

2 **E2SHB 1893** - S COMM AMD **S2595.2**

3 By Committee on Environmental Quality & Water Resources

4 ADOPTED AS AMENDED (FLR 325 & 332) 4/9/99

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that facilitating the  
8 environmental permit process will increase citizen satisfaction and  
9 compliance with state and local permit requirements. Lack of  
10 coordination in the processing of permit applications causes costly  
11 delays and frustration to the applicant and the public. The public  
12 deserves a clear, predictable system for land-use decisions that  
13 ensures an adequate opportunity for public participation and comment.  
14 The legislature also finds that permit processes can be improved by  
15 enabling and requiring state and local permit agencies to coordinate  
16 their permit processes to the greatest extent possible.

17 **Sec. 2.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each  
18 amended to read as follows:

19 The following goals are adopted to guide the development and  
20 adoption of comprehensive plans and development regulations of those  
21 counties and cities that are required or choose to plan under RCW  
22 36.70A.040. The following goals are not listed in order of priority  
23 and shall be used exclusively for the purpose of guiding the  
24 development of comprehensive plans and development regulations:

25 (1) Urban growth. Encourage development in urban areas where  
26 adequate public facilities and services exist or can be provided in an  
27 efficient manner.

28 (2) Reduce sprawl. Reduce the inappropriate conversion of  
29 undeveloped land into sprawling, low-density development.

30 (3) Transportation. Encourage efficient multimodal transportation  
31 systems that are based on regional priorities and coordinated with  
32 county and city comprehensive plans.

33 (4) Housing. Encourage the availability of affordable housing to  
34 all economic segments of the population of this state, promote a

1 variety of residential densities and housing types, and encourage  
2 preservation of existing housing stock.

3 (5) Economic development. Encourage economic development  
4 throughout the state that is consistent with adopted comprehensive  
5 plans, promote economic opportunity for all citizens of this state,  
6 especially for unemployed and for disadvantaged persons, and encourage  
7 growth in areas experiencing insufficient economic growth, all within  
8 the capacities of the state's natural resources, public services, and  
9 public facilities.

10 (6) Property rights. Private property shall not be taken for  
11 public use without just compensation having been made. The property  
12 rights of landowners shall be protected from arbitrary and  
13 discriminatory actions.

14 (7) Permits. (~~Applications for both~~) State and local government  
15 permit(~~s~~) agencies should (~~be processed~~) coordinate and process  
16 permits in a timely and fair manner to ensure predictability for  
17 applicants.

18 (8) Natural resource industries. Maintain and enhance natural  
19 resource-based industries, including productive timber, agricultural,  
20 and fisheries industries. Encourage the conservation of productive  
21 forest lands and productive agricultural lands, and discourage  
22 incompatible uses.

23 (9) Open space and recreation. Encourage the retention of open  
24 space and development of recreational opportunities, conserve fish and  
25 wildlife habitat, increase access to natural resource lands and water,  
26 and develop parks.

27 (10) Environment. Protect the environment and enhance the state's  
28 high quality of life, including air and water quality, and the  
29 availability of water.

30 (11) Citizen participation and coordination. Encourage the  
31 involvement of citizens in the planning process and ensure coordination  
32 between communities and jurisdictions to reconcile conflicts.

33 (12) Public facilities and services. Ensure that those public  
34 facilities and services necessary to support development shall be  
35 adequate to serve the development at the time the development is  
36 available for occupancy and use without decreasing current service  
37 levels below locally established minimum standards.

1 (13) Historic preservation. Identify and encourage the  
2 preservation of lands, sites, and structures, that have historical or  
3 archaeological significance.

