public utilities associated with urban  
26 areas and normally not associated with nonurban areas.

27       (~~(18)~~) (17) "Wetland" or "wetlands" means areas that are  
28 inundated or saturated by surface water or ground water at a frequency  
29 and duration sufficient to support, and that under normal circumstances  
30 do support, a prevalence of vegetation typically adapted for life in  
31 saturated soil conditions. Wetlands generally include swamps, marshes,  
32 bogs, and similar areas. Wetlands do not include those artificial  
33 wetlands intentionally created from nonwetland sites, including, but  
34 not limited to, irrigation and drainage ditches, grass-lined swales,  
35 canals, detention facilities, wastewater treatment facilities, farm  
36 ponds, and landscape amenities. (~~However,~~) Wetlands may include  
37 those artificial wetlands intentionally created from nonwetland areas  
38 created to mitigate conversion of wetlands(~~(, if permitted by the~~  
39 ~~county or city)~~)).

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

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

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

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

18        (1) In designating and protecting critical areas under this  
19 chapter, counties and cities shall include the best available science  
20 in developing policies and development regulations to protect the  
21 functions and values of critical areas. In addition, counties and  
22 cities shall give special consideration to conservation or protection  
23 measures necessary to preserve or enhance anadromous fisheries.

24        (2) If it determines that advice from scientific or other experts  
25 is necessary or will be of substantial assistance in reaching its  
26 decision, a growth management hearings board may retain scientific or  
27 other expert advice to assist in reviewing a petition under RCW  
28 36.70A.290 that involves critical areas.

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

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

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

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

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

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

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

17 (3) Each county that designates urban growth areas under RCW  
18 36.70A.110 shall review, at least every ten years, its designated urban  
19 growth area or areas, and the densities permitted within both the  
20 incorporated and unincorporated portions of each urban growth area. In  
21 conjunction with this review by the county, each city located within an  
22 urban growth area shall review the densities permitted within its  
23 boundaries, and the extent to which the urban growth occurring within  
24 the county has located within each city and the unincorporated portions  
25 of the urban growth areas. The county comprehensive plan designating  
26 urban growth areas, and the densities permitted in the urban growth  
27 areas by the comprehensive plans of the county and each city located  
28 within the urban growth areas, shall be revised to accommodate the  
29 urban growth projected to occur in the county for the succeeding  
30 twenty-year period.

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

33 Each county and city that is required or chooses to plan under RCW  
34 36.70A.040 shall establish and broadly disseminate to the public a  
35 public participation program identifying procedures providing for early  
36 and continuous public participation in the development and amendment of  
37 comprehensive land use plans and development regulations implementing  
38 such plans. The procedures shall provide for broad dissemination of

1 proposals and alternatives, opportunity for written comments, public  
2 meetings after effective notice, provision for open discussion,  
3 communication programs, information services, and consideration of and  
4 response to public comments. In enacting legislation in response to  
5 the board's decision pursuant to RCW 36.70A.300 declaring part or all  
6 of a comprehensive plan or development regulation invalid, the county  
7 or city shall provide for public participation that is appropriate and  
8 effective under the circumstances presented by the board's order.  
9 Errors in exact compliance with the established program and procedures  
10 shall not render the comprehensive land use plan or development  
11 regulations invalid if the spirit of the program and procedures is  
12 observed.

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

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

17 (a) That a state agency, county, or city planning under this  
18 chapter is not in compliance with the requirements of this chapter,  
19 chapter 90.58 RCW as it relates to the adoption of shoreline master  
20 programs or amendments thereto, or chapter 43.21C RCW as it relates to  
21 plans, development regulations, or amendments, adopted under RCW  
22 36.70A.040 or chapter 90.58 RCW; or

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

26 (2) A petition may be filed only by the state, a county or city  
27 that plans under this chapter, a person who has either appeared before  
28 the county or city regarding the matter on which a review is being  
29 requested or is certified by the governor within sixty days of filing  
30 the request with the board, or a person qualified pursuant to RCW  
31 34.05.530.

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

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

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

4 If adjusted by a board, a county growth management planning  
5 population projection shall only be used for the planning purposes set  
6 forth in this chapter and shall be known as a "board adjusted  
7 population projection". None of these changes shall affect the  
8 official state and county population forecasts prepared by the office  
9 of financial management, which shall continue to be used for state  
10 budget and planning purposes.

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

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

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

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

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

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

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

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

5 (3) Unless the board dismisses the petition as frivolous or finds  
6 that the person filing the petition lacks standing, the board shall,  
7 within ten days of receipt of the petition, set a time for hearing the  
8 matter.

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

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

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

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

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

4       (a) Includes a determination, supported by findings of fact and  
5 conclusions of law, that the continued validity of the plan or  
6 regulation would substantially interfere with the fulfillment of the  
7 goals of this chapter; and

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

11       (3) A determination of invalidity shall:

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

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

20       (4) If the ordinance that adopts a plan or development regulation  
21 under this chapter includes a savings clause intended to revive prior  
22 policies or regulations in the event the new plan or regulations are  
23 determined to be invalid, the board shall determine under subsection  
24 (2) of this section whether the prior policies or regulations are valid  
25 during the period of remand.

26       (5) Any party aggrieved by a final decision of the hearings board  
27 may appeal the decision to ((Thurston county)) superior court as  
28 provided in RCW 34.05.514 or 36.01.050 within thirty days of the final  
29 order of the board.

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

32       (1) Except as provided in subsection (2) of this section,  
33 comprehensive plans and development regulations, and amendments  
34 thereto, adopted under this chapter are presumed valid upon adoption.  
35 In any petition under this chapter, the board, after full consideration  
36 of the petition, shall determine whether there is compliance with the  
37 requirements of this chapter. In making its determination, the board  
38 shall consider the criteria adopted by the department under RCW

1 36.70A.190(4). The board shall find compliance unless it finds by a  
2 preponderance of the evidence that the state agency, county, or city  
3 erroneously interpreted or applied this chapter.

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

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

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

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

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

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

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

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

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

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

3       (1) Except as provided in subsection (2) of this section (~~and RCW~~  
4 ~~36.70A.300(3)~~), proceedings for review under this chapter shall be  
5 instituted by filing a petition in the superior court, at the  
6 petitioner's option, for (a) Thurston county, (b) the county of the  
7 petitioner's residence or principal place of business, or (c) in any  
8 county where the property owned by the petitioner and affected by the  
9 contested decision is located.

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

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

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

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

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

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

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

32       (f) Detailed environmental analysis integrated with comprehensive  
33 plans, subarea plans, and development regulations will facilitate  
34 planning for and managing growth, allow greater protection of the  
35 environment, and benefit both the general public and private property  
36 owners.

37       (2) In order to provide financial assistance to cities and counties  
38 planning under chapter 36.70A RCW and to improve the usefulness of

1 plans and integrated environmental analyses, the legislature has  
2 created the fund described in section 115 of this act.

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

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

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

15 (1) The department of community, trade, and economic development  
16 shall provide management services for the fund created by section 115  
17 of this act. The department by rule shall establish procedures for  
18 fund management.

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

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

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

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

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

36 (d) Be making substantial progress towards compliance with the  
37 requirements of this chapter. A county or city that is more than six

1 months out of compliance with a requirement of this chapter is deemed  
2 not to be making substantial progress towards compliance; and

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

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

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

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

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

14 (d) Programs for effective citizen and neighborhood involvement  
15 that contribute to greater certainty that planning decisions will be  
16 implemented; and

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

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

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

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

27 (a) Comprehensive plans and development regulations adopted by  
28 counties, cities, and towns under chapter 36.70A RCW and environmental  
29 laws and rules adopted by the state and federal government have  
30 addressed a wide range of environmental subjects and impacts. These  
31 plans, regulations, rules, and laws often provide environmental  
32 analysis and mitigation measures for project actions without the need  
33 for an environmental impact statement or further project mitigation.

34 (b) Existing plans, regulations, rules, or laws provide  
35 environmental analysis and measures that avoid or otherwise mitigate  
36 the probable specific adverse environmental impacts of proposed

1 projects should be integrated with, and should not be duplicated by,  
2 environmental review under chapter 43.21C RCW.

3 (c) Proposed projects should continue to receive environmental  
4 review, which should be conducted in a manner that is integrated with  
5 and does not duplicate other requirements. Project-level environmental  
6 review should be used to: (i) Review and document consistency with  
7 comprehensive plans and development regulations; (ii) provide prompt  
8 and coordinated review by government agencies and the public on  
9 compliance with applicable environmental laws and plans, including  
10 mitigation for specific project impacts that have not been considered  
11 and addressed at the plan or development regulation level; and (iii)  
12 ensure accountability by local government to applicants and the public  
13 for requiring and implementing mitigation measures.

14 (d) When a project permit application is filed, an agency should  
15 analyze the proposal's environmental impacts, as required by applicable  
16 regulations and the environmental review process required by this  
17 chapter, in one project review process. The project review process  
18 should include land use, environmental, public, and governmental  
19 review, as provided by the applicable regulations and the rules adopted  
20 under this chapter, so that documents prepared under different  
21 requirements can be reviewed together by the public and other agencies.  
22 This project review will provide an agency with the information  
23 necessary to make a decision on the proposed project.

24 (e) Through this project review process: (i) If the applicable  
25 regulations require studies that adequately analyze all of the  
26 project's specific probable adverse environmental impacts, additional  
27 studies under this chapter will not be necessary on those impacts; (ii)  
28 if the applicable regulations require measures that adequately address  
29 such environmental impacts, additional measures would likewise not be  
30 required under this chapter; and (iii) if the applicable regulations do  
31 not adequately analyze or address a proposal's specific probable  
32 adverse environmental impacts, this chapter provides the authority and  
33 procedures for additional review.

34 (2) The legislature intends that a primary role of environmental  
35 review under chapter 43.21C RCW is to focus on the gaps and overlaps  
36 that may exist in applicable laws and requirements related to a  
37 proposed action. The review of project actions conducted by counties,  
38 cities, and towns planning under RCW 36.70A.040 should integrate  
39 environmental review with project review. Chapter 43.21C RCW should

1 not be used as a substitute for other land use planning and  
2 environmental requirements.

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

5 (1) If the requirements of subsection (2) of this section are  
6 satisfied, a county, city, or town reviewing a project action may  
7 determine that the requirements for environmental analysis, protection,  
8 and mitigation measures in the county, city, or town's development  
9 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
10 and in other applicable local, state, or federal laws and rules provide  
11 adequate analysis of and mitigation for the specific adverse  
12 environmental impacts of the project action to which the requirements  
13 apply.

