
ENGROSSED SENATE BILL 6094

State of Washington 55th Legislature 1997 Regular Session

By Senators McCaslin and Haugen; by request of Governor Locke

Read first time 04/04/97.

1 AN ACT Relating to growth management; amending RCW 36.70A.030,
2 36.70A.070, 36.70A.160, 36.70A.190, 36.70A.130, 36.70A.270, 36.70A.290,
3 36.70A.300, 36.70A.305, 36.70A.320, 36.70A.330, 36.70A.500, 84.34.020,
4 84.40.030, 90.60.030, 35.13.130, 35A.14.295, 35.13.174, 36.93.170,
5 84.14.010, and 34.05.518; adding new sections to chapter 36.70A RCW;
6 adding a new section to chapter 35.13 RCW; and creating new sections.

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

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

10 In enacting the section 4(5), chapter . . ., Laws of 1997 (section
11 4(5) of this act) amendments to RCW 36.70A.070(5), the legislature
12 finds that chapter 36.70A RCW is intended to recognize the importance
13 of agriculture, forestry, and rural lands and rural character to
14 Washington's economy, its people, and its environment, while respecting
15 regional differences. Rural lands and rural-based economies and forest
16 uses that are located outside of designated resource lands enhance the
17 economic desirability of the state, help to preserve traditional
18 economic activities, and contribute to the state's overall quality of
19 life. The legislature also finds that in developing its rural element

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

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

25 In amending RCW 36.70A.320(3) by section 16(3), chapter . . . , Laws
26 of 1997 (section 16(3) of this act), the legislature intends that the
27 boards apply a more deferential standard of review to actions of
28 counties and cities than the preponderance of the evidence standard
29 provided for under existing law. In recognition of the broad range of
30 discretion that may be exercised by counties and cities consistent with
31 the requirements of this chapter, the legislature intends for the
32 boards to grant deference to counties and cities in how they plan for
33 growth, consistent with the requirements and goals of this chapter.
34 Local comprehensive plans and development regulations require counties
35 and cities to balance priorities and options for action in full
36 consideration of local circumstances. The legislature finds that while
37 this chapter requires local planning to take place within a framework
38 of state goals and requirements, the ultimate burden and responsibility

1 for planning, harmonizing the planning goals of this chapter, and
2 implementing a county's or city's future rests with that community.

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

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Adopt a comprehensive land use plan" means to enact a new
8 comprehensive land use plan or to update an existing comprehensive land
9 use plan.

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

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

18 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
19 means a generalized coordinated land use policy statement of the
20 governing body of a county or city that is adopted pursuant to this
21 chapter.

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

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

29 (7) "Development regulations" or "regulation" means the controls
30 placed on development or land use activities by a county or city,
31 including, but not limited to, zoning ordinances, critical areas
32 ordinances, shoreline master programs, official controls, planned unit
33 development ordinances, subdivision ordinances, and binding site plan
34 ordinances together with any amendments thereto. A development
35 regulation does not include a decision to approve a project permit
36 application, as defined in RCW 36.70B.020, even though the decision may
37 be expressed in a resolution or ordinance of the legislative body of
38 the county or city.

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

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

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

24 (11) "Minerals" include gravel, sand, and valuable metallic
25 substances.

26 (12) "Public facilities" include streets, roads, highways,
27 sidewalks, street and road lighting systems, traffic signals, domestic
28 water systems, storm and sanitary sewer systems, parks and recreational
29 facilities, and schools.

30 (13) "Public services" include fire protection and suppression, law
31 enforcement, public health, education, recreation, environmental
32 protection, and other governmental services.

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

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

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

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

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

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

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

9 (g) That are consistent with the protection of natural surface
10 water flows and ground water and surface water recharge and discharge
11 areas.

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

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

28 (17) "Urban growth" refers to growth that makes intensive use of
29 land for the location of buildings, structures, and impermeable
30 surfaces to such a degree as to be incompatible with the primary use of
31 ((such)) land for the production of food, other agricultural products,
32 or fiber, or the extraction of mineral resources, rural uses, rural
33 development, and natural resource lands designated pursuant to RCW
34 36.70A.170. A pattern of more intensive rural development, as provided
35 in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread
36 over wide areas, urban growth typically requires urban governmental
37 services. "Characterized by urban growth" refers to land having urban
38 growth located on it, or to land located in relationship to an area
39 with urban growth on it as to be appropriate for urban growth.

1 (~~(15)~~) (18) "Urban growth areas" means those areas designated by
2 a county pursuant to RCW 36.70A.110.

3 (~~(16)~~) (19) "Urban governmental services" or "urban services"
4 include those (~~(governmental)~~) public services and public facilities at
5 an intensity historically and typically (~~(delivered by)~~) provided in
6 cities, (~~(and include)~~) specifically including storm and sanitary sewer
7 systems, domestic water systems, street cleaning services, fire and
8 police protection services, public transit services, and other public
9 utilities associated with urban areas and normally not associated with
10 (~~(nonurban)~~) rural areas.

11 (~~(17)~~) (20) "Wetland" or "wetlands" means areas that are
12 inundated or saturated by surface water or ground water at a frequency
13 and duration sufficient to support, and that under normal circumstances
14 do support, a prevalence of vegetation typically adapted for life in
15 saturated soil conditions. Wetlands generally include swamps, marshes,
16 bogs, and similar areas. Wetlands do not include those artificial
17 wetlands intentionally created from nonwetland sites, including, but
18 not limited to, irrigation and drainage ditches, grass-lined swales,
19 canals, detention facilities, wastewater treatment facilities, farm
20 ponds, and landscape amenities, or those wetlands created after July 1,
21 1990, that were unintentionally created as a result of the construction
22 of a road, street, or highway. Wetlands may include those artificial
23 wetlands intentionally created from nonwetland areas created to
24 mitigate conversion of wetlands.

25 **Sec. 4.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to read
26 as follows:

27 The comprehensive plan of a county or city that is required or
28 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
29 and descriptive text covering objectives, principles, and standards
30 used to develop the comprehensive plan. The plan shall be an
31 internally consistent document and all elements shall be consistent
32 with the future land use map. A comprehensive plan shall be adopted
33 and amended with public participation as provided in RCW 36.70A.140.

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

36 (1) A land use element designating the proposed general
37 distribution and general location and extent of the uses of land, where
38 appropriate, for agriculture, timber production, housing, commerce,

1 industry, recreation, open spaces, general aviation airports, public
2 utilities, public facilities, and other land uses. The land use
3 element shall include population densities, building intensities, and
4 estimates of future population growth. The land use element shall
5 provide for protection of the quality and quantity of ground water used
6 for public water supplies. Where applicable, the land use element
7 shall review drainage, flooding, and storm water run-off in the area
8 and nearby jurisdictions and provide guidance for corrective actions to
9 mitigate or cleanse those discharges that pollute waters of the state,
10 including Puget Sound or waters entering Puget Sound.