4 **Sec. 3.** RCW 58.17.095 and 1986 c 233 s 1 are each amended to read  
5 as follows:

6 (1) A county, city, or town may adopt an ordinance providing for  
7 the administrative review of a preliminary plat without a public  
8 hearing (~~by adopting an ordinance providing for such administrative~~  
9 ~~review~~). The ordinance may specify a threshold number of lots in a  
10 subdivision above which a public hearing must be held, and may specify  
11 other factors which necessitate the holding of a public hearing. (~~The~~  
12 ~~administrative review process shall include the~~)

13 (2) If the county, city, or town has not adopted consolidated  
14 permitting procedures and time frames as provided in chapter 36.70B  
15 RCW, it shall conduct administrative review of preliminary plats  
16 consistent with the following minimum conditions:

17 (~~(1)~~) (a) The notice requirements of RCW 58.17.090 shall be  
18 followed, except that the publication shall be made within ten days of  
19 the filing of the application. Additionally, at least ten days after  
20 the filing of the application notice both shall be: (~~(a)~~) (i) Posted  
21 on or around the land proposed to be subdivided in at least five  
22 conspicuous places designed to attract public awareness of the  
23 proposal; and (~~(b)~~) (ii) mailed to the owner of each lot or parcel of  
24 property located within at least three hundred feet of the site. The  
25 applicant shall provide the county, city, or town with a list of such  
26 property owners and their addresses. The notice shall include  
27 notification that no public hearing will be held on the application,  
28 except as provided by this section. The notice shall set out the  
29 procedures and time limitations for persons to require a public hearing  
30 and make comments.

31 (~~(2)~~) (b) Any person shall have a period of twenty days from the  
32 date of the notice to comment upon the proposed preliminary plat. All  
33 comments received shall be provided to the applicant. The applicant  
34 has seven days from receipt of the comments to respond thereto.

35 (~~(3)~~) (c) A public hearing on the proposed subdivision shall be  
36 held if any person files a request for a hearing with the county, city,  
37 or town within twenty-one days of the publishing of such notice. If  
38 such a hearing is requested, notice requirements for the public hearing

1 shall be in conformance with RCW 58.17.090, and the ninety-day period  
2 for approval or disapproval of the proposed subdivision provided for in  
3 RCW 58.17.140 shall commence with the date of the filing of the request  
4 for a public hearing. Any hearing ordered under this subsection shall  
5 be conducted by the planning commission or hearings officer as required  
6 by county or city ordinance.

7 ~~((+4))~~ (d) On its own initiative within twenty-one days of the  
8 filing of the request for approval of the subdivision, the governing  
9 body, or a designated employee or official, of the county, city, or  
10 town, shall be authorized to cause a public hearing to be held on the  
11 proposed subdivision within ninety days of the filing of the request  
12 for the subdivision.

13 ~~((+5))~~ (e) If the public hearing is waived as provided in this  
14 section, the planning commission or planning agency shall complete the  
15 review of the proposed preliminary plat and transmit its recommendation  
16 to the legislative body as provided in RCW 58.17.100.

17 (3) If the county, city, or town has adopted consolidated  
18 permitting procedures and time frames as provided in chapter 36.70B  
19 RCW, it may conduct administrative review of preliminary plats  
20 consistent with its procedures and time frames. At a minimum, local  
21 permitting procedures and time frames related to administrative review  
22 of preliminary plats shall provide for:

23 (a) Notice of application by publication, posting, and mailing.  
24 All forms of notice shall include a prominent statement that no public  
25 hearing will be held on the application, except as provided by this  
26 section. All forms of notice shall clearly state procedures and time  
27 frames for persons to make comments on the proposal and request a  
28 public hearing.

29 (b) Written comments on the application by any person. Comments  
30 received shall be provided to the applicant, and the applicant shall be  
31 provided seven days from receipt of the comments to respond thereto.

32 (c) A public hearing on the application if any person files a  
33 request for a hearing within the time frame specified. If a hearing is  
34 requested, notice requirements for the public hearing and the time  
35 frame for approval or disapproval of the application shall be  
36 consistent with other local permitting procedures. Any hearing  
37 conducted under this subsection shall be conducted by the planning  
38 commission or hearing officer as required by local ordinance.

1       (d) A public hearing on the application if the legislative or  
2 executive branch of the county, city, or town so requests within the  
3 time frame specified.

4       (e) Expedited agency review and transmittal of its recommendation  
5 on the application to the legislative body of the county, city, or  
6 town, if there is no request for public hearing.