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

16 (a) In the course of project review, including any required  
17 environmental analysis, the local government considers the specific  
18 probable adverse environmental impacts of the proposed action and  
19 determines that these specific impacts are adequately addressed by the  
20 development regulations or other applicable requirements of the  
21 comprehensive plan, subarea plan element of the comprehensive plan, or  
22 other local, state, or federal rules or laws; and

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

25 (3) If a county, city, or town's comprehensive plans, subarea  
26 plans, and development regulations adequately address a project's  
27 probable specific adverse environmental impacts, as determined under  
28 subsections (1) and (2) of this section, the county, city, or town  
29 shall not impose additional mitigation under this chapter during  
30 project review. Project review shall be integrated with environmental  
31 analysis under this chapter.

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

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

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

5 (5) In deciding whether a specific adverse environmental impact has  
6 been addressed by an existing rule or law of another agency with  
7 jurisdiction with environmental expertise with regard to a specific  
8 environmental impact, the county, city, or town shall consult orally  
9 or in writing with that agency and may expressly defer to that agency.  
10 In making this deferral, the county, city, or town shall base or  
11 condition its project approval on compliance with these other existing  
12 rules or laws.

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

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

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

21 (1) An environmental impact statement (the detailed statement  
22 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for  
23 legislation and other major actions having a probable significant,  
24 adverse environmental impact. The environmental impact statement may  
25 be combined with the recommendation or report on the proposal or issued  
26 as a separate document. The substantive decisions or recommendations  
27 shall be clearly identifiable in the combined document. Actions  
28 categorically exempt under RCW 43.21C.110(1)(a) do not require  
29 environmental review or the preparation of an environmental impact  
30 statement under this chapter. In a county, city, or town planning  
31 under RCW 36.70A.040, a planned action, as provided for in subsection  
32 (2) of this section, does not require a threshold determination or the  
33 preparation of an environmental impact statement under this chapter,  
34 but is subject to environmental review and mitigation as provided in  
35 this chapter.

36 An environmental impact statement is required to analyze only those  
37 probable adverse environmental impacts which are significant.  
38 Beneficial environmental impacts may be discussed. The responsible

1 official shall consult with agencies and the public to identify such  
2 impacts and limit the scope of an environmental impact statement. The  
3 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate  
4 sections of an environmental impact statement. Discussions of  
5 significant short-term and long-term environmental impacts, significant  
6 irrevocable commitments of natural resources, significant alternatives  
7 including mitigation measures, and significant environmental impacts  
8 which cannot be mitigated should be consolidated or included, as  
9 applicable, in those sections of an environmental impact statement  
10 where the responsible official decides they logically belong.

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

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

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

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

22 (iv) Are located within an urban growth area, as defined in RCW  
23 36.70A.030;

24 (v) Are not essential public facilities, as defined in RCW  
25 36.70A.200; and

26 (vi) Are consistent with a comprehensive plan adopted under chapter  
27 36.70A RCW.

28 (b) A county, city, or town shall limit planned actions to certain  
29 types of development or to specific geographical areas that are less  
30 extensive than the jurisdictional boundaries of the county, city, or  
31 town and may limit a planned action to a time period identified in the  
32 environmental impact statement or the ordinance or resolution adopted  
33 under this subsection.

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

36 (1) Because a major purpose of this chapter is to combine  
37 environmental considerations with public decisions, any appeal brought  
38 under this chapter shall be linked to a specific governmental action.

1 The State Environmental Policy Act provides a basis for challenging  
2 whether governmental action is in compliance with the substantive and  
3 procedural provisions of this chapter. The State Environmental Policy  
4 Act is not intended to create a cause of action unrelated to a specific  
5 governmental action.

6 (2) Unless otherwise provided by this section:

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

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

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

14 (a) Shall not allow more than one agency appeal proceeding on a  
15 procedural determination (the adequacy of a determination of  
16 significance/nonsignificance or of a final environmental impact  
17 statement)~~((, consistent with any state statutory requirements for  
18 appeals to local legislative bodies))~~. The appeal proceeding on a  
19 determination of significance~~((/nonsignificance))~~ may occur before the  
20 agency's final decision on a proposed action. The appeal proceeding on  
21 a determination of nonsignificance may occur before the agency's final  
22 decision on a proposed action only if the appeal is heard at a  
23 proceeding where the hearing body or officer will render a final  
24 recommendation or decision on the proposed underlying governmental  
25 action. Such ~~((an))~~ appeals shall also be allowed for a determination  
26 of significance/nonsignificance which may be issued by the agency after  
27 supplemental review;

28 (b) Shall consolidate an appeal of procedural issues and of  
29 substantive determinations made under this chapter (such as a decision  
30 to require particular mitigation measures or to deny a proposal) with  
31 a hearing or appeal on the underlying governmental action by providing  
32 for a single simultaneous ((~~appeal of an~~) hearing before one hearing  
33 officer or body to consider the agency decision on a proposal and any  
34 environmental determinations made under this chapter, with the  
35 exception of the ~~((threshold determination))~~ appeal, if any, of a  
36 determination of significance as provided in (a) of this subsection or  
37 an appeal to the local legislative authority under RCW 43.21C.060 or  
38 other applicable state statutes;

1 (c) Shall provide for the preparation of a record for use in any  
2 subsequent appeal proceedings, and shall provide for any subsequent  
3 appeal proceedings to be conducted on the record, consistent with other  
4 applicable law. An adequate record consists of findings and  
5 conclusions, testimony under oath, and taped or written transcript. An  
6 electronically recorded transcript will suffice for purposes of review  
7 under this subsection; and

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

10 (4) If a person aggrieved by an agency action has the right to  
11 judicial appeal and if an agency has an appeal procedure, such person  
12 shall, prior to seeking any judicial review, use such agency procedure  
13 if any such procedure is available, unless expressly provided otherwise  
14 by state statute.

15 (5) (~~RCW 43.21C.080 establishes an optional "notice of action"~~  
16 ~~procedure which, if used, imposes a time period for appealing decisions~~  
17 ~~under this chapter.~~) Some statutes and ordinances contain time  
18 periods for challenging governmental actions which are subject to  
19 review under this chapter, such as various local land use approvals  
20 (the "underlying governmental action"). RCW 43.21C.080 establishes an  
21 optional "notice of action" procedure which, if used, imposes a time  
22 period for appealing decisions under this chapter. This ((~~section~~))  
23 subsection does not modify any such time periods. ((~~This section~~  
24 ~~governs when a judicial appeal must be brought under this chapter where~~  
25 ~~a "notice of action" is used, and/or where there is another time period~~  
26 ~~which is required by statute or ordinance for challenging the~~  
27 ~~underlying governmental action.~~)) In this subsection, the term "appeal"  
28 refers to a judicial appeal only.

29 (a) If there is a time period for appealing the underlying  
30 governmental action, appeals under this chapter shall be commenced  
31 within ((~~thirty days~~)) such time period. The agency shall give  
32 official notice stating the date and place for commencing an appeal.  
33 ((~~If there is an agency proceeding under subsection (3) of this~~  
34 ~~section, the appellant shall, prior to commencing a judicial appeal,~~  
35 ~~submit to the responsible official a notice of intent to commence a~~  
36 ~~judicial appeal. This notice of intent shall be given within the time~~  
37 ~~period for commencing a judicial appeal on the underlying governmental~~  
38 ~~action.~~))

1       (b) If there is no time period for appealing the underlying  
2 governmental action, and a notice of action under RCW 43.21C.080 (~~may~~  
3 ~~be used. If a notice of action~~) is used, (~~judicial~~) appeals shall  
4 be commenced within the time period specified by RCW 43.21C.080(~~7~~  
5 ~~unless there is a time period for appealing the underlying governmental~~  
6 ~~action in which case (a) of this subsection shall apply.~~

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

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

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

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

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

1 sole jurisdiction over both the appeal under this section and the  
2 appeal under chapter 90.58 RCW, shall consider them together, and shall  
3 issue a final order within one hundred eighty days as provided in RCW  
4 90.58.180.

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

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

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

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

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

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

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

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

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

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

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

30 ~~((b) Any action to challenge a subsequent governmental action~~  
31 ~~based upon any provisions of this chapter shall be commenced within~~  
32 ~~thirty days from the date of last newspaper publication of the~~  
33 ~~subsequent governmental action except (i) for projects to be performed~~  
34 ~~by a governmental agency or to be performed under governmental~~  
35 ~~contract, or (ii) for thermal power plant projects which shall be~~  
36 ~~challenged within ninety days from the date of last newspaper~~  
37 ~~publication of the subsequent governmental action, or be barred.~~

38 ~~(3) The form for such notice of action shall be issued by the~~  
39 ~~department of ecology and shall be made available by the governmental~~

1 agency taking an action subject to being publicized pursuant to this  
2 section, by the county auditor, and/or the city clerk to the project  
3 applicant or proposer. The form of such notice shall be substantially  
4 as follows:

5 NOTICE OF ACTION BY

6 \_\_\_\_\_  
7 (Government agency or entity)

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

10 The \_\_\_\_\_ (Government agency or entity) did on  
11 \_\_\_\_\_ (date), take the action described below.

12 Any action to set aside, enjoin, review, or otherwise challenge  
13 such action on the grounds of noncompliance with the provisions of  
14 chapter 43.21C RCW (State Environmental Policy Act) shall be commenced  
15 within \_\_\_\_\_ days or be barred.

16 The action taken by \_\_\_\_\_ (Government agency or  
17 entity), notice of which is hereby given, was as follows:

18 (1) \_\_\_\_\_ (Here insert description of action taken such  
19 as: Adoption Ordinance No. \_\_\_\_\_; Issued Building Permit; Approved  
20 preliminary (or final) plat, etc.)

21 (2) \_\_\_\_\_ (Here insert brief description of the  
22 complete project or proposal.)