11 (2) A housing element ensuring the vitality and character of
12 established residential neighborhoods that: (a) Includes an inventory
13 and analysis of existing and projected housing needs; (b) includes a
14 statement of goals, policies, objectives, and mandatory provisions for
15 the preservation, improvement, and development of housing, including
16 single-family residences; (c) identifies sufficient land for housing,
17 including, but not limited to, government-assisted housing, housing for
18 low-income families, manufactured housing, multifamily housing, and
19 group homes and foster care facilities; and (d) makes adequate
20 provisions for existing and projected needs of all economic segments of
21 the community.

22 (3) A capital facilities plan element consisting of: (a) An
23 inventory of existing capital facilities owned by public entities,
24 showing the locations and capacities of the capital facilities; (b) a
25 forecast of the future needs for such capital facilities; (c) the
26 proposed locations and capacities of expanded or new capital
27 facilities; (d) at least a six-year plan that will finance such capital
28 facilities within projected funding capacities and clearly identifies
29 sources of public money for such purposes; and (e) a requirement to
30 reassess the land use element if probable funding falls short of
31 meeting existing needs and to ensure that the land use element, capital
32 facilities plan element, and financing plan within the capital
33 facilities plan element are coordinated and consistent.

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

38 (5) Rural element. Counties shall include a rural element
39 including lands that are not designated for urban growth, agriculture,

1 forest, or mineral resources. The following provisions shall apply to
2 the rural element:

3 (a) Growth management act goals and local circumstances. Because
4 circumstances vary from county to county, in establishing patterns of
5 rural densities and uses, a county may consider local circumstances,
6 but shall develop a written record explaining how the rural element
7 harmonizes the planning goals in RCW 36.70A.020 and meets the
8 requirements of this chapter.

9 (b) Rural development. The rural element shall permit
10 ((appropriate land uses that are compatible with the rural character of
11 such lands and)) rural development, forestry, and agriculture in rural
12 areas. The rural element shall provide for a variety of rural
13 densities ((and)), uses ((and may also provide)), essential public
14 facilities, and rural governmental services needed to serve the
15 permitted densities and uses. Except as otherwise specifically
16 provided in this chapter, residential and nonresidential uses shall not
17 require urban services and nonresidential rural development, other than
18 cottage industries shall be principally designed to serve and provide
19 jobs for the existing and projected rural population or serve existing
20 nonresidential uses. In order to achieve a variety of rural densities
21 and uses, counties may provide for clustering, density transfer, design
22 guidelines, conservation easements, and other innovative techniques
23 that will accommodate appropriate rural densities and uses that are not
24 characterized by urban growth and that are consistent with rural
25 character.

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

29 (i) Containing or otherwise controlling rural development;

30 (ii) Assuring visual compatibility of rural development with the
31 surrounding rural area;

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

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

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

38 (d) Limited areas of more intensive rural development. Subject to
39 the requirements of this subsection and except as otherwise

1 specifically provided in this subsection (5)(d), the rural element may
2 allow for limited areas of more intensive rural development, including
3 necessary public facilities and public services to serve the limited
4 area as follows:

5 (i) Rural development consisting of the infill, development, or
6 redevelopment of existing commercial, industrial, residential, or
7 mixed-use areas, whether characterized as shoreline development,
8 villages, hamlets, rural activity centers, or crossroads developments.
9 A commercial, industrial, residential, shoreline, or mixed-use area
10 shall be subject to the requirements of (d)(iv) of this subsection, but
11 shall not be subject to the requirements of (c)(ii) and (iii) of this
12 subsection. An industrial area is not required to be principally
13 designed to serve the existing and protected rural population as
14 required by (b) of this subsection;

15 (ii) The intensification of development on lots containing, or new
16 development of, small-scale recreational or tourist uses, including
17 commercial facilities to serve those recreational or tourist uses, that
18 rely on a rural location and setting, but that do not include
19 residential development. A small-scale recreation or tourist use is
20 not required to be principally designed to serve the existing and
21 projected rural population as required by (b) of this subsection.
22 Public services and public facilities shall be limited to those
23 necessary to serve the recreation or tourist use and shall be provided
24 in a manner that does not permit low-density sprawl;

25 (iii) The intensification of development on lots containing
26 isolated nonresidential uses or new development of isolated cottage
27 industries that are not principally designed to serve the existing and
28 projected rural population and nonresidential uses, but do provide job
29 opportunities for rural residents. Public services and public
30 facilities shall be limited to those necessary to serve the isolated
31 nonresidential use and shall be provided in a manner that does not
32 permit low-density sprawl;

33 (iv) A county shall adopt measures to minimize and contain the
34 existing areas or uses of more intensive rural development, as
35 appropriate, authorized under this subsection. Lands included in such
36 existing areas or uses shall not extend beyond the logical outer
37 boundary of the existing area or use, thereby allowing a new pattern of
38 low-density sprawl. Existing areas are those that are clearly
39 identifiable and contained and where there is a logical boundary

1 delineated predominately by the built environment, but that may also
2 include undeveloped lands if limited as provided in this subsection.
3 The county shall establish the logical outer boundary of an area of
4 more intensive rural development. In establishing the logical outer
5 boundary the county shall address (A) the need to preserve the
6 character of existing natural neighborhoods and communities, (B)
7 physical boundaries such as bodies of water, streets and highways, and
8 land forms and contours, (C) the prevention of abnormally irregular
9 boundaries, and (D) the ability to provide public facilities and public
10 services in a manner that does not permit low-density sprawl;

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

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

15 (B) On the date the county adopted a resolution under RCW
16 36.70A.040(2), in a county that is planning under all of the provisions
17 of this chapter under RCW 36.70A.040(2); or

18 (C) On the date the office of financial management certifies the
19 county's population as provided in RCW 36.70A.040(5), in a county that
20 is planning under all of the provisions of this chapter pursuant to RCW
21 36.70A.040(5).

22 (e) Exception. This subsection shall not be interpreted to permit
23 in the rural area a major industrial development or a master planned
24 resort unless otherwise specifically permitted under RCW 36.70A.360 and
25 36.70A.365.

26 (6) A transportation element that implements, and is consistent
27 with, the land use element. The transportation element shall include
28 the following subelements:

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

30 (b) Facilities and services needs, including:

31 (i) An inventory of air, water, and ground transportation
32 facilities and services, including transit alignments and general
33 aviation airport facilities, to define existing capital facilities and
34 travel levels as a basis for future planning;

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

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

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

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

9 (c) Finance, including:

10 (i) An analysis of funding capability to judge needs against
11 probable funding resources;

12 (ii) A multiyear financing plan based on the needs identified in
13 the comprehensive plan, the appropriate parts of which shall serve as
14 the basis for the six-year street, road, or transit program required by
15 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
16 35.58.2795 for public transportation systems;

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

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

24 (e) Demand-management strategies.

25 After adoption of the comprehensive plan by jurisdictions required
26 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
27 must adopt and enforce ordinances which prohibit development approval
28 if the development causes the level of service on a transportation
29 facility to decline below the standards adopted in the transportation
30 element of the comprehensive plan, unless transportation improvements
31 or strategies to accommodate the impacts of development are made
32 concurrent with the development. These strategies may include
33 increased public transportation service, ride sharing programs, demand
34 management, and other transportation systems management strategies.
35 For the purposes of this subsection (6) "concurrent with the
36 development" shall mean that improvements or strategies are in place at
37 the time of development, or that a financial commitment is in place to
38 complete the improvements or strategies within six years.