7       **Sec. 4.** RCW 90.60.010 and 1995 c 347 s 601 are each amended to  
8 read as follows:

9       The legislature hereby finds and declares:

10       (1) Washington's environmental protection programs have established  
11 strict standards to reduce pollution and protect the public health and  
12 safety and the environment. The single-purpose programs instituted to  
13 achieve these standards have been successful in many respects, and have  
14 produced significant gains in protecting Washington's environment in  
15 the face of substantial population growth.

16       (2) Continued progress to achieve the environmental standards in  
17 the face of continued population growth will require greater  
18 coordination between the single-purpose environmental programs and more  
19 efficient operation of these programs overall. Pollution must be  
20 prevented and controlled and not simply transferred to another media or  
21 another place. This goal can only be achieved by maintaining the  
22 current environmental protection standards and by greater integration  
23 of the existing programs.

24       (3) As the number of environmental laws and regulations have grown  
25 in Washington, so have the number of permits required of business and  
26 government. This regulatory burden has significantly added to the cost  
27 and time needed to obtain essential permits in Washington. The  
28 increasing number of individual permits and permit authorities has  
29 generated the continuing potential for conflict, overlap, and  
30 duplication between the various state, local, and federal permits.

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

35       (5) Those procedures need to provide a permit process that promotes  
36 effective dialogue and ensures ease in the transfer and clarification  
37 of technical information, while preventing duplication. It is  
38 necessary that the procedures establish a process for preliminary and

1 ongoing meetings between the applicant, the coordinating permit agency,  
2 and the participating permit agencies, but do not preclude the  
3 applicant or participating permit agencies from individually  
4 coordinating with each other.

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

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

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

19 (9) It is also the intent of this chapter ~~((to provide))~~ that by  
20 providing an optional coordinated permit process, measures are taken by  
21 the parties that promote the public's trust and confidence in the  
22 underlying permit process, including providing consolidated, effective,  
23 and easier opportunities for members of the public to receive  
24 information and present their views about proposed projects.

25 **Sec. 5.** RCW 90.60.020 and 1995 c 347 s 602 are each amended to  
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

29 (1) "Center" means the permit assistance center established in the  
30 ~~((commission-[department]))~~ department by RCW 90.60.030.

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

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

34 (4) "Local government" means counties, cities, and towns.

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

1       (~~(5)~~) (6) "Parties" collectively means the coordinating permit  
2 agency, permit agency, and participating permit agency.

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

6       (~~(6)~~) (8) "Permit agency" means:

7       (a) The department of ecology, an air pollution control authority,  
8 the department of natural resources, the department of fish and  
9 wildlife, and the department of health; and

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

13       (~~(7)~~) (9) "Project" means an activity, the conduct of which  
14 requires permits from one or more permit agencies.

15       (10) "Small project" means a project for which the applicants do  
16 not enter into a cost reimbursement agreement as authorized by RCW  
17 90.60.100, and the project:

18       (a) Will require fewer than five permits from the state permit  
19 agencies;

20       (b) Will employ fewer than twenty-five persons; or

21       (c) Estimates a completed assessed value of less than five hundred  
22 thousand dollars.

23       (11) "Use authorization" means a lease, material purchase,  
24 easement, permit, or other document authorizing use of state-owned  
25 aquatic lands, materials, or both.

26       **Sec. 6.** RCW 90.60.030 and 1997 c 429 s 35 are each amended to read  
27 as follows:

28       (1) The permit assistance center is established within the  
29 department. The center shall:

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

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

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

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

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

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

19       (i) Statutory and other recommendations for streamlining and  
20 coordinating environmental permitting in Washington;

21       (ii) Summarizes the results of the center's efforts to measure  
22 performance and outcomes over time;

23       (iii) Summarizes, evaluates, and makes statutory and other  
24 recommendations for improving the center's and permitting agencies'  
25 efforts to provide public notice efficiently and for promoting  
26 effective public participation in permitting processes;

27       (iv) Details efforts on the part of the center, the department, and  
28 the parties to promote the public's trust and confidence in the  
29 permitting process. Examples of such efforts include, but are not  
30 limited to, the development of statutory and other policies and  
31 procedures, guidance, roles, and responsibilities; and

32       (v) Shows revenues generated by the center's services, and the  
33 center's budget and expenditures.