23 (3) Said action pertained to property commonly known as:  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 (Sufficient description to locate property, but complete legal  
29 description not required)

30 (4) Pertinent documents may be examined during regular business  
31 hours at the office of: \_\_\_\_\_ located at:  
32 \_\_\_\_\_  
33 (Location, including room number)

34 \_\_\_\_\_  
35 (Name of government agency, proponent, or applicant giving notice)

36 Filed by \_\_\_\_\_  
37 (Signature of individual and capacity in which such individual is  
38 signing)))

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

3       It shall be the duty and function of the department of ecology(~~(7~~  
4 ~~which may utilize proposed rules developed by the environmental policy~~  
5 ~~commission))):~~

6       (1) To adopt and amend thereafter rules of interpretation and  
7 implementation of this chapter (~~((the state environmental policy act of~~  
8 ~~1971))~~), subject to the requirements of chapter 34.05 RCW, for the  
9 purpose of providing uniform rules and guidelines to all branches of  
10 government including state agencies, political subdivisions, public and  
11 municipal corporations, and counties. The proposed rules shall be  
12 subject to full public hearings requirements associated with rule  
13 promulgation. Suggestions for modifications of the proposed rules  
14 shall be considered on their merits, and the department shall have the  
15 authority and responsibility for full and appropriate independent  
16 promulgation and adoption of rules, assuring consistency with this  
17 chapter as amended and with the preservation of protections afforded by  
18 this chapter. The rule making powers authorized in this section shall  
19 include, but shall not be limited to, the following phases of  
20 interpretation and implementation of this chapter (~~((the state~~  
21 ~~environmental policy act of 1971))~~):

22       (a) Categories of governmental actions which are not to be  
23 considered as potential major actions significantly affecting the  
24 quality of the environment, including categories pertaining to  
25 applications for water right permits pursuant to chapters 90.03 and  
26 90.44 RCW. The types of actions included as categorical exemptions in  
27 the rules shall be limited to those types which are not major actions  
28 significantly affecting the quality of the environment. The rules  
29 shall provide for certain circumstances where actions which potentially  
30 are categorically exempt require environmental review. An action that  
31 is categorically exempt under the rules adopted by the department may  
32 not be conditioned or denied under this chapter.

33       (b) Rules for criteria and procedures applicable to the  
34 determination of when an act of a branch of government is a major  
35 action significantly affecting the quality of the environment for which  
36 a detailed statement is required to be prepared pursuant to RCW  
37 43.21C.030.

38       (c) Rules and procedures applicable to the preparation of detailed  
39 statements and other environmental documents, including but not limited

1 to rules for timing of environmental review, obtaining comments, data  
2 and other information, and providing for and determining areas of  
3 public participation which shall include the scope and review of draft  
4 environmental impact statements.

5 (d) Scope of coverage and contents of detailed statements assuring  
6 that such statements are simple, uniform, and as short as practicable;  
7 statements are required to analyze only reasonable alternatives and  
8 probable adverse environmental impacts which are significant, and may  
9 analyze beneficial impacts.

10 (e) Rules and procedures for public notification of actions taken  
11 and documents prepared.

12 (f) Definition of terms relevant to the implementation of this  
13 chapter including the establishment of a list of elements of the  
14 environment. Analysis of environmental considerations under RCW  
15 43.21C.030(2) may be required only for those subjects listed as  
16 elements of the environment (or portions thereof). The list of  
17 elements of the environment shall consist of the "natural" and "built"  
18 environment. The elements of the built environment shall consist of  
19 public services and utilities (such as water, sewer, schools, fire and  
20 police protection), transportation, environmental health (such as  
21 explosive materials and toxic waste), and land and shoreline use  
22 (including housing, and a description of the relationships with land  
23 use and shoreline plans and designations, including population).

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

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

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

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

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

38 (l) Rules relating to the use of environmental documents in  
39 planning and decision making and the implementation of the substantive

1 policies and requirements of this chapter, including procedures for  
2 appeals under this chapter.

3 (m) Rules and procedures that provide for the integration of  
4 environmental review with project review as provided in section 202 of  
5 this act. The rules and procedures shall be jointly developed with the  
6 department of community, trade, and economic development and shall be  
7 applicable to the preparation of environmental documents for actions in  
8 counties, cities, and towns planning under RCW 36.70A.040. The rules  
9 and procedures shall also include criteria to analyze the consistency  
10 of project actions, including planned actions under RCW 43.21C.031(2),  
11 with development regulations adopted under chapter 36.70A RCW, or in  
12 the absence of applicable development regulations, the appropriate  
13 elements of a comprehensive plan or subarea plan adopted under chapter  
14 36.70A RCW. Ordinances or procedures adopted by a county, city, or  
15 town to implement the provisions of section 202 of this act prior to  
16 the effective date of rules adopted under this subsection (1)(m) shall  
17 continue to be effective until the adoption of any new or revised  
18 ordinances or procedures that may be required. If any revisions are  
19 required as a result of rules adopted under this subsection (1)(m),  
20 those revisions shall be made within the time limits specified in RCW  
21 43.21C.120.

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

24 (a) Consult with the state agencies and with representatives of  
25 science, industry, agriculture, labor, conservation organizations,  
26 state and local governments and other groups, as it deems advisable;  
27 and

28 (b) Utilize, to the fullest extent possible, the services,  
29 facilities, and information (including statistical information) of  
30 public and private agencies, organizations, and individuals, in order  
31 to avoid duplication of effort and expense, overlap, or conflict with  
32 similar activities authorized by law and performed by established  
33 agencies.

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

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

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

3 **PART III - SHORELINE MANAGEMENT ACT**

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

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

24 It is the policy of the state to provide for the management of the  
25 shorelines of the state by planning for and fostering all reasonable  
26 and appropriate uses. This policy is designed to insure the  
27 development of these shorelines in a manner which, while allowing for  
28 limited reduction of rights of the public in the navigable waters, will  
29 promote and enhance the public interest. This policy contemplates  
30 protecting against adverse effects to the public health, the land and  
31 its vegetation and wildlife, and the waters of the state and their  
32 aquatic life, while protecting generally public rights of navigation  
33 and corollary rights incidental thereto.

34 The legislature declares that the interest of all of the people  
35 shall be paramount in the management of shorelines of state-wide  
36 significance. The department, in adopting guidelines for shorelines of  
37 state-wide significance, and local government, in developing master

1 programs for shorelines of state-wide significance, shall give  
2 preference to uses in the following order of preference which:

3 (1) Recognize and protect the state-wide interest over local  
4 interest;

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

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

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

8 (5) Increase public access to publicly owned areas of the  
9 shorelines;

10 (6) Increase recreational opportunities for the public in the  
11 shoreline;

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

14 In the implementation of this policy the public's opportunity to  
15 enjoy the physical and aesthetic qualities of natural shorelines of the  
16 state shall be preserved to the greatest extent feasible consistent  
17 with the overall best interest of the state and the people generally.  
18 To this end uses shall be preferred which are consistent with control  
19 of pollution and prevention of damage to the natural environment, or  
20 are unique to or dependent upon use of the state's shoreline.  
21 Alterations of the natural condition of the shorelines of the state, in  
22 those limited instances when authorized, shall be given priority for  
23 single family residences and their appurtenant structures, ports,  
24 shoreline recreational uses including but not limited to parks,  
25 marinas, piers, and other improvements facilitating public access to  
26 shorelines of the state, industrial and commercial developments which  
27 are particularly dependent on their location on or use of the  
28 shorelines of the state and other development that will provide an  
29 opportunity for substantial numbers of the people to enjoy the  
30 shorelines of the state. Alterations of the natural condition of the  
31 shorelines and ((~~wetlands~~)) shorelands of the state shall be recognized  
32 by the department. Shorelines and ((~~wetlands~~)) shorelands of the state  
33 shall be appropriately classified and these classifications shall be  
34 revised when circumstances warrant regardless of whether the change in  
35 circumstances occurs through man-made causes or natural causes. Any  
36 areas resulting from alterations of the natural condition of the  
37 shorelines and ((~~wetlands~~)) shorelands of the state no longer meeting  
38 the definition of "shorelines of the state" shall not be subject to the  
39 provisions of chapter 90.58 RCW.

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

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

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

9 (1) Administration:

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

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

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

15 (d) "Person" means an individual, partnership, corporation,  
16 association, organization, cooperative, public or municipal  
17 corporation, or agency of the state or local governmental unit however  
18 designated;

19 (e) "Hearing board" means the shoreline hearings board established  
20 by this chapter.

21 (2) Geographical:

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

24 (b) "Ordinary high water mark" on all lakes, streams, and tidal  
25 water is that mark that will be found by examining the bed and banks  
26 and ascertaining where the presence and action of waters are so common  
27 and usual, and so long continued in all ordinary years, as to mark upon  
28 the soil a character distinct from that of the abutting upland, in  
29 respect to vegetation as that condition exists on June 1, 1971, as it  
30 may naturally change thereafter, or as it may change thereafter in  
31 accordance with permits issued by a local government or the department:  
32 PROVIDED, That in any area where the ordinary high water mark cannot be  
33 found, the ordinary high water mark adjoining salt water shall be the  
34 line of mean higher high tide and the ordinary high water mark  
35 adjoining fresh water shall be the line of mean high water;

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

1 (d) "Shorelines" means all of the water areas of the state,  
2 including reservoirs, and their associated ((wetlands)) shorelands,  
3 together with the lands underlying them; except (i) shorelines of  
4 state-wide significance; (ii) shorelines on segments of streams  
5 upstream of a point where the mean annual flow is twenty cubic feet per  
6 second or less and the wetlands associated with such upstream segments;  
7 and (iii) shorelines on lakes less than twenty acres in size and  
8 wetlands associated with such small lakes;

9 (e) "Shorelines of state-wide significance" means the following  
10 shorelines of the state:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (g) "Floodway" means those portions of the area of a river valley  
14 lying streamward from the outer limits of a watercourse upon which  
15 flood waters are carried during periods of flooding that occur with  
16 reasonable regularity, although not necessarily annually, said floodway  
17 being identified, under normal condition, by changes in surface soil  
18 conditions or changes in types or quality of vegetative ground cover  
19 condition. The floodway shall not include those lands that can  
20 reasonably be expected to be protected from flood waters by flood  
21 control devices maintained by or maintained under license from the  
22 federal government, the state, or a political subdivision of the state;

23 (h) "Wetlands" means areas that are inundated or saturated by  
24 surface water or ground water at a frequency and duration sufficient to  
25 support, and that under normal circumstances do support, a prevalence  
26 of vegetation typically adapted for life in saturated soil conditions.  
27 Wetlands generally include swamps, marshes, bogs, and similar areas.  
28 Wetlands do not include those artificial wetlands intentionally created  
29 from nonwetland sites, including, but not limited to, irrigation and  
30 drainage ditches, grass-lined swales, canals, detention facilities,  
31 wastewater treatment facilities, farm ponds, and landscape amenities.  
32 Wetlands may include those artificial wetlands intentionally created  
33 from nonwetland areas to mitigate the conversion of wetlands.