1 The transportation element described in this subsection, and the
2 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
3 counties, and RCW 35.58.2795 for public transportation systems, must be
4 consistent.

5 **Sec. 5.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to read
6 as follows:

7 (1) Each county and city that is required or chooses to prepare a
8 comprehensive land use plan under RCW 36.70A.040 shall identify open
9 space corridors within and between urban growth areas. They shall
10 include lands useful for recreation, wildlife habitat, trails, and
11 connection of critical areas as defined in RCW 36.70A.030.

12 (2) Identification of a corridor under this section by a county or
13 city shall not restrict the use or management of lands within the
14 corridor for agricultural or forest purposes. Restrictions on the use
15 or management of such lands for agricultural or forest purposes imposed
16 after identification solely to maintain or enhance the value of such
17 lands as a corridor may occur only if:

18 (a) The county or city acquires sufficient interest to prevent
19 development of the lands or to control the resource development of the
20 lands; or

21 (b) A private or public nonprofit organization acquires sufficient
22 interest to prevent development of the lands or to control the resource
23 development of the lands.

24 (3) The requirement for acquisition of sufficient interest does not
25 include those corridors regulated by the interstate commerce
26 commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec.
27 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be
28 interpreted to alter the authority of the state, or a county or city,
29 to regulate land use activities.

30 (4) The city or county may acquire by donation or purchase the fee
31 simple or lesser interests in these open space corridors using funds
32 authorized by RCW 84.34.230 or other sources.

33 **Sec. 6.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended to
34 read as follows:

35 (1) The department shall establish a program of technical and
36 financial assistance and incentives to counties and cities to encourage
37 and facilitate the adoption, evaluation, refinement, and implementation

1 of comprehensive plans and development regulations throughout the
2 state. The department may provide technical assistance to neighborhood
3 and community organizations to encourage and facilitate the adoption
4 and implementation of comprehensive plans and development regulations.

5 (2) The department shall develop a priority list and establish
6 funding levels for planning and technical assistance grants both for
7 counties and cities that plan under RCW 36.70A.040. Priority for
8 assistance shall be based on a county's or city's population growth
9 rates, commercial and industrial development rates, the existence and
10 quality of a comprehensive plan and development regulations, and other
11 relevant factors.

12 (3) The department shall develop and administer a grant program to
13 provide direct financial assistance to counties and cities for the
14 preparation of comprehensive plans under this chapter. The department
15 may establish provisions for county and city matching funds to conduct
16 activities under this subsection. Grants may be expended for any
17 purpose directly related to the preparation of a county or city
18 comprehensive plan as the county or city and the department may agree,
19 including, without limitation, the conducting of surveys, inventories
20 and other data gathering and management activities, the retention of
21 planning consultants, contracts with regional councils for planning and
22 related services, and other related purposes.

23 (4) The department shall establish a program of technical
24 assistance:

25 (a) Utilizing department staff, the staff of other state agencies,
26 and the technical resources of counties and cities to help in the
27 development of comprehensive plans required under this chapter. The
28 technical assistance may include, but not be limited to, model land use
29 ordinances, regional education and training programs, and information
30 for local and regional inventories; and

31 (b) Adopting by rule procedural criteria to assist counties and
32 cities in adopting comprehensive plans and development regulations that
33 meet the goals and requirements of this chapter. These criteria shall
34 reflect regional and local variations and the diversity that exists
35 among different counties and cities that plan under this chapter.

36 (5) The department shall provide mediation services to resolve
37 disputes between counties and cities regarding, among other things,
38 coordination of regional issues and designation of urban growth areas.

1 (6) The department shall provide planning grants to enhance citizen
2 participation under RCW 36.70A.140.

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

5 (1) The public participation requirements of this chapter shall
6 include notice procedures that are reasonably calculated to provide
7 notice to property owners and other affected and interested
8 individuals, tribes, government agencies, businesses, and organizations
9 of proposed amendments to comprehensive plans and development
10 regulation. Examples of reasonable notice provisions include:

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

12 (b) Publishing notice in a newspaper of general circulation in the
13 county, city, or general area where the proposal is located or that
14 will be affected by the proposal;

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

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

19 (e) Publishing notice in agency newsletters or sending notice to
20 agency mailing lists, including general lists or lists for specific
21 proposals or subject areas.

22 (2)(a) Except as otherwise provided in (b) of this subsection, if
23 the legislative body for a county or city chooses to consider a change
24 to an amendment to a comprehensive plan or development regulation, and
25 the change is proposed after the opportunity for review and comment has
26 passed under the county's or city's procedures, an opportunity for
27 review and comment on the proposed change shall be provided before the
28 local legislative body votes on the proposed change.

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

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

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

37 (iii) The proposed change only corrects typographical errors,
38 corrects cross-references, makes address or name changes, or clarifies

1 language of a proposed ordinance or resolution without changing its
2 effect;

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

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

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

10 **Sec. 8.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to
11 read as follows:

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

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

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

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

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

27 (iii) The amendment of the capital facilities element of a
28 comprehensive plan that occurs concurrently with the adoption or
29 amendment of a county or city budget.

30 (b) Except as otherwise provided in (a) of this subsection, all
31 proposals shall be considered by the governing body concurrently so the
32 cumulative effect of the various proposals can be ascertained.
33 However, after appropriate public participation a county or city may
34 adopt amendments or revisions to its comprehensive plan that conform
35 with this chapter whenever an emergency exists or to resolve an appeal
36 of a comprehensive plan filed with a growth management hearings board
37 or with the court.

1 (3) Each county that designates urban growth areas under RCW
2 36.70A.110 shall review, at least every ten years, its designated urban
3 growth area or areas, and the densities permitted within both the
4 incorporated and unincorporated portions of each urban growth area. In
5 conjunction with this review by the county, each city located within an
6 urban growth area shall review the densities permitted within its
7 boundaries, and the extent to which the urban growth occurring within
8 the county has located within each city and the unincorporated portions
9 of the urban growth areas. The county comprehensive plan designating
10 urban growth areas, and the densities permitted in the urban growth
11 areas by the comprehensive plans of the county and each city located
12 within the urban growth areas, shall be revised to accommodate the
13 urban growth projected to occur in the county for the succeeding
14 twenty-year period.

15 **Sec. 9.** RCW 36.70A.270 and 1996 c 325 s 1 are each amended to read
16 as follows:

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

19 (1) Any board member may be removed for inefficiency, malfeasance,
20 and misfeasance in office, under specific written charges filed by the
21 governor. The governor shall transmit such written charges to the
22 member accused and the chief justice of the supreme court. The chief
23 justice shall thereupon designate a tribunal composed of three judges
24 of the superior court to hear and adjudicate the charges. Removal of
25 any member of a board by the tribunal shall disqualify such member for
26 reappointment.