34       (2) The department shall prioritize the expenditure of general fund  
35 moneys allotted to the center to provide a set of services to the  
36 applicants of small projects.

37       NEW SECTION. Sec. 7. A new section is added to chapter 90.60 RCW  
38 to read as follows:



1 The department is encouraged to establish permit assistance center  
2 offices at department regional and field offices to provide better  
3 access to the center's services in all areas of the state. Staffing  
4 for the regional permit assistance centers may be provided with funding  
5 from the state general fund and funds from other sources.

6 **Sec. 8.** RCW 90.60.100 and 1995 c 347 s 610 are each amended to  
7 read as follows:

8 (1) The ~~((coordinating permit agency))~~ parties may enter into a  
9 written cost-reimbursement agreement with the applicant to recover from  
10 the applicant the reasonable costs incurred by the ~~((coordinating~~  
11 ~~permit agency))~~ parties in carrying out the requirements of this  
12 chapter, as well as the requirements of other relevant laws, as they  
13 relate to permit coordination, environmental review, application  
14 review, technical studies, and permit processing.

15 (2) The ~~((coordinating permit agency may recover only the costs of~~  
16 ~~performing those coordinated permit services and))~~ written cost-  
17 reimbursement agreement shall be negotiated with the permit applicant  
18 ~~((in))~~ following the meeting required pursuant to RCW 90.60.070.  
19 Permit agencies may assign work to current staff, temporary staff, or  
20 technical consultants in order to carry out the work covered by the  
21 written cost-reimbursement agreement or the work remaining for the  
22 permit agency as a result of the coordinated permit process. The  
23 billing process shall provide for accurate time and cost accounting and  
24 may include a billing cycle that provides for progress payments.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.60 RCW  
26 to read as follows:

27 (1) In collaboration with local governments and state agencies the  
28 permit assistance center shall conduct a feasibility study of what  
29 might be necessary to establish an integrated permit process. In its  
30 conduct of the study, the permit assistance center may appoint  
31 technical advisory committees to advise the center and participating  
32 agencies. Meetings of the permit assistance center, state agencies,  
33 and local governments relating to this study shall be open to the  
34 public. The permit assistance center shall solicit comment from  
35 interested stakeholders. The comments received and the responses to  
36 them shall be summarized as part of the final report.

37 (2) The study shall consider:

1 (a) The role of preapplication conferences that would involve the  
2 applicant and the permit agencies;

3 (b) The characteristics of a complete project application;

4 (c) Coordination of permitting and integration of processes;

5 (d) Provisions for negotiations for cost reimbursement agreements  
6 for permitting agencies;

7 (e) The types of permits that might be considered for inclusion in  
8 an integrated process;

9 (f) The potential for coordination of local appeals and state  
10 appeals;

11 (g) The potential for an integrated decision; and

12 (h) The potential for positive outcomes on performance measures  
13 identified in RCW 90.60.030.

14 (3) By December 1, 1999, the permit assistance center shall submit  
15 a report to the legislature on this study.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.60 RCW  
17 to read as follows:

18 (1) It is the intent of this chapter to provide an interagency  
19 forum for the discussion of significant issues related to the  
20 permitting processes and use authorizations for projects that are  
21 proposed on state-owned aquatic lands where there are multiple permits,  
22 programs, and legal authorities involved.

23 (2) It is a goal of this chapter to encourage all agencies and  
24 local governments involved in issuing permits or granting use  
25 authorizations for a single project on state-owned aquatic lands to  
26 communicate with each other on a timely basis and early in the project  
27 review process in order to maximize coordination, facilitate problem  
28 resolution, promote the effectiveness of permit decisions, and enhance  
29 citizen understanding and involvement in the permit process. It is  
30 also a goal of this chapter that all permitting or authorizing federal  
31 and state agencies, local governments, and tribal governments be  
32 involved in coordinating their respective roles related to permits or  
33 authorizations from the outset of any review process. Tribes with  
34 fisheries interests in the project area shall also be invited to  
35 participate.