34 (3) Procedural terms:

35 (a) "Guidelines" means those standards adopted to implement the  
36 policy of this chapter for regulation of use of the shorelines of the  
37 state prior to adoption of master programs. Such standards shall also  
38 provide criteria to local governments and the department in developing  
39 master programs;

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

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

8 (d) "Development" means a use consisting of the construction or  
9 exterior alteration of structures; dredging; drilling; dumping;  
10 filling; removal of any sand, gravel, or minerals; bulkheading; driving  
11 of piling; placing of obstructions; or any project of a permanent or  
12 temporary nature which interferes with the normal public use of the  
13 surface of the waters overlying lands subject to this chapter at any  
14 state of water level;

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

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

23 (ii) Construction of the normal protective bulkhead common to  
24 single family residences;

25 (iii) Emergency construction necessary to protect property from  
26 damage by the elements;

27 (iv) Construction and practices normal or necessary for farming,  
28 irrigation, and ranching activities, including agricultural service  
29 roads and utilities on ~~((wetlands))~~ shorelands, and the construction  
30 and maintenance of irrigation structures including but not limited to  
31 head gates, pumping facilities, and irrigation channels(~~((:—PROVIDED,~~  
32 ~~That))~~). A feedlot of any size, all processing plants, other activities  
33 of a commercial nature, alteration of the contour of the ~~((wetlands))~~  
34 shorelands by leveling or filling other than that which results from  
35 normal cultivation, shall not be considered normal or necessary farming  
36 or ranching activities. A feedlot shall be an enclosure or facility  
37 used or capable of being used for feeding livestock hay, grain, silage,  
38 or other livestock feed, but shall not include land for growing crops

1 or vegetation for livestock feeding and/or grazing, nor shall it  
2 include normal livestock wintering operations;

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

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

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

17 (viii) Operation, maintenance, or construction of canals,  
18 waterways, drains, reservoirs, or other facilities that now exist or  
19 are hereafter created or developed as a part of an irrigation system  
20 for the primary purpose of making use of system waters, including  
21 return flow and artificially stored ground water for the irrigation of  
22 lands;

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

26 (x) Operation and maintenance of any system of dikes, ditches,  
27 drains, or other facilities existing on September 8, 1975, which were  
28 created, developed, or utilized primarily as a part of an agricultural  
29 drainage or diking system((+;

30 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~  
31 ~~(A) the restoration of interim transportation services as may be~~  
32 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~  
33 ~~including, but not limited to, improvements to highways, development of~~  
34 ~~park and ride facilities, and development of ferry terminal facilities~~  
35 ~~until a new or reconstructed Hood Canal bridge is open to traffic; and~~  
36 ~~(B) the reconstruction of a permanent bridge at the site of the~~  
37 ~~original Hood Canal bridge)).~~

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

3       This chapter establishes a cooperative program of shoreline  
4 management between local government and the state. Local government  
5 shall have the primary responsibility for initiating the planning  
6 required by this chapter and administering the regulatory program  
7 consistent with the policy and provisions of this chapter. The  
8 department shall act primarily in a supportive and review capacity with  
9 ~~((primary))~~ an emphasis on providing assistance to local government and  
10 on insuring compliance with the policy and provisions of this chapter.

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

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

17       (a) Development of master programs for regulation of the uses of  
18 shorelines; and

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

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

24       (a) The department shall mail copies of the proposal to all cities,  
25 counties, and federally recognized Indian tribes, and to any other  
26 person who has requested a copy, and shall publish the proposed  
27 guidelines in the Washington state register. Comments shall be  
28 submitted in writing to the department within sixty days from ((receipt  
29 of such proposed guidelines, local governments shall submit to the  
30 department in writing proposed changes, if any, and comments upon the  
31 proposed guidelines.

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

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

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

16        ~~(c) At the conclusion of the public comment period, the department~~  
17 ~~shall review the comments received and modify the proposal consistent~~  
18 ~~with the provisions of this chapter. The proposal shall then be~~  
19 ~~published for adoption pursuant to the provisions of chapter 34.05 RCW.~~

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

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

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

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

36        ~~(2) To)) shall develop or amend, within twenty-four months after~~  
37 ~~the adoption of guidelines as provided in RCW 90.58.060, a master~~  
38 ~~program for regulation of uses of the shorelines of the state~~

1 consistent with the required elements of the guidelines adopted by the  
2 department.

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

5 (1) A master program(~~(s or segments thereof)~~), segment of a master  
6 program, or an amendment to a master program shall become effective  
7 when (~~(adopted or)~~) approved by the department (~~(as appropriate)~~).  
8 Within the time period provided in RCW 90.58.080, each local government  
9 shall have submitted a master program, either totally or by segments,  
10 for all shorelines of the state within its jurisdiction to the  
11 department for review and approval.

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

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

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

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

29 (d) Within thirty days after receipt of the local government  
30 response pursuant to (c) of this subsection, make written findings and  
31 conclusions regarding the consistency of the proposal with the policy  
32 of RCW 90.58.020 and the applicable guidelines, provide a response to  
33 the issues identified in (c) of this subsection, and either approve the  
34 proposal as submitted, recommend specific changes necessary to make the  
35 proposal approvable, or deny approval of the proposal in those  
36 instances where no alteration of the proposal appears likely to be  
37 consistent with the policy of RCW 90.58.020 and the applicable  
38 guidelines. The written findings and conclusions shall be provided to

1 the local government, all interested persons, parties, groups, and  
2 agencies of record on the proposal;

3 (e) If the department recommends changes to the proposed master  
4 program or amendment, within thirty days after the department mails the  
5 written findings and conclusions to the local government, the local  
6 government may:

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

10 (ii) Submit an alternative proposal. If, in the opinion of the  
11 department, the alternative is consistent with the purpose and intent  
12 of the changes originally submitted by the department and with this  
13 chapter it shall approve the changes and provide written notice to all  
14 recipients of the written findings and conclusions. If the department  
15 determines the proposal is not consistent with the purpose and intent  
16 of the changes proposed by the department, the department may resubmit  
17 the proposal for public and agency review pursuant to this section or  
18 reject the proposal.

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

21 (3) The department shall approve the segment of a master program  
22 relating to shorelines unless it determines that the submitted segments  
23 are not consistent with the policy of RCW 90.58.020 and the applicable  
24 guidelines. ((If approval is denied, the department shall state within  
25 ninety days from the date of submission in detail the precise facts  
26 upon which that decision is based, and shall submit to the local  
27 government suggested modifications to the program to make it consistent  
28 with said policy and guidelines. The local government shall have  
29 ninety days after it receives recommendations from the department to  
30 make modifications designed to eliminate the inconsistencies and to  
31 resubmit the program to the department for approval. Any resubmitted  
32 program shall take effect when and in such form and content as is  
33 approved by the department.

34 ~~(2) As to))~~ (4) The department shall approve those segments of the  
35 master program relating to shorelines of state-wide significance ((the  
36 department shall have full authority following review and evaluation of  
37 the submission by local government to develop and adopt an alternative  
38 to the local government's proposal if in the department's opinion the  
39 program submitted does not)) only after determining the program

1 provides the optimum implementation of the policy of this chapter to  
2 satisfy the state-wide interest. (~~If the submission by local~~  
3 ~~government is not approved, the department shall suggest modifications~~  
4 ~~to the local government within ninety days from receipt of the~~  
5 ~~submission. The local government shall have ninety days after it~~  
6 ~~receives said modifications to consider the same and resubmit a master~~  
7 ~~program to the department. Thereafter, the department shall adopt the~~  
8 ~~resubmitted program or, if the department determines that said program~~  
9 ~~does not provide for optimum implementation, it may develop and adopt~~  
10 ~~an alternative as hereinbefore provided.)) If the department does not  
11 approve a segment of a local government master program relating to a  
12 shoreline of state-wide significance, the department may develop and by  
13 rule adopt an alternative to the local government s proposal.~~

14 (~~(+3+))~~ (5) In the event a local government has not complied with  
15 the requirements of RCW 90.58.070 it may thereafter upon written notice  
16 to the department elect to adopt a master program for the shorelines  
17 within its jurisdiction, in which event it shall comply with the  
18 provisions established by this chapter for the adoption of a master  
19 program for such shorelines.

20 Upon approval of such master program by the department it shall  
21 supersede such master program as may have been adopted by the  
22 department for such shorelines.

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

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

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

36 (a) Utilize a systematic interdisciplinary approach which will  
37 insure the integrated use of the natural and social sciences and the  
38 environmental design arts;

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

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

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

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

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

15 (2) The master programs shall include, when appropriate, the  
16 following:

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

21 (b) A public access element making provision for public access to  
22 publicly owned areas;

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

26 (d) A circulation element consisting of the general location and  
27 extent of existing and proposed major thoroughfares, transportation  
28 routes, terminals, and other public utilities and facilities, all  
29 correlated with the shoreline use element;

30 (e) A use element which considers the proposed general distribution  
31 and general location and extent of the use on shorelines and adjacent  
32 land areas for housing, business, industry, transportation,  
33 agriculture, natural resources, recreation, education, public buildings  
34 and grounds, and other categories of public and private uses of the  
35 land;

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

1 (g) An historic, cultural, scientific, and educational element for  
2 the protection and restoration of buildings, sites, and areas having  
3 historic, cultural, scientific, or educational values;

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

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

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

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

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

25 (6) Each master program shall contain standards governing the  
26 protection of single family residences and appurtenant structures  
27 against damage or loss due to shoreline erosion. The standards shall  
28 govern the issuance of substantial development permits for shoreline  
29 protection, including structural methods such as construction of  
30 bulkheads, and nonstructural methods of protection. The standards  
31 shall provide for methods which achieve effective and timely protection  
32 against loss or damage to single family residences and appurtenant  
33 structures due to shoreline erosion. The standards shall provide a  
34 preference for permit issuance for measures to protect single family  
35 residences occupied prior to January 1, 1992, where the proposed  
36 measure is designed to minimize harm to the shoreline natural  
37 environment.

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

3       All rules, regulations, (~~((master programs,))~~) designations, and  
4 guidelines, issued by the department, and master programs and  
5 amendments adopted by the department pursuant to RCW 90.58.070(2) or  
6 90.58.090(4) shall be adopted or approved in accordance with the  
7 provisions of RCW 34.05.310 through 34.05.395 insofar as such  
8 provisions are not inconsistent with the provisions of this chapter.  
9 In addition:

10       (1) Prior to the (~~((approval or))~~) adoption by the department of a  
11 master program, or portion thereof pursuant to RCW 90.58.070(2) or  
12 90.58.090(4), at least one public hearing shall be held in each county  
13 affected by a program or portion thereof for the purpose of obtaining  
14 the views and comments of the public. Notice of each such hearing  
15 shall be published at least once in each of the three weeks immediately  
16 preceding the hearing in one or more newspapers of general circulation  
17 in the county in which the hearing is to be held.