27 (2) Each board member shall receive reimbursement for travel
28 expenses incurred in the discharge of his or her duties in accordance
29 with RCW 43.03.050 and 43.03.060. If it is determined that the review
30 boards shall operate on a full-time basis, each member shall receive an
31 annual salary to be determined by the governor pursuant to RCW
32 43.03.040. If it is determined that a review board shall operate on a
33 part-time basis, each member shall receive compensation pursuant to RCW
34 43.03.250, provided such amount shall not exceed the amount that would
35 be set if they were a full-time board member. The principal office of
36 each board shall be located by the governor within the jurisdictional
37 boundaries of each board. The boards shall operate on either a part-
38 time or full-time basis, as determined by the governor.

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

7 (4) A majority of each board shall constitute a quorum for making
8 orders or decisions, adopting rules necessary for the conduct of its
9 powers and duties, or transacting other official business, and may act
10 even though one position of the board is vacant. One or more members
11 may hold hearings and take testimony to be reported for action by the
12 board when authorized by rule or order of the board. The board shall
13 perform all the powers and duties specified in this chapter or as
14 otherwise provided by law.

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

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

35 (7) All proceedings before the board, any of its members, or a
36 hearing examiner appointed by the board shall be conducted in
37 accordance with such administrative rules of practice and procedure as
38 the boards jointly prescribe. All three boards shall jointly meet to
39 develop and adopt joint rules of practice and procedure, including

1 rules regarding expeditious and summary disposition of appeals. The
2 boards shall publish such rules and decisions they render and arrange
3 for the reasonable distribution of the rules and decisions. Except as
4 it conflicts with specific provisions of this chapter, the
5 administrative procedure act, chapter 34.05 RCW, and specifically
6 including the provisions of RCW 34.05.455 governing ex parte
7 communications, shall govern the practice and procedure of the boards.

8 (8) A board member or hearing examiner is subject to
9 disqualification under chapter 34.05 RCW. The joint rules of practice
10 of the boards shall establish procedures by which a party to a hearing
11 conducted before the board may file with the board a motion to
12 disqualify, with supporting affidavit, against a board member or
13 hearing examiner assigned to preside at the hearing.

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

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 (1) A growth management hearings board may only take official
20 notice of:

21 (a) Any judicially cognizable facts, including adopted resolutions
22 or ordinances of a county or city;

23 (b) Technical or scientific facts within the board's specialized
24 knowledge; and

25 (c) Codes or standards that have been adopted by an agency of the
26 United States, of this state or of another state, or by a nationally
27 recognized organization or association.

28 (2) Parties shall be notified either before or during the hearing,
29 or by reference in preliminary reports or otherwise, of the material so
30 noticed and the sources thereof, including any staff memoranda and
31 data, and they shall be afforded an opportunity to contest the facts
32 and material so noticed. A party proposing that official notice be
33 taken may be required to produce a copy of the material to be noticed.

34 **Sec. 11.** RCW 36.70A.290 and 1995 c 347 s 109 are each amended to
35 read as follows:

36 (1) All requests for review to a growth management hearings board
37 shall be initiated by filing a petition that includes a detailed

1 statement of issues presented for resolution by the board. The board
2 shall render written decisions articulating the basis for its holdings.
3 The board shall not issue advisory opinions on issues not presented to
4 the board in the statement of issues, as modified by any prehearing
5 order.

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

11 (a) Except as provided in (c) of this subsection, the date of
12 publication for a city shall be the date the city publishes the
13 ordinance, or summary of the ordinance, adopting the comprehensive plan
14 or development regulations, or amendment thereto, as is required to be
15 published.

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

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

23 (c) For local governments planning under RCW 36.70A.040, promptly
24 after approval or disapproval of a local government s shoreline master
25 program or amendment thereto by the department of ecology as provided
26 in RCW 90.58.090, the local government shall publish a notice that the
27 shoreline master program or amendment thereto has been approved or
28 disapproved by the department of ecology. For purposes of this
29 section, the date of publication for the adoption or amendment of a
30 shoreline master program is the date the local government publishes
31 notice that the shoreline master program or amendment thereto has been
32 approved or disapproved by the department of ecology.

33 (3) Unless the board dismisses the petition as frivolous or finds
34 that the person filing the petition lacks standing, or the parties have
35 filed an agreement to have the case heard in superior court as provided
36 in section 12 of this act, the board shall, within ten days of receipt
37 of the petition, set a time for hearing the matter.

38 (4) The board shall base its decision on the record developed by
39 the city, county, or the state and supplemented with additional

1 evidence if the board determines that such additional evidence would be
2 necessary or of substantial assistance to the board in reaching its
3 decision.

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

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 A petition filed under RCW 36.70A.290 may be directly reviewed by
10 the superior court upon certification by the growth management hearings
11 board that all the parties to the proceeding before the board have
12 agreed in writing to have the petition directly reviewed by the
13 superior court. The agreement shall be filed with the board within ten
14 days after the petition has been filed, or if multiple petitions have
15 been filed and the board has consolidated the appeals under RCW
16 36.70A.300, within ten days after the date the last petition is filed.
17 The provisions of RCW 36.70A.280 through 36.70A.340 as they relate to
18 review of actions by a state agency or a county or city under this
19 chapter apply to the review conducted by the superior court.

20 **Sec. 13.** RCW 36.70A.300 and 1995 c 347 s 110 are each amended to
21 read as follows:

22 (1) The board shall issue a final order (~~((within one hundred eighty~~
23 ~~days of receipt of the petition for review, or, when multiple petitions~~
24 ~~are filed, within one hundred eighty days of receipt of the last~~
25 ~~petition that is consolidated.— Such a final order))~~ that shall be
26 based exclusively on whether or not a state agency, county, or city is
27 in compliance with the requirements of this chapter, chapter 90.58 RCW
28 as it relates to adoption or amendment of shoreline master programs, or
29 chapter 43.21C RCW as it relates to adoption of plans, development
30 regulations, and amendments thereto, (~~(adopted)~~) under RCW 36.70A.040
31 or chapter 90.58 RCW.

32 (2)(a) Except as provided in (b) of this subsection, the final
33 order shall be issued within one hundred eighty days of receipt of the
34 petition for review, or, if multiple petitions are filed, within one
35 hundred eighty days of receipt of the last petition that is
36 consolidated.

1 (b) The board may extend the period of time for issuing a decision
2 to enable the parties to settle the dispute if additional time is
3 necessary to achieve a settlement, and (i) an extension is requested by
4 all parties, or (ii) an extension is requested by the petitioner and
5 respondent and the board determines that a negotiated settlement
6 between the remaining parties could resolve significant issues in
7 dispute. The request must be filed with the board not later than seven
8 days before the date scheduled for the hearing on the merits of the
9 petition. The board may authorize one or more extensions for up to
10 ninety days each, subject to the requirements of this section.