36 (3) For the purposes of this section, "aquatic lands" means as it  
37 is defined in RCW 79.90.010.

1        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 90.60 RCW  
2 to read as follows:

3        (1) The applicant, a local government, or the state agency with the  
4 greatest overall jurisdiction for a project may submit a joint aquatic  
5 resource permit application to the permit assistance center if a  
6 project proposed for the use of state-owned aquatic lands requires:

7            (a) A hydraulic project approval under chapter 75.20 RCW;

8            (b) A wastewater discharge permit under chapter 90.48 RCW, or a  
9 federal clean water act section 401 certification; and

10          (c) A substantial development permit under chapter 90.58 RCW.

11        (2) If the local government or state agency with the greatest  
12 overall jurisdiction is uncertain about whether all of the permits  
13 identified under subsection (1) of this section are required, it shall  
14 submit the completed form to the permit assistance center and allow the  
15 center to determine which permits are required.

16        (3) The permit assistance center shall facilitate a project scoping  
17 meeting including the project applicant, the department of natural  
18 resources, the department of ecology, the department of fish and  
19 wildlife, and the local governments in whose jurisdiction the project  
20 is proposed. Federal agencies and tribal governments that either issue  
21 or may require a permit, or that may require a use authorization for  
22 the project or have fishery resources that might be affected by the  
23 project, shall each be invited to name a representative to participate  
24 in the coordinated permit review process for proposed projects on  
25 state-owned aquatic lands. All participating agencies are encouraged  
26 to remain in communication for purposes of coordination throughout the  
27 permit review processes until final permit decisions are made.

28        (4) The purpose of the scoping meeting is to share perspectives and  
29 identify the issues and information needs of concern to each  
30 participant with regard to the proposed project, and jointly develop a  
31 strategy for coordinating permitting and issuance of use authorization  
32 issues. This project scoping process shall be concluded within sixty  
33 days of the date of receipt of the joint aquatic resource permit  
34 application by the permit assistance center.

35        (a) During this review, the participating agencies shall identify:

36            (i) The specific information needs and issues of concern and their  
37 significance to each participant with regard to the permitting  
38 processes involved;

1 (ii) Any statutory or regulatory conflicts that might arise  
2 relating to differing legal authorities and roles of the agencies  
3 issuing the permit or use authorization of the project;

4 (iii) Any state or local jurisdiction or private sector liability  
5 that might result from permitting or issuing a use authorization for  
6 the project; and

7 (iv) Any natural resources, including federal or state listed  
8 species, that might be adversely affected by the permitting or  
9 authorizing decision.

10 (b) Following this project scoping review, the outcome shall be  
11 documented in written form and furnished to the applicant, and be  
12 available to the public.

13 (c) Upon completion of this review, the permitting and authorizing  
14 agencies and governments shall proceed according to their respective  
15 statutes. Nothing in this section may prevent the parties from  
16 reconvening later in the course of the permitting or use authorization  
17 process.

18 NEW SECTION. **Sec. 12.** A new section is added to chapter 75.20 RCW  
19 to read as follows:

20 (1) The department shall conduct a study of the hydraulic permit  
21 program to assess the adequacy and effectiveness of the program to meet  
22 the requirements of the federal endangered species act and in providing  
23 an efficient and predictable permitting process for the public while  
24 maintaining the department's oversight of the state-wide interest in  
25 fish habitat. The study shall evaluate the potential effects of  
26 authorizing a local government to issue, enforce site-specific permits,  
27 or both, and recommend changes to the program to comply with the  
28 requirements of the federal endangered species act. The department  
29 shall provide an interim report to the legislature by January 15, 2000,  
30 and a final report on the results of the study to the legislature by  
31 December 1, 2000.

32 (2) The legislature encourages the department to review its  
33 hydraulic project approval program to determine the extent to which the  
34 program meets the requirements of the federal endangered species act,  
35 and to seek approval of the program under the federal endangered  
36 species act.