18       (2) All guidelines, regulations, designations, or master programs  
19 adopted or approved under this chapter shall be available for public  
20 inspection at the office of the department or the appropriate county  
21 (~~((auditor))~~) and city (~~((clerk))~~). The terms "adopt" and "approve" for  
22 purposes of this section, shall include modifications and rescission of  
23 guidelines.

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

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

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

33       A permit shall be granted:

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

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

5 (3) The local government shall establish a program, consistent with  
6 rules adopted by the department, for the administration and enforcement  
7 of the permit system provided in this section. The administration of  
8 the system so established shall be performed exclusively by the local  
9 government.

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

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

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

21 ~~((i))~~ (a) Mailing of the notice to the latest recorded real  
22 property owners as shown by the records of the county assessor within  
23 at least three hundred feet of the boundary of the property upon which  
24 the substantial development is proposed;

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

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

30 The notices shall include a statement that any person desiring to  
31 submit written comments concerning an application, or desiring to  
32 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision  
33 concerning an application as expeditiously as possible after the  
34 issuance of the ~~((order))~~ decision, may submit the comments or requests  
35 for ~~((orders))~~ decisions to the local government within thirty days of  
36 the last date the notice is to be published pursuant to ~~((subsection~~  
37 ~~(a) of))~~ this subsection. The local government shall forward, in a  
38 timely manner following the issuance of ~~((an order))~~ a decision, a copy

1 of the ~~((order))~~ decision to each person who submits a request for the  
2 ~~((order))~~ decision.

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

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

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

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

1 the courts, or to alter the substantial development if the alteration  
2 is ultimately ordered by the courts)) until all review proceedings are  
3 final. Construction pursuant to a permit revised at the direction of  
4 the hearings board may begin only on that portion of the substantial  
5 development for which the local government had originally issued the  
6 permit, and construction pursuant to such a revised permit on other  
7 portions of the substantial development may not begin until after all  
8 review proceedings are terminated. In such a hearing before the court,  
9 the burden of proving whether the construction may involve significant  
10 irreversible damage to the environment and demonstrating whether such  
11 construction would or would not be appropriate is on the appellant;

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

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

27 If a permittee begins construction pursuant to subsections (a),  
28 (b), or (c)((~~, or (d)~~)) of this subsection, the construction is begun  
29 at the permittee's own risk. If, as a result of judicial review, the  
30 courts order the removal of any portion of the construction or the  
31 restoration of any portion of the environment involved or require the  
32 alteration of any portion of a substantial development constructed  
33 pursuant to a permit, the permittee is barred from recovering damages  
34 or costs involved in adhering to such requirements from the local  
35 government that granted the permit, the hearings board, or any  
36 appellant or intervener.

37 (6) Any ((~~ruling~~)) decision on an application for a permit under  
38 the authority of this section, whether it is an approval or a denial,  
39 shall, concurrently with the transmittal of the ruling to the

1 applicant, be filed with the department and the attorney general. With  
2 regard to a permit other than a permit governed by subsection ~~((12))~~  
3 (10) of this section, "date of filing" as used herein means the date of  
4 actual receipt by the department. With regard to a permit for a  
5 variance or a conditional use, "date of filing" means the date a  
6 decision of the department rendered on the permit pursuant to  
7 subsection ~~((12))~~ (10) of this section is transmitted by the  
8 department to the local government. The department shall notify in  
9 writing the local government and the applicant of the date of filing.

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

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

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

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

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

38 ~~(b) The development is completed within two years after June 1,~~  
39 ~~1971.~~

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

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

12       ~~((13))~~ (11)(a) An application for a substantial development  
13 permit for a limited utility extension or for the construction of a  
14 bulkhead or other measures to protect a single family residence and its  
15 appurtenant structures from shoreline erosion shall be subject to the  
16 following procedures:

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

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

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

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

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

33       (ii) Will serve an existing use in compliance with this chapter;  
34 and

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

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

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

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

33 (2) The department or the attorney general may obtain review of any  
34 final ~~((order))~~ decision granting a permit, or granting or denying an  
35 application for a permit issued by a local government by filing a  
36 written ~~((request))~~ petition with the shorelines hearings board and the  
37 appropriate local government within ~~((thirty))~~ twenty-one days from the  
38 date the final ~~((order))~~ decision was filed as provided in RCW  
39 90.58.140(6).

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

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

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

- 20 (a) Is clearly erroneous in light of the policy of this chapter; or  
21 (b) Constitutes an implementation of this chapter in violation of  
22 constitutional or statutory provisions; or  
23 (c) Is arbitrary and capricious; or  
24 (d) Was developed without fully considering and evaluating all  
25 material submitted to the department ~~((by the local government))~~ during  
26 public review and comment; or  
27 (e) Was not adopted in accordance with required procedures~~((?))~~.

28 (6) If the board makes a determination under subsection (5) (a)  
29 through (e) of this section, it shall enter a final decision declaring  
30 the rule, regulation, or guideline invalid, remanding the rule,  
31 regulation, or guideline to the department with a statement of the  
32 reasons in support of the determination, and directing the department  
33 to adopt, after a thorough consultation with the affected local  
34 government and any other interested party, a new rule, regulation, or  
35 guideline consistent with the board's decision. ~~((Unless the board~~  
36 ~~makes one or more of the determinations as hereinbefore provided, the~~  
37 ~~board shall find the rule, regulation, or guideline to be valid and~~  
38 ~~enter a final decision to that effect.~~

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

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

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

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

30       (b) If the appeal to the growth management hearings board concerns  
31 shorelines, the growth management hearings board shall review the  
32 proposed master program or amendment for compliance with the  
33 requirements of this chapter and chapter 36.70A RCW, the policy of RCW  
34 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it  
35 relates to the adoption of master programs and amendments under chapter  
36 90.58 RCW.

37       (c) If the appeal to the growth management hearings board concerns  
38 a shoreline of state-wide significance, the board shall uphold the

1 decision by the department unless the board, by clear and convincing  
2 evidence, determines that the decision of the department is  
3 inconsistent with the policy of RCW 90.58.020 and the applicable  
4 guidelines.

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

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

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

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

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

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

36 (e) Whenever possible, the review by the shorelines hearings board  
37 shall be heard within the county where the land subject to the proposed  
38 master program or master program ((adjustment)) amendment is primarily  
39 located. The department and any local government aggrieved by a final

1 decision of the hearings board may appeal the decision to ((the))  
2 superior court ((of Thurston county)) as provided in chapter 34.05 RCW.

3 ((+3)) (4) A master program amendment shall become effective after  
4 the approval of the department or after the decision of the shorelines  
5 hearings board to uphold the master program or master program  
6 ((adjustment)) amendment, provided that the board may remand the master  
7 program or master program adjustment to the local government or the  
8 department for modification prior to the final adoption of the master  
9 program or master program ((adjustment)) amendment.

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

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

13 (a) If the presiding officer is the agency head or one or more  
14 members of the agency head, the presiding officer may enter an initial  
15 order if further review is available within the agency, or a final  
16 order if further review is not available;

17 (b) If the presiding officer is a person designated by the agency  
18 to make the final decision and enter the final order, the presiding  
19 officer shall enter a final order; and

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

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

28 (3) Initial and final orders shall include a statement of findings  
29 and conclusions, and the reasons and basis therefor, on all the  
30 material issues of fact, law, or discretion presented on the record,  
31 including the remedy or sanction and, if applicable, the action taken  
32 on a petition for a stay of effectiveness. Any findings based  
33 substantially on credibility of evidence or demeanor of witnesses shall  
34 be so identified. Findings set forth in language that is essentially  
35 a repetition or paraphrase of the relevant provision of law shall be  
36 accompanied by a concise and explicit statement of the underlying  
37 evidence of record to support the findings. The order shall also  
38 include a statement of the available procedures and time limits for

1 seeking reconsideration or other administrative relief. An initial  
2 order shall include a statement of any circumstances under which the  
3 initial order, without further notice, may become a final order.

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

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

17 (6) If a person serving or designated to serve as presiding officer  
18 becomes unavailable for any reason before entry of the order, a  
19 substitute presiding officer shall be appointed as provided in RCW  
20 34.05.425. The substitute presiding officer shall use any existing  
21 record and may conduct any further proceedings appropriate in the  
22 interests of justice.

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

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

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

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

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

37 **PART IV - LOCAL PERMIT PROCESS**

1        NEW SECTION.    **Sec. 401.**    The legislature finds and declares the  
2 following:

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

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

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

16        NEW SECTION.    **Sec. 402.**    Unless the context clearly requires  
17 otherwise, the definitions in this section apply throughout this  
18 chapter.

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

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

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

35        (4) "Project permit" or "project permit application" means any land  
36 use or environmental permit or license required from a local government  
37 for a project action, including but not limited to building permits,  
38 subdivisions, binding site plans, planned unit developments,

1 conditional uses, shoreline substantial development permits, site plan  
2 review, permits or approvals required by critical area ordinances,  
3 site-specific rezones authorized by a comprehensive plan or subarea  
4 plan, but excluding the adoption or amendment of a comprehensive plan,  
5 subarea plan, or development regulations except as otherwise  
6 specifically included in this subsection.

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

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

23 (1) Given the extensive investment that public agencies and a broad  
24 spectrum of the public are making and will continue to make in  
25 comprehensive plans and development regulations for their communities,  
26 it is essential that project review start from the fundamental land use  
27 planning choices made in these plans and regulations. If the  
28 applicable regulations or plans identify the type of land use, specify  
29 residential density in urban growth areas, and identify and provide for  
30 funding of public facilities needed to serve the proposed development  
31 and site, these decisions at a minimum provide the foundation for  
32 further project review unless there is a question of code  
33 interpretation. The project review process, including the  
34 environmental review process under chapter 43.21C RCW and the  
35 consideration of consistency, should start from this point and should  
36 not reanalyze these land use planning decisions in making a permit  
37 decision.