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

12 (a) Find that the state agency, county, or city is in compliance
13 with the requirements of this chapter ~~((or))~~, chapter 90.58 RCW as it
14 relates to the adoption or amendment of shoreline master programs, or
15 chapter 43.21C RCW as it relates to adoption of plans, development
16 regulations, and amendments thereto, under RCW 36.70A.040 or chapter
17 90.58 RCW; or

18 (b) Find that the state agency, county, or city is not in
19 compliance with the requirements of this chapter ~~((or))~~, chapter 90.58
20 RCW as it relates to the adoption or amendment of shoreline master
21 programs, or chapter 43.21C RCW as it relates to adoption of plans,
22 development regulations, and amendments thereto, under RCW 36.70A.040
23 or chapter 90.58 RCW, in which case the board shall remand the matter
24 to the affected state agency, county, or city ~~((and))~~. The board shall
25 specify a reasonable time not in excess of one hundred eighty days, or
26 such longer period as determined by the board in cases of unusual scope
27 or complexity, within which the state agency, county, or city shall
28 comply with the requirements of this chapter. The board may require
29 periodic reports to the board on the progress the jurisdiction is
30 making towards compliance.

31 ~~((+2))~~ (4) Unless the board makes a determination of invalidity as
32 provided in section 14 of this act, a finding of noncompliance and an
33 order of remand shall not affect the validity of comprehensive plans
34 and development regulations during the period of remand~~((, unless the~~
35 board's final order also:

36 ~~(a) Includes a determination, supported by findings of fact and~~
37 ~~conclusions of law, that the continued validity of the plan or~~
38 ~~regulation would substantially interfere with the fulfillment of the~~
39 ~~goals of this chapter; and~~

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

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

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

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

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

19 (5) Any party aggrieved by a final decision of the hearings board
20 may appeal the decision ((to superior court as provided in RCW
21 34.05.514 or 36.01.050 within thirty days of the final order of the
22 board)) directly to the court of appeals for assignment by the chief
23 presiding judge.

24 NEW SECTION. Sec. 14. A new section is added to chapter 36.70A
25 RCW to read as follows:

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

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

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

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

37 (2) A determination of invalidity is prospective in effect and does
38 not extinguish rights that vested under state or local law before

1 receipt of the board's order by the city or county. The determination
2 of invalidity does not apply to a completed development permit
3 application and related construction permits for a project that vested
4 under state or local law on or before the date of the board's order.

5 (3)(a) Except as otherwise provided in subsection (2) of this
6 section and (b) of this subsection, a completed development permit
7 application not vested under state or local law on or before the date
8 of the board's determination of invalidity vests to the local ordinance
9 or resolution that is determined by the board not to substantially
10 interfere with the fulfillment of the goals of this chapter.

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

15 (i) A permit for construction by any owner, lessee, or contract
16 purchaser of a single-family residence for his or her own use or for
17 the use of his or her family on a lot existing before receipt by the
18 county or city of the board's order, except as otherwise specifically
19 provided in the board's order to protect the public health and safety;

20 (ii) A building permit and related construction permits for
21 remodeling or expansion of an existing structure on a lot existing
22 before receipt of the board's order by the county or city; and

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

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

32 (5) A county or city subject to a determination of invalidity may
33 adopt interim controls and other measures to be in effect until it
34 adopts a comprehensive plan and development regulations that comply
35 with the requirements of this chapter. A development permit
36 application may vest under an interim control or measure upon
37 determination by the board that the interim controls and other measures
38 do not substantially interfere with the fulfillment of the goals of
39 this chapter.

1 (6) A county or city subject to a determination of invalidity may
2 file a motion requesting that the board clarify, modify, or rescind the
3 order. The board shall expeditiously schedule a hearing on the motion.
4 At the hearing on the motion, the parties may present information to
5 the board to clarify the part or parts of the comprehensive plan or
6 development regulations to which the final order applies. The board
7 shall issue any supplemental order based on the information provided at
8 the hearing not later than thirty days after the date of the hearing.

9 (7)(a) If a determination of invalidity has been made and the
10 county or city has enacted an ordinance or resolution amending the
11 invalidated part or parts of the plan or regulation or establishing
12 interim controls on development affected by the order of invalidity,
13 after a compliance hearing, the board shall modify or rescind the
14 determination of invalidity if it determines under the standard in
15 subsection (1) of this section that the plan or regulation, as amended
16 or made subject to such interim controls, will no longer substantially
17 interfere with the fulfillment of the goals of this chapter.

18 (b) If the board determines that part or parts of the plan or
19 regulation are no longer invalid as provided in this subsection, but
20 does not find that the plan or regulation is in compliance with all of
21 the requirements of this chapter, the board, in its order, may require
22 periodic reports to the board on the progress the jurisdiction is
23 making towards compliance.

24 **Sec. 15.** RCW 36.70A.305 and 1996 c 325 s 4 are each amended to
25 read as follows:

26 The court shall provide expedited review of ~~((a determination of~~
27 ~~invalidity or))~~ an order ~~((effectuating))~~ that includes a determination
28 of invalidity made or issued under RCW 36.70A.300 and section 14 of
29 this act. The matter must be set for hearing within sixty days of the
30 date set for submitting the board's record, absent a showing of good
31 cause for a different date or a stipulation of the parties.

32 **Sec. 16.** RCW 36.70A.320 and 1995 c 347 s 111 are each amended to
33 read as follows:

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

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

5 (3) In any petition under this chapter, the board, after full
6 consideration of the petition, shall determine whether there is
7 compliance with the requirements of this chapter. In making its
8 determination, the board shall consider the criteria adopted by the
9 department under RCW 36.70A.190(4). The board shall find compliance
10 unless it ((finds by a preponderance of the evidence that the state
11 agency, county, or city erroneously interpreted or applied this
12 chapter)) determines that the action by the state agency, county, or
13 city is clearly erroneous in view of the entire record before the board
14 and in light of the goals and requirements of this chapter.

15 ~~((2))~~ (4) A county or city subject to a determination of
16 invalidity made under RCW 36.70A.300 or section 14 of this act has the
17 burden of demonstrating that the ordinance or resolution it has enacted
18 in response to the determination of invalidity will no longer
19 substantially interfere with the fulfillment of the goals of this
20 chapter under the standard in section 14(1) of this act.

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

24 **Sec. 17.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to
25 read as follows:

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

32 (2) The board shall conduct a hearing and issue a finding of
33 compliance or noncompliance with the requirements of this chapter and
34 with any compliance schedule established by the board in its final
35 order. A person with standing to challenge the legislation enacted in
36 response to the board's final order may participate in the hearing
37 along with the petitioner and the state agency, ((city, or)) county, or
38 city. A hearing under this subsection shall be given the highest

1 priority of business to be conducted by the board, and a finding shall
2 be issued within forty-five days of the filing of the motion under
3 subsection (1) of this section with the board. The board shall issue
4 any order necessary to make adjustments to the compliance schedule and
5 set additional hearings as provided in subsection (5) of this section.

6 (3) If the board after a compliance hearing finds that the state
7 agency, county, or city is not in compliance, the board shall transmit
8 its finding to the governor. The board may recommend to the governor
9 that the sanctions authorized by this chapter be imposed. The board
10 shall take into consideration the county's or city's efforts to meet
11 its compliance schedule in making the decision to recommend sanctions
12 to the governor.

13 (4) In a compliance hearing upon petition of a party, the board
14 shall also reconsider its final order and decide((÷

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

18 ~~(b))~~, if no determination of invalidity has been made, whether one
19 now should be made ((under the standards in RCW 36.70A.300(2)) under
20 section 14 of this act.

