

2 **ESHB 2344** - S AMD TO S GO COMM AMD (S-5236.2/98) - 946
3 By Senators Anderson and Zarelli

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5 On page 16, after line 16 of the amendment, insert the following:

6 "Sec. 15. RCW 36.70B.030 and 1995 c 347 s 404 are each amended to
7 read as follows:

8 (1) Fundamental land use planning choices made in adopted
9 comprehensive plans and development regulations shall serve as the
10 foundation for project review. The review of a proposed project's
11 consistency with applicable development regulations, or in the absence
12 of applicable regulations the adopted comprehensive plan, under RCW
13 36.70B.040 shall incorporate the determinations under this section.

14 (2) During project review, a local government or any subsequent
15 reviewing body shall determine whether the items listed in this
16 subsection are defined in the development regulations applicable to the
17 proposed project or, in the absence of applicable regulations the
18 adopted comprehensive plan. At a minimum, such applicable regulations
19 or plans shall be determinative of the:

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

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

26 (c) Availability and adequacy of public facilities identified in
27 the comprehensive plan, if the plan or development regulations provide
28 for funding of these facilities as required by chapter 36.70A RCW; and

29 (d) Protection of critical areas.

30 (3) During project review, the local government or any subsequent
31 reviewing body shall not reexamine alternatives to or hear appeals on
32 the items identified in subsection (2) of this section, except for
33 issues of code interpretation. As part of its project review process,
34 a local government shall provide a procedure for obtaining a code
35 interpretation as provided in RCW 36.70B.110.

1 (4) Pursuant to RCW 43.21C.240, a local government may determine
2 that the requirements for environmental analysis and mitigation
3 measures in development regulations other than those identified in
4 subsection (2) of this section and other applicable laws provide
5 adequate mitigation for some or all of the project's specific adverse
6 environmental impacts to which the requirements apply.

7 (5) Except as provided in subsection (4) of this section, nothing
8 in this section limits the authority of a permitting agency to approve,
9 condition, or deny a project as provided in its development regulations
10 adopted under chapter 36.70A RCW and in its policies adopted under RCW
11 43.21C.060. Project review shall be used to identify specific project
12 design and conditions relating to the character of development, such as
13 the details of site plans, curb cuts, drainage swales, transportation
14 demand management, the payment of impact fees, or other measures to
15 mitigate a proposal's probable adverse environmental impacts, if
16 applicable.

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

19 **Sec. 16.** RCW 36.70B.040 and 1997 c 429 s 46 are each amended to
20 read as follows:

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

27 (a) The type of land use;

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

30 (c) Infrastructure, including public facilities and services needed
31 to serve the development; (~~and~~)

32 (d) The characteristics of the development, such as development
33 standards; and

34 (e) Protection of critical areas.

35 (2) In deciding whether a project is consistent, the determinations
36 made pursuant to RCW 36.70B.030(2) shall be controlling.

37 (3) For purposes of this section, the term "consistency" shall
38 include all terms used in this chapter and chapter 36.70A RCW to refer

1 to performance in accordance with this chapter and chapter 36.70A RCW,
2 including but not limited to compliance, conformity, and consistency.

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

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

13 **Sec. 17.** RCW 43.21C.240 and 1995 c 347 s 202 are each amended to
14 read as follows:

15 (1) A local government planning under chapter 36.70A RCW may not
16 impose mitigation under this chapter during project review to address
17 the fundamental land use planning choices identified in RCW
18 36.70B.030(2).

19 (2) Except as provided in subsection (1) of this section, if the
20 requirements of subsection ((+2)) (3) of this section are satisfied,
21 a county, city, or town reviewing a project action may determine that
22 the requirements for environmental analysis, protection, and mitigation
23 measures in the county, city, or town's development regulations and
24 comprehensive plans adopted under chapter 36.70A RCW, and in other
25 applicable local, state, or federal laws and rules provide adequate
26 analysis of and mitigation for the specific adverse environmental
27 impacts of the project action to which the requirements apply.

28 ((+2)) (3) A county, city, or town may make the determination
29 provided for in subsection ((+1)) (2) of this section if:

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

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

1 (~~(3)~~) (4) If a county, city, or town's comprehensive plans,
2 subarea plans, and development regulations adequately address a
3 project's probable specific adverse environmental impacts, as
4 determined under subsections (~~(1) and~~) (2) and (3) of this section,
5 the county, city, or town shall not impose additional mitigation under
6 this chapter during project review. Project review shall be integrated
7 with environmental analysis under this chapter.

8 (~~(4)~~) (5) A comprehensive plan, subarea plan, or development
9 regulation shall be considered to adequately address an impact if the
10 county, city, or town, through the planning and environmental review
11 process under chapter 36.70A RCW and this chapter, has identified the
12 specific adverse environmental impacts and:

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

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

18 (~~(5)~~) (6) In deciding whether a specific adverse environmental
19 impact has been addressed by an existing rule or law of another agency
20 with jurisdiction with environmental expertise with regard to a
21 specific environmental impact, the county, city, or town shall consult
22 orally or in writing with that agency and may expressly defer to that
23 agency. In making this deferral, the county, city, or town shall base
24 or condition its project approval on compliance with these other
25 existing rules or laws.

26 (~~(6)~~) (7) Nothing in this section limits the authority of an
27 agency in its review or mitigation of a project to adopt or otherwise
28 rely on environmental analyses and requirements under other laws, as
29 provided by this chapter.

30 (~~(7)~~) (8) This section shall apply only to a county, city, or
31 town planning under RCW 36.70A.040."

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4 On page 16, line 23 of the title amendment, after "58.17.100,"
5 strike "and 36.70B.090; and" and insert "36.70B.090, 36.70B.030,
6 36.70B.040, and 43.21C.240;"

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