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

19 (3) Given the hundreds of jurisdictions and agencies in the state  
20 and the numerous communities and applicants affected by development  
21 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
22 it is essential to establish a uniform framework for considering the  
23 consistency of a proposed project with the applicable regulations or  
24 plan. Consistency should be determined in the project review process  
25 by considering four factors found in applicable regulations or plans:  
26 The type of land use allowed; the level of development allowed, such as  
27 units per acre or other measures of density; infrastructure, such as  
28 the adequacy of public facilities and services to serve the proposed  
29 project; and the character of the proposed development, such as  
30 compliance with specific development standards. This uniform approach  
31 corresponds to existing project review practices and will not place a  
32 burden on applicants or local government. The legislature intends that  
33 this approach should be largely a matter of checking compliance with  
34 existing requirements for most projects, which are simple or routine,  
35 while more complex projects may require more analysis. Sections 202  
36 and 404 of this act establish this uniform framework and also direct  
37 state agencies to consult with local government and the public to  
38 develop a better format than the current environmental checklist to  
39 meet this objective.

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

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

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

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

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

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

30 (2) During project review, a local government or any subsequent  
31 reviewing body shall determine whether the items listed in this  
32 subsection are defined in the development regulations applicable to the  
33 proposed project or, in the absence of applicable regulations the  
34 adopted comprehensive plan. At a minimum, such applicable regulations  
35 or plans shall be determinative of the:

36 (a) Type of land use permitted at the site, including uses that may  
37 be allowed under certain circumstances, such as planned unit

1 developments and conditional and special uses, if the criteria for  
2 their approval have been satisfied;

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

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

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

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

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

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

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

35 (a) The type of land use;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7       (a) That the application is complete; or

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

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

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

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

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

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

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

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

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

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

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

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

14       Development regulations adopted pursuant to RCW 36.70A.040 shall  
15 establish time periods for local government actions on specific  
16 ((development)) project permit applications and provide timely and  
17 predictable procedures to determine whether a completed ((development))  
18 project permit application meets the requirements of those development  
19 regulations. Such development regulations shall specify the contents  
20 of a completed ((development)) project permit application necessary for  
21 the application of such time periods and procedures.

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

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

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

1 (a)(i) Any period during which the applicant has been requested by  
2 the local government to correct plans, perform required studies, or  
3 provide additional required information. The period shall be  
4 calculated from the date the local government notifies the applicant of  
5 the need for additional information until the earlier of the date the  
6 local government determines whether the additional information  
7 satisfies the request for information or fourteen days after the date  
8 the information has been provided to the local government.

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

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

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

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

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

32 (a) Requires an amendment to the comprehensive plan or a  
33 development regulation;

34 (b) Requires approval of a new fully contained community as  
35 provided in RCW 36.70A.350, a master planned resort as provided in RCW  
36 36.70A.360, or the siting of an essential public facility as provided  
37 in RCW 36.70A.200; or

38 (c) Is substantially revised by the applicant, in which case the  
39 time period shall start from the date at which the revised project

1 application is determined to be complete under RCW 36.70A.440 (as  
2 recodified by this act).

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

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

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

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

23 (2) The notice of application shall be provided within fourteen  
24 days after the determination of completeness as provided in RCW  
25 36.70A.440 (as recodified by this act) and include the following in  
26 whatever sequence or format the local government deems appropriate:

27 (a) The date of application, the date of the notice of completion  
28 for the application, and the date of the notice of application;

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

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

35 (d) The identification of existing environmental documents that  
36 evaluate the proposed project, and, if not otherwise stated on the  
37 document providing the notice of application, such as a city land use

1 bulletin, the location where the application and any studies can be  
2 reviewed;

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

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

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

18 (h) Any other information determined appropriate by the local  
19 government.

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

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

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

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

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

1 (d) Notifying the news media;

2 (e) Placing notices in appropriate regional or neighborhood  
3 newspapers or trade journals;

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

7 (g) Mailing to neighboring property owners.

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

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

15 (a) Except for a determination of significance, the local  
16 government may not issue its threshold determination, or issue a  
17 decision or a recommendation on a project permit until the expiration  
18 of the public comment period on the notice of application.

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

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

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

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

4 (a) The agency is not expressly prohibited by statute from doing  
5 so;

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

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

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

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

24 (11) Each local government planning under RCW 36.70A.040 shall  
25 adopt procedures for administrative interpretation of its development  
26 regulations.

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

1 (2) Consolidated permit review may provide different procedures for  
2 different categories of project permits, but if a project action  
3 requires project permits from more than one category, the local  
4 government shall provide for consolidated permit review with a single  
5 open record hearing and no more than one closed record appeal as  
6 provided in section 407 of this act. Each local government shall  
7 determine which project permits are subject to an open record hearing  
8 and a closed record appeal. Examples of categories of project permits  
9 include but are not limited to:

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

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

15 (c) Permits that require a threshold determination and an open  
16 record predecision hearing and may provide for a closed record appeal  
17 to a hearing body or officer or to the local government legislative  
18 body.

19 (3) A local government may provide by ordinance or resolution for  
20 the same or a different decision maker or hearing body or officer for  
21 different categories of project permits. In the case of consolidated  
22 project permit review, the local government shall specify which  
23 decision makers shall make the decision or recommendation, conduct the  
24 hearing, or decide the appeal to ensure that consolidated permit review  
25 occurs as provided in this section. The consolidated permit review may  
26 combine an open record predecision hearing on one or more permits with  
27 an open record appeal hearing on other permits. In such cases, the  
28 local government by ordinance or resolution shall specify which project  
29 permits, if any, shall be subject to a closed record appeal.

30 NEW SECTION. **Sec. 417.** A local government planning under RCW  
31 36.70A.040 shall provide a notice of decision that also includes a  
32 statement of any threshold determination made under chapter 43.21C RCW  
33 and the procedures for administrative appeal, if any. The notice of  
34 decision may be a copy of the report or decision on the project permit  
35 application. The notice shall be provided to the applicant and to any  
36 person who, prior to the rendering of the decision, requested notice of  
37 the decision or submitted substantive comments on the application. The

1 local government shall provide for notice of its decision as provided  
2 in section 415(4) of this act.

3 NEW SECTION. **Sec. 418.** (1) A local government by ordinance or  
4 resolution may exclude the following project permits from the  
5 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065  
6 (as recodified by this act), and sections 407, 413, and 415 through 417  
7 of this act: Landmark designations, street vacations, or other  
8 approvals relating to the use of public areas or facilities, or other  
9 project permits, whether administrative or quasi-judicial, that the  
10 local government by ordinance or resolution has determined present  
11 special circumstances that warrant a review process different from that  
12 provided in RCW 36.70A.440 (as recodified by this act), 36.70A.065 (as  
13 recodified by this act), and sections 407, 413, and 415 through 417 of  
14 this act.

15 (2) A local government by ordinance or resolution also may exclude  
16 the following project permits from the provisions of sections 407 and  
17 415 through 417 of this act: Lot line or boundary adjustments and  
18 building and other construction permits, or similar administrative  
19 approvals, categorically exempt from environmental review under chapter  
20 43.21C RCW, or for which environmental review has been completed in  
21 connection with other project permits.

22 NEW SECTION. **Sec. 419.** A local government not planning under RCW  
23 36.70A.040 may incorporate some or all of the provisions of sections  
24 407, 413, and 415 through 417 of this act and RCW 36.70A.065 and  
25 36.70A.440 (as recodified by this act) into its procedures for review  
26 of project permits or other project actions.

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) As an alternative to those provisions of this chapter relating  
32 to powers or duties of the planning commission to hear and report on  
33 any proposal to amend a zoning ordinance, the legislative body of a  
34 city or county may adopt a hearing examiner system under which a  
35 hearing examiner or hearing examiners may hear and decide applications  
36 for amending the zoning ordinance when the amendment which is applied

1 for is not of general applicability. In addition, the legislative body  
2 may vest in a hearing examiner the power to hear and decide those  
3 issues it believes should be reviewed and decided by a hearing  
4 examiner, including but not limited to:

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

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

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

12 The legislative body shall prescribe procedures to be followed by  
13 the hearing examiner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25        (a) Applications for conditional uses (~~applications~~), variances  
26 (~~applications~~), (~~applications for~~) shoreline permits, or any other  
27 class of applications for or pertaining to development of land or land  
28 use(~~s~~);

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

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

32        The legislative authority shall prescribe procedures to be followed  
33 by a hearing examiner.

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

37        (2) Each county legislative authority electing to use a hearing  
38 examiner pursuant to this section shall by ordinance specify the legal

1 effect of the decisions made by the examiner. (~~Except as provided in~~  
2 ~~subsection (2) of this section,~~) Such legal effect may vary for the  
3 different classes of applications decided by the examiner but shall  
4 include one of the following:

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

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

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

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

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

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

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

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

1       (~~(2)~~) (b) Special notice of the hearing shall be given to  
2 adjacent landowners by any other reasonable method local authorities  
3 deem necessary. Adjacent landowners are the owners of real property,  
4 as shown by the records of the county assessor, located within three  
5 hundred feet of any portion of the boundary of the proposed  
6 subdivision. If the owner of the real property which is proposed to be  
7 subdivided owns another parcel or parcels of real property which lie  
8 adjacent to the real property proposed to be subdivided, notice under  
9 this subsection (1)(b) shall be given to owners of real property  
10 located within three hundred feet of any portion of the boundaries of  
11 such adjacently located parcels of real property owned by the owner of  
12 the real property proposed to be subdivided.

13       (2) All hearings shall be public. All hearing notices shall  
14 include a description of the location of the proposed subdivision. The  
15 description may be in the form of either a vicinity location sketch or  
16 a written description other than a legal description.

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

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

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

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

1 appropriate, including the holding of hearings, and recommendations for  
2 approval or disapproval of preliminary plats of proposed subdivisions.

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

20 Every decision or recommendation made under this section shall be  
21 in writing and shall include findings of fact and conclusions to  
22 support the decision or recommendation.

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

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

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

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

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

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

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

6 The legislative authority shall prescribe procedures to be followed by  
7 a hearing examiner.

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

13 ~~(3))~~ Each final decision of a hearing examiner shall be in writing  
14 and shall include findings and conclusions, based on the record, to  
15 support the decision. Each final decision of a hearing examiner,  
16 unless a longer period is mutually agreed to by the applicant and the  
17 hearing examiner, shall be rendered within ten working days following  
18 conclusion of all testimony and hearings.

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

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

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

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

34 **PART V - DEVELOPMENT AGREEMENTS**

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

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

30        (2) Sections 501 through 504 of this act do not affect the validity  
31   of a contract rezone, concomitant agreement, annexation agreement, or  
32   other agreement in existence on the effective date of sections 501  
33   through 504 of this act, or adopted under separate authority, that  
34   includes some or all of the development standards provided in  
35   subsection (3) of this section.