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

23 NEW SECTION. Sec. 18. A new section is added to chapter 36.70A
24 RCW to read as follows:

25 A county or city subject to an order of invalidity issued before
26 the effective date of section 13 of this act, by motion may request the
27 board to review the order of invalidity in light of the section 13,
28 chapter . . ., Laws of 1997 (section 13 of this act) amendments to RCW
29 36.70A.300, the section 17, chapter . . ., Laws of 1997 (section 17 of
30 this act) amendments to RCW 36.70A.330, and section 14 of this act. If
31 a request is made, the board shall rescind or modify the order of
32 invalidity as necessary to make it consistent with the section 13,
33 chapter . . ., Laws of 1997 (section 13 of this act) amendments to RCW
34 36.70A.300, and to the section 17, chapter . . ., Laws of 1997 (section
35 17 of this act) amendments to RCW 36.70A.330, and section 14 of this
36 act.

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

3 (1) A county or a city may use a variety of innovative zoning
4 techniques in areas designated as agricultural lands of long-term
5 commercial significance under RCW 36.70A.170. The innovative zoning
6 techniques should be designed to conserve agricultural lands and
7 encourage the agricultural economy. A county or city should encourage
8 nonagricultural uses to be limited to lands with poor soils or
9 otherwise not suitable for agricultural purposes.

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

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

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

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

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

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

24 NEW SECTION. **Sec. 20.** A new section is added to chapter 36.70A
25 RCW to read as follows:

26 (1) A county and its cities, as provided in subsection (7) of this
27 section, shall establish a monitoring and evaluation program to
28 determine their progress towards meeting the goals of this chapter.

29 (2) The monitoring program shall encompass land use and resources
30 both within and outside of urban growth areas. The county and its
31 cities shall use the county-wide planning policy process to work
32 cooperatively among themselves and with state agencies, neighboring
33 counties, regional planning organizations, tribes, and special purpose
34 districts to develop and implement the monitoring required by this
35 section.

36 (3) The evaluation component of the program required by subsection
37 (1) of this section requires an evaluation of at least the land use
38 elements, critical area protections, and capital facilities elements of

1 the county-wide planning policies and county and city comprehensive
2 plans in meeting the goals of this chapter and the policies established
3 in the county-wide planning policy process, specifically including an
4 analysis of the success of the county-wide planning policies and
5 comprehensive plan towards meeting residential densities and uses. The
6 evaluation shall be conducted every five years, with the first
7 evaluation occurring within five years after the later of the date the
8 county adopted its comprehensive plan or the last periodic review
9 required by this chapter.

10 (4) If the evaluation required by subsection (3) of this section
11 shows that the county or one or more of its cities are not making
12 satisfactory progress towards meeting the goals of this chapter, the
13 county and the cities shall consider and implement measures that will
14 be effective in making progress towards meeting the goals of this
15 chapter and the policies established in the county-wide planning
16 policies. The county and its cities shall annually monitor the
17 measures that have been adopted to determine whether they are
18 successful.

19 (5)(a) If, after three years of the annual monitoring required by
20 subsection (3) of this section, the county and its cities demonstrate
21 that the measures have not been effective in making progress towards
22 meeting the goals of this chapter and the county-wide planning policy
23 goals, the county may make adjustments to one or more urban growth
24 areas that the county and its cities demonstrate are necessary to make
25 progress towards the goals of this chapter and the county-wide planning
26 policies.

27 (b) If, after the evaluation required by subsection (3) of this
28 section, the county and its cities demonstrate that they have explored
29 available measures and that those measures would not be effective in
30 making progress towards meeting the goals of this chapter and the
31 county-wide planning policies, the county may make adjustments to one
32 or more urban growth areas that the county and its cities demonstrate
33 are necessary to make satisfactory progress towards the goals of this
34 chapter and the county-wide planning policies.

35 (6) From funds appropriated by the legislature for this purpose,
36 the department shall provide grants to counties, cities, and regional
37 planning organizations to conduct the monitoring and perform the
38 evaluation required by this section.

1 (7) This section applies to the counties, and the cities within
2 those counties, of Snohomish, King, Pierce, Kitsap, Thurston, and
3 Clark.

4 NEW SECTION. Sec. 21. If funds for the purposes of section 20 of
5 this act are not provided in the 1997-99 biennial budget by June 30,
6 1997, referencing this act by bill or chapter number, section number,
7 and subject matter, section 20 of this act is null and void.

8 **Sec. 22.** RCW 36.70A.500 and 1995 c 347 s 116 are each amended to
9 read as follows:

10 (1) The department of community, trade, and economic development
11 shall provide management services for the fund created by RCW
12 36.70A.490. The department (~~by rule~~) shall establish procedures for
13 fund management. The department shall encourage participation in the
14 grant program by other public agencies. The department shall develop
15 the grant criteria, monitor the grant program, and select grant
16 recipients in consultation with state agencies participating in the
17 grant program through the provision of grant funds or technical
18 assistance.

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~~) an environmental analysis under
24 chapter 43.21C RCW, that is integrated with a comprehensive plan
25 (~~or~~), subarea plan (~~and~~), plan element, county-wide planning
26 policy, development regulation(~~s~~), monitoring program, or other
27 planning activity adopted under or implementing this chapter that:

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

30 (b) Encourages use of plans and information developed for purposes
31 of complying with this chapter to satisfy requirements of other state
32 programs.

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

34 (a) Demonstrate that it will prepare an environmental analysis
35 pursuant to chapter 43.21C RCW and subsection (2) of this section that
36 is integrated with a comprehensive plan or subarea plan and development
37 regulations;

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

5 (c) Demonstrate that procedures for review of development permit
6 applications will be based on the integrated plans and environmental
7 analysis;

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

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

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

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

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

23 (b) (~~Comprehensive and subarea plan proposals that are designed to~~
24 ~~identify and monitor~~) Identification and monitoring of system
25 capacities for elements of the built environment, and to the extent
26 appropriate, of the natural environment;

27 (c) Coordination with state, federal, and tribal governments in
28 project review;

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

32 (e) Programs to improve the efficiency and effectiveness of the
33 permitting process by greater reliance on integrated plans and
34 prospective environmental analysis;

35 (~~(d)~~) (f) Programs for effective citizen and neighborhood
36 involvement that contribute to greater (~~certainty~~) likelihood that
37 planning decisions (~~will~~) can be implemented with community support;
38 and

1 (~~((e) Plans that~~)) (g) Programs to identify environmental impacts
2 and establish mitigation measures that provide effective means to
3 satisfy concurrency requirements and establish project consistency with
4 the plans.

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

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

12 **Sec. 23.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read
13 as follows:

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

16 (1) "Open space land" means (a) any land area so designated by an
17 official comprehensive land use plan adopted by any city or county and
18 zoned accordingly(~~((+,+))~~), or (b) any land area, the preservation of
19 which in its present use would (i) conserve and enhance natural or
20 scenic resources, or (ii) protect streams or water supply, or (iii)
21 promote conservation of soils, wetlands, beaches or tidal marshes, or
22 (iv) enhance the value to the public of abutting or neighboring parks,
23 forests, wildlife preserves, nature reservations or sanctuaries or
24 other open space, or (v) enhance recreation opportunities, or (vi)
25 preserve historic sites, or (vii) preserve visual quality along
26 highway, road, and street corridors or scenic vistas, or (viii) retain
27 in its natural state tracts of land not less than one acre situated in
28 an urban area and open to public use on such conditions as may be
29 reasonably required by the legislative body granting the open space
30 classification, or (c) any land meeting the definition of farm and
31 agricultural conservation land under subsection (8) of this section.
32 As a condition of granting open space classification, the legislative
33 body may not require public access on land classified under (b)(iii) of
34 this subsection for the purpose of promoting conservation of wetlands.