37 (3) The department shall report to the legislature on January 1,  
38 2000, and January 1, 2001, on the status of any program submitted for

1 review to federal agencies implementing the federal endangered species  
2 act.

3 **Sec. 13.** RCW 75.20.100 and 1998 c 190 s 87 are each amended to  
4 read as follows:

5 (1) In the event that any person or government agency desires to  
6 construct any form of hydraulic project or perform other work that will  
7 use, divert, obstruct, or change the natural flow or bed of any of the  
8 salt or fresh waters of the state, such person or government agency  
9 shall, before commencing construction or work thereon and to ensure the  
10 proper protection of fish life, secure the approval of the department  
11 as to the adequacy of the means proposed for the protection of fish  
12 life. This approval shall not be unreasonably withheld.

13 (2)(a) Except as provided in RCW 75.20.1001, the department shall  
14 grant or deny approval of a standard permit within forty-five calendar  
15 days of the receipt of a complete application and notice of compliance  
16 with any applicable requirements of the state environmental policy act,  
17 made in the manner prescribed in this section.

18 (b) The applicant may document receipt of application by filing in  
19 person or by registered mail. A complete application for approval  
20 shall contain general plans for the overall project, complete plans and  
21 specifications of the proposed construction or work within the mean  
22 higher high water line in salt water or within the ordinary high water  
23 line in fresh water, and complete plans and specifications for the  
24 proper protection of fish life.

25 (c) The forty-five day requirement shall be suspended if:

26 (i) After ten working days of receipt of the application, the  
27 applicant remains unavailable or unable to arrange for a timely field  
28 evaluation of the proposed project;

29 (ii) The site is physically inaccessible for inspection; or

30 (iii) The applicant requests delay. Immediately upon determination  
31 that the forty-five day period is suspended, the department shall  
32 notify the applicant in writing of the reasons for the delay.

33 (d) For purposes of this section, "standard permit" means a written  
34 permit issued by the department when the conditions under subsections  
35 (3) and (5)(b) of this section are not met.

36 (3)(a) The department may issue an expedited written permit in  
37 those instances where normal permit processing would result in  
38 significant hardship for the applicant or unacceptable damage to the

1 environment. In cases of imminent danger, the department shall issue  
2 an expedited written permit, upon request, for work to repair existing  
3 structures, move obstructions, restore banks, protect property, or  
4 protect fish resources. Expedited permit requests require a complete  
5 written application as provided in subsection (2)(b) of this section  
6 and shall be issued within fifteen calendar days of the receipt of a  
7 complete written application. Approval of an expedited permit is valid  
8 for up to sixty days from the date of issuance.

9 (b) For the purposes of this subsection, "imminent danger" means a  
10 threat by weather, water flow, or other natural conditions that is  
11 likely to occur within sixty days of a request for a permit  
12 application.

13 (c) The department may not require the provisions of the state  
14 environmental policy act, chapter 43.21C RCW, to be met as a condition  
15 of issuing a permit under this subsection.

16 (d) The department or the county legislative authority may  
17 determine if an imminent danger exists. The county legislative  
18 authority shall notify the department, in writing, if it determines  
19 that an imminent danger exists.

20 (4) Approval of a standard permit is valid for a period of up to  
21 five years from date of issuance. The permittee must demonstrate  
22 substantial progress on construction of that portion of the project  
23 relating to the approval within two years of the date of issuance. If  
24 the department denies approval, the department shall provide the  
25 applicant, in writing, a statement of the specific reasons why and how  
26 the proposed project would adversely affect fish life based on sound  
27 science and applicable documentation. Protection of fish life shall be  
28 the only ground upon which approval may be denied or conditioned.  
29 Chapter 34.05 RCW applies to any denial of project approval,  
30 conditional approval, or requirements for project modification upon  
31 which approval may be contingent.