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

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

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

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

9 (d) Design standards such as maximum heights, setbacks, drainage  
10 and water quality requirements, landscaping, and other development  
11 features;

12 (e) Affordable housing;

13 (f) Parks and open space preservation;

14 (g) Phasing;

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

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

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

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

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

35 NEW SECTION. **Sec. 504.** A development agreement shall be recorded  
36 with the real property records of the county in which the property is  
37 located. During the term of the development agreement, the agreement

1 is binding on the parties and their successors, including a city that  
2 assumes jurisdiction through incorporation or annexation of the area  
3 covering the property covered by the development agreement.

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

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

17 **PART VI - STATE PERMIT COORDINATION**

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

19 (1) Washington's environmental protection programs have established  
20 strict standards to reduce pollution and protect the public health and  
21 safety and the environment. The single-purpose programs instituted to  
22 achieve these standards have been successful in many respects, and have  
23 produced significant gains in protecting Washington's environment in  
24 the face of substantial population growth.

25 (2) Continued progress to achieve the environmental standards in  
26 the face of continued population growth will require greater  
27 coordination between the single-purpose environmental programs and more  
28 efficient operation of these programs overall. Pollution must be  
29 prevented and controlled and not simply transferred to another media or  
30 another place. This goal can only be achieved by maintaining the  
31 current environmental protection standards and by greater integration  
32 of the existing programs.

33 (3) As the number of environmental laws and regulations have grown  
34 in Washington, so have the number of permits required of business and  
35 government. This regulatory burden has significantly added to the cost

1 and time needed to obtain essential permits in Washington. The  
2 increasing number of individual permits and permit authorities has  
3 generated the continuing potential for conflict, overlap, and  
4 duplication between the various state, local, and federal permits.

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

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

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

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

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

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

34 NEW SECTION. **Sec. 602.** Unless the context clearly requires  
35 otherwise, the definitions in this section apply throughout this  
36 chapter.

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

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

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

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

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

10 (6) "Permit agency" means:

11 (a) The department of ecology, an air pollution control authority,  
12 the department of natural resources, the department of fish and  
13 wildlife, and the department of health; and

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

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

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

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

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

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

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

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

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

11 (2) The administrative process shall consist of the establishment  
12 of guidelines for designating the coordinating permit agency for a  
13 project. If a permit agency is the lead agency for purposes of chapter  
14 43.21C RCW, that permit agency shall be the coordinating permit agency.  
15 In other cases, the guidelines shall require that at least the  
16 following factors be considered in determining which permit agency has  
17 the greatest overall jurisdiction over the project:

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

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

21 (c) The environmental medium that may be affected by the project,  
22 the extent of those potential effects, and the environmental protection  
23 measures that may be taken to prevent the occurrence of, or to  
24 mitigate, those potential effects;

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

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

30 NEW SECTION. **Sec. 605.** Upon the request of a project applicant,  
31 the center shall appoint a project facilitator to assist the applicant  
32 in determining which regulatory requirements, processes, and permits  
33 may be required for development and operation of the proposed project.  
34 The project facilitator shall provide the information to the applicant  
35 and explain the options available to the applicant in obtaining the  
36 required permits. If the applicant requests, the center shall

1 designate a coordinating permit agency as provided in section 606 of  
2 this act.

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

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

35 (3) This chapter shall not be construed to limit or abridge the  
36 powers and duties granted to a participating permit agency under the  
37 law that authorizes or requires the agency to issue a permit for a  
38 project. Each participating permit agency shall retain its authority

1 to make all decisions on all nonprocedural matters with regard to the  
2 respective component permit that is within its scope of its  
3 responsibility, including, but not limited to, the determination of  
4 permit application completeness, permit approval or approval with  
5 conditions, or permit denial. The coordinating permit agency may not  
6 substitute its judgment for that of a participating permit agency on  
7 any such nonprocedural matters.

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

13 (a) A determination of the permits that are required for the  
14 project;

15 (b) A review of the permit application forms and other application  
16 requirements of the agencies that are participating in the coordinated  
17 permit process;

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

32 (ii) An accelerated time period for the consideration of a permit  
33 application may not be set if that accelerated time period would be  
34 inconsistent with, or in conflict with, any time period or series of  
35 time periods set by statute for that consideration, or with any  
36 statute, rule, or regulation, or adopted state policy, standard, or  
37 guideline that requires any of the following:

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

3 (B) Other agencies to be given a role in, or be allowed to  
4 participate in, the decision to approve or disapprove the application;  
5 or

6 (C) Interested persons or the public to be provided the opportunity  
7 to challenge, comment on, or otherwise voice their concerns regarding  
8 the application;

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

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

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

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

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

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

35 NEW SECTION. Sec. 608. (1) The permit applicant may withdraw from  
36 the coordinated permit process by submitting to the coordinating permit  
37 agency a written request that the process be terminated. Upon receipt  
38 of the request, the coordinating permit agency shall notify the center

1 and each participating permit agency that a coordinated permit process  
2 is no longer applicable to the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 11 (1) RCW 90.---.--- and 1995 c -- s 601 (section 601 of this act);
- 12 (2) RCW 90.---.--- and 1995 c -- s 602 (section 602 of this act);
- 13 (3) RCW 90.---.--- and 1995 c -- s 603 (section 603 of this act);
- 14 (4) RCW 90.---.--- and 1995 c -- s 604 (section 604 of this act);
- 15 (5) RCW 90.---.--- and 1995 c -- s 605 (section 605 of this act);
- 16 (6) RCW 90.---.--- and 1995 c -- s 606 (section 606 of this act);
- 17 (7) RCW 90.---.--- and 1995 c -- s 607 (section 607 of this act);
- 18 (8) RCW 90.---.--- and 1995 c -- s 608 (section 608 of this act);
- 19 (9) RCW 90.---.--- and 1995 c -- s 609 (section 609 of this act);
- 20 (10) RCW 90.---.--- and 1995 c -- s 610 (section 610 of this act);
- 21 (11) RCW 90.---.--- and 1995 c -- s 611 (section 611 of this act);
- 22 (12) RCW 90.---.--- and 1995 c -- s 612 (section 612 of this act);
- 23 (13) RCW 90.---.--- and 1995 c -- s 613 (section 613 of this act);
- 24 (14) RCW 90.---.--- and 1995 c -- s 614 (section 614 of this act);
- 25 (15) RCW 90.---.--- and 1995 c -- s 615 (section 615 of this act);
- 26 and
- 27 (16) RCW 90.---.--- and 1995 c -- s 616 (section 616 of this act).

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

- 30 (1) RCW 90.62.010 and 1982 c 179 s 1, 1977 c 54 s 1, & 1973 1st  
31 ex.s. c 185 s 1;
- 32 (2) RCW 90.62.020 and 1994 c 264 s 96, 1988 c 36 s 71, 1977 c 54 s  
33 2, & 1973 1st ex.s. c 185 s 2;
- 34 (3) RCW 90.62.030 and 1973 1st ex.s. c 185 s 3;
- 35 (4) RCW 90.62.040 and 1990 c 137 s 1, 1977 c 54 s 3, & 1973 1st  
36 ex.s. c 185 s 4;

- 1 (5) RCW 90.62.050 and 1977 c 54 s 4 & 1973 1st ex.s. c 185 s 5;  
2 (6) RCW 90.62.060 and 1982 c 179 s 2, 1977 c 54 s 5, & 1973 1st  
3 ex.s. c 185 s 6;  
4 (7) RCW 90.62.070 and 1973 1st ex.s. c 185 s 7;  
5 (8) RCW 90.62.080 and 1987 c 109 s 156, 1977 c 54 s 6, & 1973 1st  
6 ex.s. c 185 s 8;  
7 (9) RCW 90.62.090 and 1977 c 54 s 7 & 1973 1st ex.s. c 185 s 9;  
8 (10) RCW 90.62.100 and 1977 c 54 s 8 & 1973 1st ex.s. c 185 s 10;  
9 (11) RCW 90.62.110 and 1973 1st ex.s. c 185 s 11;  
10 (12) RCW 90.62.120 and 1973 1st ex.s. c 185 s 12;  
11 (13) RCW 90.62.130 and 1977 c 54 s 9;  
12 (14) RCW 90.62.900 and 1973 1st ex.s. c 185 s 13;  
13 (15) RCW 90.62.901 and 1973 1st ex.s. c 185 s 14;  
14 (16) RCW 90.62.904 and 1973 1st ex.s. c 185 s 15;  
15 (17) RCW 90.62.905 and 1973 1st ex.s. c 185 s 16;  
16 (18) RCW 90.62.906 and 1973 1st ex.s. c 185 s 18;  
17 (19) RCW 90.62.907 and 1973 1st ex.s. c 185 s 19; and  
18 (20) RCW 90.62.908 and 1977 c 54 s 10.

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

21 **PART VII - APPEALS**

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

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

29 NEW SECTION. **Sec. 703.** Unless the context clearly requires  
30 otherwise, the definitions in this section apply throughout this  
31 chapter.

32 (1) "Land use decision" means a final determination by a local  
33 jurisdiction's body or officer with the highest level of authority to

1 make the determination, including those with authority to hear appeals,  
2 on:

3 (a) An application for a project permit or other governmental  
4 approval required by law before real property may be improved,  
5 developed, modified, sold, transferred, or used, but excluding  
6 applications for permits or approvals to use, vacate, or transfer  
7 streets, parks, and similar types of public property; excluding  
8 applications for legislative approvals such as area-wide rezones and  
9 annexations; and excluding applications for business licenses;

10 (b) An interpretative or declaratory decision regarding the  
11 application to a specific property of zoning or other ordinances or  
12 rules regulating the improvement, development, modification,  
13 maintenance, or use of real property; and

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

19 (2) "Local jurisdiction" means a county, city, or incorporated  
20 town.

21 (3) "Person" means an individual, partnership, corporation,  
22 association, public or private organization, or governmental entity or  
23 agency.

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

28 (a) Judicial review of:

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

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

34 (b) Judicial review of applications for a writ of mandamus or  
35 prohibition; or

36 (c) Claims provided by any law for monetary damages or  
37 compensation. If one or more claims for damages or compensation are  
38 set forth in the same complaint with a land use petition brought under

1 this chapter, the claims are not subject to the procedures and  
2 standards, including deadlines, provided in this chapter for review of  
3 the petition. The judge who hears the land use petition may, if  
4 appropriate, preside at a trial for damages or compensation.

5 (2) The superior court civil rules govern procedural matters under  
6 this chapter to the extent that the rules are consistent with this  
7 chapter.