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

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

1 (i) Devoted primarily to the production of livestock or
2 agricultural commodities for commercial purposes((~~7~~));
3 (ii) Enrolled in the federal conservation reserve program or its
4 successor administered by the United States department of
5 agriculture((~~7~~)); or
6 (iii) Other similar commercial activities as may be established by
7 rule ((~~following consultation with the advisory committee established~~
8 ~~in section 19 of this act~~));
9 (b) Any parcel of land that is five acres or more but less than
10 twenty acres devoted primarily to agricultural uses, which has produced
11 a gross income from agricultural uses equivalent to, as of January 1,
12 1993((~~7~~));
13 (i) One hundred dollars or more per acre per year for three of the
14 five calendar years preceding the date of application for
15 classification under this chapter for all parcels of land that are
16 classified under this subsection or all parcels of land for which an
17 application for classification under this subsection is made with the
18 granting authority prior to January 1, 1993((~~7~~)); and
19 (ii) On or after January 1, 1993, two hundred dollars or more per
20 acre per year for three of the five calendar years preceding the date
21 of application for classification under this chapter;
22 (c) Any parcel of land of less than five acres devoted primarily to
23 agricultural uses which has produced a gross income as of January 1,
24 1993, of:
25 (i) One thousand dollars or more per year for three of the five
26 calendar years preceding the date of application for classification
27 under this chapter for all parcels of land that are classified under
28 this subsection or all parcels of land for which an application for
29 classification under this subsection is made with the granting
30 authority prior to January 1, 1993((~~7~~)); and
31 (ii) On or after January 1, 1993, fifteen hundred dollars or more
32 per year for three of the five calendar years preceding the date of
33 application for classification under this chapter;
34 (d) Any parcel of land designated as agricultural land under RCW
35 36.70A.170; or
36 (e) Any parcel of land not within an urban growth area zoned as
37 agricultural land under a comprehensive plan adopted under chapter
38 36.70A RCW.

1 Parcels of land described in (b)(i) and (c)(i) of this subsection
2 shall, upon any transfer of the property excluding a transfer to a
3 surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of
4 this subsection.

5 Agricultural lands shall also include such incidental uses as are
6 compatible with agricultural purposes, including wetlands preservation,
7 provided such incidental use does not exceed twenty percent of the
8 classified land and the land on which appurtenances necessary to the
9 production, preparation, or sale of the agricultural products exist in
10 conjunction with the lands producing such products. Agricultural lands
11 shall also include any parcel of land of one to five acres, which is
12 not contiguous, but which otherwise constitutes an integral part of
13 farming operations being conducted on land qualifying under this
14 section as "farm and agricultural lands"; or (d) the land on which
15 housing for employees and the principal place of residence of the farm
16 operator or owner of land classified pursuant to (a) of this subsection
17 is sited if: The housing or residence is on or contiguous to the
18 classified parcel; and the use of the housing or the residence is
19 integral to the use of the classified land for agricultural purposes.

20 (3) "Timber land" means any parcel of land that is five or more
21 acres or multiple parcels of land that are contiguous and total five or
22 more acres which is or are devoted primarily to the growth and harvest
23 of forest crops for commercial purposes. A timber management plan
24 shall be filed with the county legislative authority at the time (a) an
25 application is made for classification as timber land pursuant to this
26 chapter or (b) when a sale or transfer of timber land occurs and a
27 notice of classification continuance is signed. Timber land means the
28 land only.

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

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

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

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

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

5 (a) Land that was previously classified under subsection (2) of
6 this section, that no longer meets the criteria of subsection (2) of
7 this section, and that is reclassified under subsection (1) of this
8 section; or

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

13 **Sec. 24.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to
14 read as follows:

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

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

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

24 (1) Any sales of the property being appraised or similar properties
25 with respect to sales made within the past five years. The appraisal
26 shall be consistent with the comprehensive land use plan, development
27 regulations under chapter 36.70A RCW, zoning, and any other
28 governmental policies or practices in effect at the time of appraisal
29 that affect the use of property, as well as physical and environmental
30 influences. The appraisal shall also take into account: (a) In the
31 use of sales by real estate contract as similar sales, the extent, if
32 any, to which the stated selling price has been increased by reason of
33 the down payment, interest rate, or other financing terms; and (b) the
34 extent to which the sale of a similar property actually represents the
35 general effective market demand for property of such type, in the
36 geographical area in which such property is located. Sales involving
37 deed releases or similar seller-developer financing arrangements shall
38 not be used as sales of similar property.

1 (2) In addition to sales as defined in subsection (1),
2 consideration may be given to cost, cost less depreciation,
3 reconstruction cost less depreciation, or capitalization of income that
4 would be derived from prudent use of the property. In the case of
5 property of a complex nature, or being used under terms of a franchise
6 from a public agency, or operating as a public utility, or property not
7 having a record of sale within five years and not having a significant
8 number of sales of similar property in the general area, the provisions
9 of this subsection (2) shall be the dominant factors in valuation.
10 When provisions of this subsection (2) are relied upon for establishing
11 values the property owner shall be advised upon request of the factors
12 used in arriving at such value.

13 (3) In valuing any tract or parcel of real property, the value of
14 the land, exclusive of structures thereon shall be determined; also the
15 value of structures thereon, but the valuation shall not exceed the
16 value of the total property as it exists. In valuing agricultural
17 land, growing crops shall be excluded.

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

24 **Sec. 25.** RCW 90.60.030 and 1995 c 347 s 603 are each amended to
25 read as follows:

26 The permit assistance center is established within the department.
27 The center shall:

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

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

4 (3) Work closely and cooperatively with the business license center
5 (~~and the business assistance center~~) in providing efficient and
6 nonduplicative service to the public;

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

10 (5) Collect and disseminate information to public and private
11 entities on federal, state, local, and tribal government programs that
12 rely on private professional expertise to assist governmental agencies
13 in project permit review; and

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

18 **Sec. 26.** RCW 35.13.130 and 1990 c 33 s 566 are each amended to
19 read as follows:

20 A petition for annexation of an area contiguous to a city or town
21 may be made in writing addressed to and filed with the legislative body
22 of the municipality to which annexation is desired. Except where all
23 the property sought to be annexed is property of a school district, and
24 the school directors thereof file the petition for annexation as in RCW
25 28A.335.110 authorized, and except where the property to be annexed is
26 within an urban growth area designated under RCW 36.70A.110, the
27 petition must be signed by the owners of not less than seventy-five
28 percent in value according to the assessed valuation for general
29 taxation of the property for which annexation is petitioned. When the
30 property to be annexed is within an urban growth area designated under
31 RCW 36.70A.110, the petition must be signed by the owners of not less
32 than sixty percent in value according to the assessed valuation for
33 general taxation of the property for which annexation is petitioned:
34 PROVIDED, That in cities and towns with populations greater than one
35 hundred sixty thousand located east of the Cascade mountains, the owner
36 of tax exempt property may sign an annexation petition and have the tax
37 exempt property annexed into the city or town, but the value of the tax
38 exempt property shall not be used in calculating the sufficiency of the