32 (5)(a) In case of an emergency arising from weather or stream flow  
33 conditions or other natural conditions, the department, through its  
34 authorized representatives, shall issue immediately, upon request, oral  
35 approval for removing any obstructions, repairing existing structures,  
36 restoring stream banks, or to protect property threatened by the stream  
37 or a change in the stream flow without the necessity of obtaining a  
38 written approval prior to commencing work. Conditions of an oral  
39 approval to protect fish life shall be established by the department

1 and reduced to writing within thirty days and complied with as provided  
2 for in this section. Oral approval shall be granted immediately, upon  
3 request, for a stream crossing during an emergency situation.

4 (b) For purposes of this section and RCW 75.20.103, "emergency"  
5 means an immediate threat to life, the public, property, or of  
6 environmental degradation.

7 (c) The department or the county legislative authority may declare  
8 and continue an emergency when one or more of the criteria under (b) of  
9 this subsection are met. The county legislative authority shall  
10 immediately notify the department if it declares an emergency under  
11 this subsection.

12 (6) The department shall, at the request of a county, develop five-  
13 year maintenance approval agreements, consistent with comprehensive  
14 flood control management plans adopted under the authority of RCW  
15 86.12.200, or other watershed plan approved by a county legislative  
16 authority, to allow for work on public and private property for bank  
17 stabilization, bridge repair, removal of sand bars and debris, channel  
18 maintenance, and other flood damage repair and reduction activity under  
19 agreed-upon conditions and times without obtaining permits for specific  
20 projects.

21 (7) This section shall not apply to the construction of any form of  
22 hydraulic project or other work which diverts water for agricultural  
23 irrigation or stock watering purposes authorized under or recognized as  
24 being valid by the state's water codes, or when such hydraulic project  
25 or other work is associated with streambank stabilization to protect  
26 farm and agricultural land as defined in RCW 84.34.020. These  
27 irrigation or stock watering diversion and streambank stabilization  
28 projects shall be governed by RCW 75.20.103.

29 A landscape management plan approved by the department and the  
30 department of natural resources under RCW 76.09.350(2), shall serve as  
31 a hydraulic project approval for the life of the plan if fish are  
32 selected as one of the public resources for coverage under such a plan.

33 (8) For the purposes of this section and RCW 75.20.103, "bed" means  
34 the land below the ordinary high water lines of state waters. This  
35 definition does not include irrigation ditches, canals, storm water  
36 run-off devices, or other artificial watercourses except where they  
37 exist in a natural watercourse that has been altered by man.

38 (9) The phrase "to construct any form of hydraulic project or  
39 perform other work" does not include the act of driving across an

1 established ford. Driving across streams or on wetted stream beds at  
2 areas other than established fords requires approval. Work within the  
3 ordinary high water line of state waters to construct or repair a ford  
4 or crossing requires approval.

5 This section does not apply to small scale prospecting and mining  
6 activities, which are governed by section 14 of this act.

7 NEW SECTION. Sec. 14. A new section is added to chapter 75.20 RCW  
8 to read as follows:

9 (1) Small scale prospecting and mining is exempt from the  
10 provisions of this chapter, provided that aggregate containing fish  
11 eggs or fry are not collected or processed at any time.

12 (2) Small scale prospecting and mining may take place landward of  
13 the ordinary high water mark of any stream at any time of the year, if  
14 such activity does not require an approved plan of operation on public  
15 lands provided for in 43 C.F.R. Sec. 3830 through 3850 or 36 C.F.R.  
16 Sec. 228 subpart A as they existed on the effective date of this  
17 section.

18 (3) For the purposes of this chapter, "small scale prospecting and  
19 mining" means the use of methods such as pans, sluice boxes,  
20 concentrators, and minirocker boxes for the discovery and recovery of  
21 minerals at or below the ordinary high water mark.

22 NEW SECTION. Sec. 15. A new section is added to chapter 47.01 RCW  
23 to read as follows:

24 The legislature recognizes that the department is restructuring its  
25 transportation construction and maintenance programs in order to meet  
26 the requirements of the federal endangered species act, and intends to  
27 seek approval of these programs under the federal endangered species  
28 act. The legislature further recognizes that local government  
29 transportation construction and maintenance programs might benefit from  
30 approval of the department's program under the federal endangered  
31 species act. The department shall collaborate with local government in  
32 developing its strategy for compliance with the federal endangered  
33 species act for its transportation construction and maintenance  
34 programs.