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

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

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

18 (b) Each of the following persons if the person is not the  
19 petitioner:

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

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

25 (c) If no person is identified in a written decision as provided in  
26 (b) of this subsection, each person identified by name and address as  
27 a taxpayer for the property at issue in the records of the county  
28 assessor, based upon the description of the property in the  
29 application; and

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

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

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

3 (a) Three days after a written decision is mailed by the local  
4 jurisdiction or, if not mailed, the date on which the local  
5 jurisdiction provides notice that a written decision is publicly  
6 available;

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

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

12 (5) Service on the local jurisdiction must be by delivery of a copy  
13 of the petition to the persons identified by or pursuant to RCW  
14 4.28.080 to receive service of process. Service on other parties must  
15 be in accordance with the superior court civil rules or by first class  
16 mail to:

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

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

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

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

28 NEW SECTION. **Sec. 706.** If the applicant for the land use approval  
29 is not the owner of the real property at issue, and if the owner is not  
30 accurately identified in the records referred to in section 705(2) (b)  
31 and (c) of this act, the applicant shall be responsible for promptly  
32 securing the joinder of the owners. In addition, within fourteen days  
33 after service each party initially named by the petitioner shall  
34 disclose to the other parties the name and address of any person whom  
35 such party knows may be needed for just adjudication of the petition,  
36 and the petitioner shall promptly name and serve any such person whom  
37 the petitioner agrees may be needed for just adjudication. If such a  
38 person is named and served before the initial hearing, leave of court

1 for the joinder is not required, and the petitioner shall provide the  
2 newly joined party with copies of the pleadings filed before the  
3 party's joinder. Failure by the petitioner to name or serve, within  
4 the time required by section 705(3) of this act, persons who are needed  
5 for just adjudication but who are not identified in the records  
6 referred to in section 705(2)(b) of this act, or in section 705(2)(c)  
7 of this act if applicable, shall not deprive the court of jurisdiction  
8 to hear the land use petition.

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

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

13 (2) Another person aggrieved or adversely affected by the land use  
14 decision, or who would be aggrieved or adversely affected by a reversal  
15 or modification of the land use decision. A person is aggrieved or  
16 adversely affected within the meaning of this section only when all of  
17 the following conditions are present:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 NEW SECTION. **Sec. 709.** (1) Within seven days after the petition  
12 is served on the parties identified in section 705(2) of this act, the  
13 petitioner shall note, according to the local rules of superior court,  
14 an initial hearing on jurisdictional and preliminary matters. This  
15 initial hearing shall be set no sooner than thirty-five days and no  
16 later than fifty days after the petition is served on the parties  
17 identified in section 705(2) of this act.

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

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

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

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

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

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

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

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

12        (a) The party requesting the stay is likely to prevail on the  
13 merits;

14        (b) Without the stay the party requesting it will suffer  
15 irreparable harm;

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

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

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

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

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

34        (3) The petitioner shall pay the local jurisdiction the cost of  
35 preparing the record before the local jurisdiction submits the record  
36 to the court.    Failure by the petitioner to timely pay the local

1 jurisdiction relieves the local jurisdiction of responsibility to  
2 submit the record and is grounds for dismissal of the petition.

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

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

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

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

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

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

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

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

33 (5) The parties may not conduct pretrial discovery except with the  
34 prior permission of the court, which may be sought by motion at any  
35 time after service of the petition. The court shall not grant  
36 permission unless the party requesting it makes a prima facie showing  
37 of need. The court shall strictly limit discovery to what is necessary  
38 for equitable and timely review of the issues that are raised under

1 subsections (2) and (3) of this section. If the court allows the  
2 record to be supplemented, the court shall require the parties to  
3 disclose before the hearing or trial on the merits the specific  
4 evidence they intend to offer. If any party, or anyone acting on  
5 behalf of any party, requests records under chapter 42.17 RCW relating  
6 to the matters at issue, a copy of the request shall simultaneously be  
7 given to all other parties and the court shall take such request into  
8 account in fashioning an equitable discovery order under this section.

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 715.** The court may affirm or reverse the land  
34 use decision under review or remand it for modification or further  
35 proceedings. If the decision is remanded for modification or further  
36 proceedings, the court may make such an order as it finds necessary to

1 preserve the interests of the parties and the public, pending further  
2 proceedings or action by the local jurisdiction.

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

5 This chapter does not apply to state agency action reviewable under  
6 chapter 34.05 RCW or to land use decisions of local jurisdictions  
7 reviewable under chapter 36.-- RCW (sections 701 through 715 of this  
8 act).

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

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

16 ~~(1) The applicant or owner of the property on which the subdivision~~  
17 ~~is proposed;~~

18 ~~(2) Any property owner entitled to special notice under RCW~~  
19 ~~58.17.090;~~

20 ~~(3) Any property owner who deems himself aggrieved thereby and who~~  
21 ~~will suffer direct and substantial impacts from the proposed~~  
22 ~~subdivision.~~

23 Application for a writ of review shall be made to the court within  
24 thirty days from any decision so to be reviewed. The cost of  
25 transcription of all records ordered certified by the court for such  
26 review shall be borne by the appellant)) under chapter 36.-- RCW  
27 (sections 701 through 715 of this act).

28 NEW SECTION. **Sec. 718.** A new section is added to chapter 4.84 RCW  
29 to read as follows:

30 (1) Notwithstanding any other provisions of this chapter,  
31 reasonable attorneys fees and costs shall be awarded to the prevailing  
32 party or substantially prevailing party on appeal before the court of  
33 appeals or the supreme court of a decision by a county, city, or town  
34 to issue, condition, or deny a development permit involving a site-  
35 specific rezone, zoning, plat, conditional use, variance, shoreline  
36 permit, building permit, site plan, or similar land use approval or

1 decision. The court shall award and determine the amount of reasonable  
2 attorneys fees and costs under this section if:

3 (a) The prevailing party on appeal was the prevailing or  
4 substantially prevailing party before the county, city, or town, or in  
5 a decision involving a substantial development permit under chapter  
6 90.58 RCW, the prevailing party on appeal was the prevailing party or  
7 the substantially prevailing party before the shoreline hearings board;  
8 and

9 (b) The prevailing party on appeal was the prevailing party or  
10 substantially prevailing party in all prior judicial proceedings.

11 (2) In addition to the prevailing party under subsection (1) of  
12 this section, the county, city, or town whose decision is on appeal is  
13 considered a prevailing party if its decision is upheld at superior  
14 court and on appeal.

15 NEW SECTION. **Sec. 719.** Sections 701 through 715 of this act shall  
16 constitute a new chapter in Title 36 RCW.

17 **PART VIII - STUDY**

18 NEW SECTION. **Sec. 801.** The land use study commission is hereby  
19 established. The commission s goal shall be the integration and  
20 consolidation of the state s land use and environmental laws into a  
21 single, manageable statute. In fulfilling its responsibilities, the  
22 commission shall evaluate the effectiveness of the growth management  
23 act, the state environmental policy act, the shoreline management act,  
24 and other state land use, planning, environmental, and permitting  
25 statutes in achieving their stated goals.

26 NEW SECTION. **Sec. 802.** The commission shall consist of not more  
27 than fourteen members. Eleven members of the commission shall be  
28 appointed by the governor. Membership shall reflect the interests of  
29 business, agriculture, labor, the environment, neighborhood groups,  
30 other citizens, the legislature, cities, counties, and federally  
31 recognized Indian tribes. Members shall have substantial experience in  
32 matters relating to land use and environmental planning and regulation,  
33 and shall have the ability to work toward cooperative solutions among  
34 diverse interests. The director of the department of community, trade,  
35 and economic development, or the director s designee, shall be a member

1 and shall serve as chair of the commission. The director of the  
2 department of ecology, or the director s designee, and the secretary of  
3 the department of transportation, or the secretary's designee, shall  
4 also be members of the commission. Staff for the commission shall be  
5 provided by the department of community, trade, and economic  
6 development, with additional staff to be provided by other state  
7 agencies and the legislature, as may be required. State agencies shall  
8 provide the commission with information and assistance as needed.

9 NEW SECTION. **Sec. 803.** The commission shall convene commencing  
10 June 1, 1995, and shall complete its work by June 30, 1998. The  
11 commission shall submit a report to the governor and the legislature  
12 stating its findings, conclusions, and recommendations not later than  
13 November 1 of each year. The commission shall submit its final report  
14 to the governor and the legislature not later than November 1, 1997.

15 NEW SECTION. **Sec. 804.** The commission shall:

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

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

26 (3) Draft a consolidated land use procedure, following these  
27 guidelines:

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

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

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

1 (d) Integrate and combine to the fullest extent possible the  
2 processes, analysis, and documents currently required under chapters  
3 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent  
4 implementation will incorporate measures to promote the environmental,  
5 economic, and other goals and to mitigate undesirable or unintended  
6 adverse impacts on a community's quality of life;

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

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

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

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

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

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

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

1 recommendations to the governor and the legislature on statutory  
2 changes to address any adverse impacts from the provisions of RCW  
3 36.70A.300. The commission shall provide an initial report on its  
4 findings and recommendations by November 1, 1995, and submit its  
5 further findings and recommendations subsequently in the reports  
6 required under section 803 of this act.

7 (5) Monitor local government consolidated permit procedures and the  
8 effectiveness of the timelines established by section 413 of this act.  
9 The commission shall include in its report submitted to the governor  
10 and the legislature on November 1, 1997, its recommendation about what  
11 timelines, if any, should be imposed on the local government  
12 consolidated permit process required by chapter 36.-- RCW (the new  
13 chapter created in section 431 of this act).

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

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

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

31 NEW SECTION. **Sec. 805.** Members of the commission shall be  
32 reimbursed for travel expenses as provided in RCW 43.03.050 and  
33 43.03.060.

34 NEW SECTION. **Sec. 806.** Sections 801 through 805 of this act shall  
35 expire June 30, 1998.

36 **PART IX - MISCELLANEOUS**

1        NEW SECTION.    **Sec. 901.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 902.**    Part headings and the table of contents as  
6 used in this act do not constitute any part of the law.

7        NEW SECTION.    **Sec. 903.**    If specific funding for the purposes of  
8 this act, referencing this act by bill number, is not provided by June  
9 30, 1995, in the omnibus appropriations act, this act shall be null and  
10 void.

11       NEW SECTION.    **Sec. 904.**    Sections 801 through 806 of this act are  
12 necessary for the immediate preservation of the public peace, health,  
13 or safety, or support of the state government and its existing public  
14 institutions, and shall take effect June 1, 1995.

--- END ---