1 required property owner signatures unless only tax exempt property is
2 proposed to be annexed into the city or town. The petition shall set
3 forth a description of the property according to government legal
4 subdivisions or legal plats which is in compliance with RCW 35.02.170,
5 and shall be accompanied by a plat which outlines the boundaries of the
6 property sought to be annexed. If the legislative body has required
7 the assumption of all or of any portion of city or town indebtedness by
8 the area annexed, and/or the adoption of a comprehensive plan for the
9 area to be annexed, these facts, together with a quotation of the
10 minute entry of such requirement or requirements shall be set forth in
11 the petition.

12 **Sec. 27.** RCW 35A.14.295 and 1967 ex.s. c 119 s 35A.14.295 are each
13 amended to read as follows:

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

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

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

26 (2) The resolution shall describe the boundaries of the area to be
27 annexed, state the number of voters residing therein as nearly as may
28 be, and set a date for a public hearing on such resolution for
29 annexation. Notice of the hearing shall be given by publication of the
30 resolution at least once a week for two weeks prior to the date of the
31 hearing, in one or more newspapers of general circulation within the
32 code city and one or more newspapers of general circulation within the
33 area to be annexed.

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

1 NEW SECTION. **Sec. 28.** A new section is added to chapter 35.13 RCW
2 to read as follows:

3 (1) The legislative body of a city or town planning under chapter
4 36.70A RCW as of June 30, 1994, may resolve to annex territory to the
5 city or town if there is, within the city or town, unincorporated
6 territory containing residential property owners within the same county
7 and within the same urban growth area designated under RCW 36.70A.110
8 as the city or town:

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

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

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

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

27 **Sec. 29.** RCW 35.13.174 and 1973 1st ex.s. c 164 s 17 are each
28 amended to read as follows:

29 Upon receipt by the board of county commissioners of a
30 determination by a majority of the review board favoring annexation of
31 the proposed area that has been initiated by resolution pursuant to RCW
32 35.13.015 by the city or town legislative body, the board of county
33 commissioners, or the city or town legislative body for any city or
34 town within an urban growth area designated under RCW 36.70A.110, shall
35 fix a date on which an annexation election shall be held, which date
36 will be not less than thirty days nor more than sixty days thereafter.

1 **Sec. 30.** RCW 36.93.170 and 1989 c 84 s 5 are each amended to read
2 as follows:

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

6 (1) Population and territory; population density; land area and
7 land uses; comprehensive plans and zoning, as adopted under chapter
8 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development
9 regulations adopted under chapter 36.70A RCW; applicable service
10 agreements entered into under chapter 36.115 or 39.34 RCW; applicable
11 interlocal annexation agreements between a county and its cities; per
12 capita assessed valuation; topography, natural boundaries and drainage
13 basins, proximity to other populated areas; the existence and
14 preservation of prime agricultural soils and productive agricultural
15 uses; the likelihood of significant growth in the area and in adjacent
16 incorporated and unincorporated areas during the next ten years;
17 location and most desirable future location of community facilities;

18 (2) Municipal services; need for municipal services; effect of
19 ordinances, governmental codes, regulations and resolutions on existing
20 uses; present cost and adequacy of governmental services and controls
21 in area; prospects of governmental services from other sources;
22 probable future needs for such services and controls; probable effect
23 of proposal or alternative on cost and adequacy of services and
24 controls in area and adjacent area; the effect on the finances, debt
25 structure, and contractual obligations and rights of all affected
26 governmental units; and

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

30 The provisions of chapter 43.21C RCW, State Environmental Policy,
31 shall not apply to incorporation proceedings covered by chapter 35.02
32 RCW.

33 **Sec. 31.** RCW 84.14.010 and 1995 c 375 s 3 are each amended to read
34 as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

37 (1) "City" means either (a) a city or town with a population of at
38 least one hundred ((fifty)) thousand or (b) the largest city or town,

1 if there is no city or town with a population of at least one hundred
2 thousand, located in a county planning under the growth management act.

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

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

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

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

13 (6) "Permanent residential occupancy" means multiunit housing that
14 provides either rental or owner occupancy on a nontransient basis.
15 This includes owner-occupied or rental accommodation that is leased for
16 a period of at least one month. This excludes hotels and motels that
17 predominately offer rental accommodation on a daily or weekly basis.

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

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

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

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

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

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

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

1 **Sec. 32.** RCW 34.05.518 and 1995 c 382 s 5 are each amended to read
2 as follows:

3 (1) The final decision of an administrative agency in an
4 adjudicative proceeding under this chapter may be directly reviewed by
5 the court of appeals either (a) upon certification by the superior
6 court pursuant to this section or (b) if the final decision is from an
7 environmental board as defined in subsection (3) of this section, upon
8 acceptance by the court of appeals after a certificate of appealability
9 has been filed by the environmental board that rendered the final
10 decision.

11 (2) For direct review upon certification by the superior court, an
12 application for direct review must be filed with the superior court
13 within thirty days of the filing of the petition for review in superior
14 court. The superior court may certify a case for direct review only if
15 the judicial review is limited to the record of the agency proceeding
16 and the court finds that:

17 (a) Fundamental and urgent issues affecting the future
18 administrative process or the public interest are involved which
19 require a prompt determination;

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

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

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

26 Procedures for certification shall be established by court rule.

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

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

35 (i) Fundamental and urgent state-wide or regional issues are
36 raised; or

37 (ii) The proceeding is likely to have significant precedential
38 value.

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

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

7 (6) The procedures for direct review of final decisions of
8 environmental boards include:

9 (a) Within thirty days after filing the petition for review with
10 the superior court, a party may file an application for direct review
11 with the superior court and serve the appropriate environmental board
12 and all parties of record. The application shall request the
13 environmental board to file a certificate of appealability.

14 (b) If an issue on review is the jurisdiction of the environmental
15 board, the board may file an application for direct review on that
16 issue.

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

20 (d) If a certificate of appealability is issued, the parties shall
21 have fifteen days from the date of service to file a notice of
22 discretionary review in the superior court, and the notice shall
23 include a copy of the certificate of appealability and a copy of the
24 final decision.

25 (e) If the appellate court accepts review, the certificate of
26 appealability shall be transmitted to the court of appeals as part of
27 the certified record.

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

31 NEW SECTION. **Sec. 33.** Except as otherwise specifically provided
32 in section 18 of this act, sections 1 through 17, chapter . . . , Laws
33 of 1997 (sections 1 through 17 of this act) are prospective in effect
34 and shall not affect the validity of actions taken or decisions made
35 before the effective date of this section.

36 NEW SECTION. **Sec. 34.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- END ---