35 The department shall report to the legislature on January 1, 2000,  
36 and January 1, 2001, on the status of any program submitted for review  
37 to federal agencies implementing the federal endangered species act.



1       **Sec. 16.** RCW 90.58.080 and 1995 c 347 s 305 are each amended to  
2 read as follows:

3       (1) Local governments shall develop or amend((, within twenty-four  
4 months after the adoption of guidelines as provided in RCW 90.58.060,))  
5 a master program for regulation of uses of the shorelines of the state  
6 consistent with the required elements of the guidelines adopted by the  
7 department. Except as provided in subsection (2) of this section,  
8 master programs shall be reviewed for compliance with the guidelines  
9 and adopted or amended as necessary within twenty-four months after the  
10 adoption of guidelines as provided in RCW 90.58.060.

11       (2) Consistent with the priority salmon recovery regions and WRIA's  
12 map, as defined in the state-wide strategy to recover salmon volume 1,  
13 page V.95, and population growth data provided by the office of  
14 financial management, the following master program development or  
15 amendment schedule applies for guidelines adopted by the department  
16 before December 31, 2000:

17       (a) For King, Snohomish, Pierce, Clark, and Kitsap counties and the  
18 cities and towns therein with shorelines of the state, master programs  
19 shall be reviewed for compliance with the guidelines and adopted or  
20 amended as necessary within thirty-six months after the adoption of  
21 guidelines as provided in RCW 90.58.060;

22       (b) For Thurston, Whatcom, Benton, Yakima, Skagit, Cowlitz,  
23 Clallam, Chelan, Mason, Lewis, Jefferson, and Okanogan counties and the  
24 cities and towns therein with shorelines of the state, master programs  
25 shall be reviewed for compliance with the guidelines and adopted or  
26 amended as necessary within forty-eight months after the adoption of  
27 guidelines as provided in RCW 90.58.060;

28       (c) For all other counties, cities, and towns with shorelines of  
29 the state, master programs shall be reviewed for compliance with the  
30 guidelines and adopted or amended as necessary within sixty months  
31 after the adoption of guidelines amendments as provided in RCW  
32 90.58.060.

33       (3) Local governments failing to meet the schedule provided in  
34 subsection (2) of this section shall not be eligible for grant moneys  
35 from the department pursuant to implementation of this section.

36       NEW SECTION. **Sec. 17.** The following acts or parts of acts are  
37 each repealed:

1 (1) RCW 43.131.387 (Permit assistance center--Termination) and 1995  
2 c 347 s 617; and  
3 (2) RCW 43.131.388 (Permit assistance center--Repeal) and 1995 c  
4 347 s 618.

5 NEW SECTION. **Sec. 18.** Section 8 of this act is necessary for the  
6 immediate preservation of the public peace, health, or safety, or  
7 support of the state government and its existing public institutions,  
8 and takes effect immediately.

9 NEW SECTION. **Sec. 19.** Sections 13, 14, and 17 of this act are  
10 necessary for the immediate preservation of the public peace, health,  
11 or safety, or support of the state government and its existing public  
12 institutions. Sections 13 and 14 of this act take effect immediately  
13 and section 17 of this act takes effect June 29, 1999."

14 **E2SHB 1893** - S COMM AMD **S2595.2**  
15 By Committee on Environmental Quality & Water Resources

16 ADOPTED AS AMENDED (FLR 332) 4/9/99

17 On page 1, line 1 of the title, after "issuance;" strike the  
18 remainder of the title and insert "amending RCW 36.70A.020, 58.17.095,  
19 90.60.010, 90.60.020, 90.60.030, 90.60.100, 75.20.100, and 90.58.080;  
20 adding new sections to chapter 90.60 RCW; adding new sections to  
21 chapter 75.20 RCW; adding a new section to chapter 47.01 RCW; creating  
22 a new section; repealing RCW 43.131.387 and 43.131.388; providing an  
23 effective date; and declaring an emergency."

--- END ---